

TAXATION

XII

Study Material

UNIT: 1 – DEDUCTION FROM GROSS TOTAL INCOME

Unit Code:	UNIT TITLE: DEDUCTION FROM GROSS TOTAL INCOME			
	Duration:			
Location:	SESSION 1: INTRODUCTION : BASIC RULES GOVERNING DEDUCTION & DEDUCTION IN RESPECT OF SOME PAYMENTS			
Classroom	Learning Outcome	Knowledge Evaluation	Performance Evaluation	Teaching and Training Method
	1. Basic rules applicable to deductions	1. What is gross total income? 2. Name the items from which deductions are not allowed.	1. What constitutes gross total income? 2. Name the deductions which are available only if income tax return is filed on or before the due date.	Interactive Lecture: Discussion related to deduction
	2. Deduction in respect to certain payments	1. Describe the various deductions available to an assessee regarding certain payments.	1. Discuss the deduction 80C to 80GGC.	Interactive Lecture: Discussion of deduction 80C to 80GGC with practical example
	SESSION 2: BASIC OVERVIEW OF DEDUCTIONS IN RESPECT OF CERTAIN INCOMES & DEDUCTION 80QQB, 80RRB, 80TTA & 80U			
1. . Deduction in respect to certain incomes.	1. Describe the various deductions available to an assessee regarding certain incomes.	1. Discuss the deduction 80IA to 80P.	Interactive Lecture: Discussion of deduction 80IA to 80P	
2. Deduction 80QQB, 80RRB, 80TTA & 80U.	1. Explain the deduction related to saving bank interest and royalty and patent. 2. Explain the deduction related to disability.	1. Discuss the provisions related to deduction 80QQB, 80RRB, 80TTA and 80U.	Interactive Lecture: Discussion of deduction related to disability, royalty , patents and saving bank account interest	

UNIT: - DEDUCTIONS FROM GROSS TOTAL INCOME

Learning Objectives:

After reading this unit, the students will be able to:

1. understand the type of deductions allowable from gross total income.
2. know what the permissible deductions in respect of payments are.
3. learn the permissible deductions in respect of incomes.
4. understand the deductions allowable in the case of a person with disability.

SESSION 1: INTRODUCTION-BASIC RULES GOVERNING DEDUCTION & DEDUCTION IN RESPECT OF SOME PAYMENTS

INTRODUCTION

After computing the total income under each head and after giving effect to the provisions for clubbing of income and set off of losses, which gives the Gross Total Income, deductions described under this lesson are allowed i.e., deductions under section 80A to 80U of the Income Tax Act are allowed to assesses.

At the end of this lesson you will learn about all the deductions allowed to an assessee in respect of payments made and incomes received in the previous year.

You will also be able to calculate the Total Income by deducting all the deductions allowed to a particular assessee under section 80C to 80U from the Gross total Income.

BASIC RULES GOVERNING DEDUCTIONS (80C TO 80 U)

- Gross total income means income from all the heads namely income from salary , house property, profits and gains from business or profession , capital gains and other sources combined together after giving effects to provisions of clubbing of income and set off of losses.

- Deductions from section 80C to 80U are deducted from Gross Total Income to arrive at total income of the assessee which is also known as taxable income.
- However deductions are not allowed from the following items although they form part of Gross Total Income:
 - a) Short term capital gain under sec 111A
 - b) Long term capital gain
 - c) Lotteries
 - d) Income under Sections 115A, 115AB, 115AC, 115ACA, 115AD, 115BBA, 115D.

Important points:

1. Deductions from gross total income are available only to assessee when the gross total income is a positive figure. If however, the gross total income is nil or is a loss, the question of any deduction from the gross total income does not arise. In other words the total aggregate of deductions cannot exceed the gross total income.
2. Deductions cannot be claimed twice in the same assessment year.
3. Deduction is allowed only to assessee.
4. Certain deductions like under 80-IA, 80-IAB, 80-IC, 80-ID, 80-IE can only be claimed when income tax return is furnished for assessment year on or before the due date specified under sec139(1).

DEDUCTIONS IN RESPECT OF CERTAIN PAYMENTS

- Allowed from sec 80C to 80GGC

DEDUCTION IN RESPECT OF LIFE INSURANCE PREMIUM, DEFERRED ANNUITY, CONTRIBUTION TO PROVIDENT FUND, etc. (SECTION 80C)

ELIGIBLE: 1) Individual 2) HUF

QUANTUM: Deduction from gross total income equivalent to investment made of Rs. 1, 50,000 whichever is less.

INVESTMENT:

- a) Life Insurance policy taken on the life of an individual assessee or spouse and any child of such individual and any member of the Hindu Undivided Family subjected to maximum limit of the premium paid on Life Insurance Policy if exceeds 10% of the capital sum assured. However, where the policy, issued on or after the 1st day of April, 2013, is for insurance on life of any person, who is –
 - (i) a person with disability or a person with severe disability as referred to in section 80U, or
 - (ii) suffering from disease or ailment as specified in the rules made under

section 80DDB;

Deduction for premium shall be allowed only when such amount shall not exceed 15% of the capital sum assured,

- b) Amounts paid to effect or to keep in force a contract for a non-cumulative deferred annuity not being an annuity plan referred to in clause (j) below on the life of in the case of an individual, the individual, spouse or any child of such individual and
However, such contract should not contain a provision for exercise of an option by the insured to receive cash payment in lieu of the payment of the annuity,
- c) Deduction from the salary payable by or on behalf of the Government to any individual, in accordance with the conditions of his service, for securing to him a deferred annuity or making provision for his wife or children, to the extent of one-fifth of salary,
- d) Any contribution made by an individual towards statutory provident fund and recognized provident fund,
- e) Contribution towards superannuation fund
- f) Subscription to the notified securities of the Central Government.
- g) Any contribution to a PPF by individual or HUF.
- h) Subscription to National Savings Certificates (VIII) issue and interest accrued deemed to be reinvested also qualifies.
- i) Contributions for participation in the Unit-Linked Insurance Plan, 1971,
- j) Contributions made in the name of an individual or HUF for participation in any notified Unit-Linked Insurance Plan of the LIC Mutual Fund.
- k) Any contribution to effect or keep in force any notified annuity plan of the LIC or any other insurer.
- (l) Any subscription, to any units of any Mutual Fund or the Unit Trust of India under any notified plan formulated by the Central Government.
- (m) Any contribution to any pension fund set up by any Mutual Fund as notified by the Central Government.
- (n) Subscription to the notified deposit scheme of or contribution to any such pension fund set up by the National Housing Bank
- (o) Only tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission or thereafter, - to any university, college, school or other educational institution situated within India for full time education and allowed only for 2 children of such individuals;
- (p) any installment or part payment towards the cost of purchase/construction of a residential property to a housing board or co-operative society(or repayment of housing loan taken from government, bank, cooperative bank, LIC, National Housing Bank,

assessor's employer where such employer is public company/public sector company/university/cooperative society)

(q) Subscription to equity shares or debentures or units forming part of any eligible issue of capital i.e. issue made by a company registered in India or a public financial institution or an approved mutual fund for the purpose of developing, maintaining and operating an infrastructure facility for generation and distribution of power or for providing telecommunication services whether basic or cellular.

(r) Fixed deposits for a minimum period of 5 years in any Scheduled Banks

(s) As subscription to such bonds issued by the National Bank for Agriculture and Rural Development, as the Central Government may, by notification in the Official Gazette specify in this behalf.

(t) Amount deposited in account under the Senior Citizens Savings Scheme Rules, 2004.

(u) Amount deposited in five year time deposit in an account under the Post Office Time Deposit Rules, 1981.

Important points:

- If the amount is actually paid by the assessee, only then this deduction will be allowed.
- Item no. b, c, d, m, e are allowed to only individual assesses.

Illustration 1) Compute the net taxable income of Mr. Arvind from the following information submitted by him for the assessment year 2015-16:

Gross salary	4, 50,000
LIP on his own life (sum assured Rs. 4000) policy issued on 1-04-2013	1,200
LIP on the life of his dependent brother	400
LIP on his wife's life	400
Term deposit for 5 years with a scheduled bank	4,000
Contribution to ULIP	600
Amount deposited in PPF	13,000
Contribution to RPF	4,000

Amount incurred on education of:

- Child A Rs.2,800
- Child B Rs. 1,400
- Child C Rs. 1,000

5 year term deposit in post office	3,000
Subscription to NSC	5,000
Repayment of housing loan taken from LIC (principal Amount Rs. 4600 and interest Rs. 6000)	10,600
Interest on fixed deposits with bank (gross)	2,600

He took loan from LIC for a residential house property for self residence.

Solution 1)		
Income from salaries		4, 50,000
Income from House Property		
NAV	(NIL)	
Less: deduction		
Interest on money borrowed	<u>6,000</u>	(6,000)
Income from other sources (fixed deposit)		<u>2,600</u>
GROSS TOTAL INCOME		4, 46,600
Less: Deductions u/s Chapter VIA (NOTE 1)		<u>(39,200)</u>
NET TAXABLE INCOME		<u>4, 07,400</u>

NOTE 1: deductions under 80C

• LIP on his own life		400
• LIP on the life of his dependent brother		NIL
• LIP on his wife's life		400
• Term deposit for 5 years with a scheduled bank		4,000
• Contribution to ULIP		600
• Amount deposited in PPF		13,000
• Contribution to RPF		4,000
• Tuition fees for 2 children		4,200
• 5 year term deposit in post office		3,000
• Subscription to NSC		5,000
• Repayment of housing loan		<u>4,600</u>
		<u>39,200</u>

Illustration 2) Mr. X has gross total income Rs. 4, 90,000 for the assessment year 2015-16 which include Rs. 3, 90,000 as long term capital gain? He has deposited Rs. 1, 40,000 in PPF during the year. Compute tax liability assuming (i) he is Less than 60 years of age; (ii) more than 60 years of age.

Solution 2)

(i) less than 60 years of age

Gross total income (excluding LTCG)		1, 00,000
Less: deduction u/s 80C subjected to GTI		<u>1, 00,000</u>
		NIL
Tax on total income exclusive of long term capital gain (NIL+ Rs. 2, 50,000 shifted from LTCG)		NIL
Tax on LTCG @ 20% on Rs. 1, 40,000		28,000
Less: rebate under 87A		<u>(2,000)</u>
		26,000
Add: cess		<u>780</u>

	<u>26,780</u>
(ii) more than 60 years of age	
Gross total income (excluding LTCG)	1, 00,000
Less: deduction u/s 80C subjected to GTI	<u>1, 00,000</u>
	NIL
Tax on total income exclusive of long term capital gain (NIL+ Rs. 3, 00,000 shifted from LTCG)	NIL
Tax on LTCG @ 20% on Rs. 90,000	18,000
Less: rebate under 87A	<u>(2,000)</u>
	16,000
Add: cess	<u>480</u>
	<u>16,480</u>

DEDUCTION FOR CONTRIBUTION TO PENSION FUND (SECTION 80CCC)

ELIGIBLE: 1) Individual

QUANTUM: Deduction from gross total income equivalent to investment made of Rs. 1, 50,000 whichever is less.

INVESTMENT:

An individual who deposits out of his taxable income to any pension fund of the LIC or any insurer shall get a deduction from his gross total income of the amount so deposited subjected to the limit prescribed.

Important points:

- Deduction is available to non-resident also.
- If this deduction is claimed here, deduction for payment made for annuity plan will not be given under 80C.

DEDUCTION IN RESPECT OF CONTRIBUTION TO PENSION SCHEME OF CENTRAL GOVERNMENT [SECTION 80CCD]

ELIGIBLE: 1) Individual employed by central government or self employed

QUANTUM:

- Contribution by employer: deductible amount is contribution made by the employer to the employee during the year subjected to maximum of 10% of the salary of the employee.
- Contribution by employee: deductible amount is contribution made by the employee during the year subjected to maximum of 10% of the salary of the employee.

Important points:

- Salary includes DA, if the terms of employment provide so, but excludes all other allowances and perquisites.
- The amount which has been accumulated in the pension account for which the assessee has claimed deduction will become taxable as the income of the year in which the assessee get the said amount, or his nominee on closure of the account or for opting out of scheme.
- If amount is withdrawn from here to purchase an annuity plan, then it will not be taxable.
- If this deduction is claimed here, deduction for such contribution will not be given under 80C.

Illustration 3) Gross Total Income of R who is self employed is Rs. 8, 90,000. He has deposited Rs. 1, 20,000 in PPF and Rs. 1, 10,000 in pension scheme of the central government. Compute his taxable income.

Solution 3)

Gross total income		8, 90,000
Less: deduction u/s 80C	(1, 20,000)	
Deduction u/s 80CCD	(89,000)	
(subjected to 10% of salary)		<u>(1, 50,000)</u>
		<u>7, 40,000</u>

LIMIT ON DEDUCTIONS UNDER SECTIONS 80C, 80CCC AND 80CCD (SECTION 80CCE)

The aggregate amount of deductions under Sections 80C, 80CCC and section 80CCD (excluding contribution of employer to pension scheme) shall not in any case, exceed Rs. 1, 50,000.

DEDUCTION IN RESPECT OF INVESTMENT MADE UNDER AN EQUITY SAVINGS SCHEME (SECTION 80CCG)

ELIGIBLE: 1) Individual who is resident in India

QUANTUM:

- Deduction will be allowed (a) to the extent of 50% of the amount invested in such equity shares or units OR (b) Rs. 25,000 whichever is less.
- Deduction shall be allowed for 3 consecutive years starting from the year in which investment is made first.

CONDITIONS:

- Assessee income should not exceed Rs. 12, 00,000 for the concerned relevant year.
- Investment to be made in notified scheme.
- Assessee is resident individual.
- Assessee is a new retail investor.
- Investment is locked in for a period of 3 years from the date of acquisition in accordance with a notified scheme.

**DEDUCTION IN RESPECT OF MEDICAL INSURANCE PREMIA
(SECTION 80D)**

ELIGIBLE: 1) Individual 2) HUF

QUANTUM:

	INDIVIDUAL		HUF
	FAMILY	PARENTS	
	Self, Spouse & dependent children	Parents of assessee(dependent/independent)	Any member of family
a) Medi-claim Insurance Premium	Available	Available	Available
b) Preventive Health Check-up	Available	Available	NOT Available

MAXIMUM AMOUNT:

- For point “(a)” Rs. 15,000 maximum to family and Rs. 15,000 for parents.
- For point “(b)” Rs. 5,000 maximum on family/ parent/ parents.

ADDITIONAL DEDUCTION: applicable only on Medi-claim insurance policy
Additional Rs.5, 000 deduction in case of senior citizen (age 60 and above and resident in India).

IMPORTANT POINTS:

- Allowed if paid to General Insurance Corporation (GIC) or any other insurer towards medical health insurance premium.

- Contribution by individual can also be made to Central Government Health Scheme.
- For health insurance premium, the payment shall be in mode other than cash.
- For preventive health check-up it can be in cash also.
- Health Insurance should be according to the scheme as given by GIC and approved by Central Government or any other insurer and approved by Insurance Regulatory and Development Authority (IRDA).

Illustration 4) Suraj, his wife and two sons are independently employed persons. Suraj and his wife is not senior citizens. Raj pays Medi-claim insurance of Rs 8,000 for self, Rs 12,000 for his wife, and Rs 8,000 each for both of his sons. He also pays Rs 13,000 for each of his parents who are senior citizens .Calculate the amount of deduction allowable u/s 80D.

Solution 4)

Amount of deduction u/s 80D	
Premium in respect of wife	Rs 12,000
Premium for himself	Rs. 8,000
Premium in respect of children (not dependent)	Nil
Total Rs 18,000 restricted to	Rs 15,000
Add: Premium in respect of parents	
(senior citizens) Rs 26,000 restricted to maximum	<u>Rs 20,000</u>
Deduction available u/s 80D	<u>Rs 35,000</u>

DEDUCTION IN RESPECT OF MAINTENANCE INCLUDING MEDICAL TREATMENT OF A DISABLED DEPENDENT (SECTION 80DD)

ELIGIBLE: 1) Resident Individual 2) Resident HUF

QUANTUM: Deduction from gross total income irrespective of actual expenditure:-
Rs. 50,000 (1, 00,000 in case of severe disability)

IMPORTANT POINTS:

- a) Deduction under 80DD can be claimed on expenditure made in the previous year for the medical treatment (including nursing), training and rehabilitation of a disabled dependent; dependent being-
 - For individual: spouse, any child, parent or sibling
 - For HUF: any member.

The disabled person for whose treatment or maintenance the deduction is claimed should be dependent on assessee for his/her support and should not have claimed deduction under 80U.

- b) Deduction under 80DD can also be claimed when money is paid to LIC (Life Insurance Corporation of India), UTI (Unit Trust of India) or any other insurer for

the purpose of buying insurance or any specified scheme for the purpose of maintenance of the above mentioned dependent in the previous year.

- c) For claiming the deduction under this section, the assessee should furnish to the Assessing Officer a copy of the certificate issued by the medical authority; whenever asked for examining.
- d) Where the condition of disability requires reassessment (when the medical certificate is issued for a specific period), a fresh certificate shall have to be obtained soon after the expiry of the period.
No deduction shall be allowed if the medical certificate stands expired in the year preceding the assessment year.
- e) Meaning of “disability”: “disability” include autism, cerebral palsy and multiple disabilities as provided for in the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.
- f) Meaning of “medical authority”: “medical authority” means any hospital or institution specified for the purpose of this act by notification by the appropriate government.
- g) Meaning with “person with disability”: “person with disability” means a person suffering from not less than 40% of any disability as certified by the medical authority.
- h) Meaning of “person with severe disability”: “person with severe disability” means any person with 80% or more of one or more disabilities.

DEDUCTION IN RESPECT OF MEDICAL TREATMENT (SECTION 80DDB)

ELIGIBLE: 1) Resident Individual 2) Resident HUF

QUANTUM: Rs. 40,000 or amount actually paid (Rs. 60,000 in case of a senior citizen; person whose age is more than 60 years)

IMPORTANT POINTS:

- a) Deduction under 80DDB can be claimed on expenditure made in the previous year on medical treatment for specified disease or ailment as prescribed of assessee himself or of any person wholly/mainly dependent on him; dependent (for support and maintenance) being-
 - For individual: spouse, any child, parent or sibling (brothers and sisters)
 - For HUF: any member.
- b) For claiming the deduction under this section, the assessee should furnish to the Assessing Officer a copy of the medical certificate in form no. 10-I from prescribed specialist working in Government hospital; whenever asked for examining.
- c) “Government Hospital” means a departmental dispensary whether full-time or

Part-time established and run by a department of the Government for medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital with which arrangements have been made by the government for the treatment of Government servants.

DEDUCTION IN RESPECT OF INTEREST PAID ON LOAN TAKEN FOR PURSUING HIGHER EDUCATION (SECTION 80E)

ELIGIBLE: 1) Individual only.

QUANTUM: The amount of interest paid on education loan during the previous year.

IMPORTANT POINTS:

- a) Deduction under 80E can be claimed on interest paid in the previous year on education loan taken for pursuing higher education; regular course after clearing Senior Secondary Examination; of Self or spouse or children or the student of whom the individual is the Legal Guardian from any financial institution or any approved charitable institution.
- b) Deduction under this section is allowed to be claimed for a maximum period of **8 years** or until the interest is repaid by the individual in full (whichever is earlier), starting from the assessment year in which the assess starts paying the interest on loan.
- c) Meaning of Higher education: Higher education means any course of study pursued after passing the senior secondary examination or its equivalent from any school, board or university recognized by the Central Government or State Government or local authority or by any other authority by the Central Government or State Government or local authority to do so.

Illustration 5) Gross Total Income of “R” for assessment year 2015-16 is Rs. 10, 45,000. He has taken a loan of Rs. 5, 00,000 in 2014-15 from a bank for pursuing the LLB from national law university. He repaid the 1st installment of loan of Rs. 65,000 and interest of Rs. 80,000. Compute his total income for assessment year 2015-16.

Solution 5)

Gross Total Income	10, 45,000
Less: deduction u/s 80E	<u>80,000</u>
Total Income	<u>9, 65,000</u>

DEDUCTION IN RESPECT OF INTEREST ON LOAN TAKEN FOR RESIDENTIAL HOUSE PROPERTY (SECTION 80EE)

ELIGIBLE: 1) Individual only.

QUANTUM: The amount of interest paid on house loan during the previous year up to Rs. 1, 00,000 (the balance of the limit can even accrue in the next financial year).

IMPORTANT POINTS:

- a) Deduction under 80EE can be claimed on interest paid in the previous year on home loan taken up to Rs. 1, 00,000. If the amount of deduction so claimed is less than 1 lakhs, the balance can be claimed as deduction in the next year subject to that no such deduction is claimed under any other section.
- b) Deduction under this section is allowed if the home loan is sanctioned in the previous year and is sanctioned for the acquisition of a residential house property not exceeding Rs. 40 lakhs; loan being of amount less than Rs. 25 lakhs.
- c) The assessee should be the first time buyer of any house property and the loan should be sanctioned from any financial institution or any housing finance company.
- d) The interest deduction will be allowed under section 24(b) in case of property let out under “Income from House Property”.
- e) Meaning of “financial institution”: “Financial Institution” means banking company to which the Banking Regulation Act, 1949 act applies.
- f) Meaning of “housing finance company”: “Housing finance company” means a public company formed or registered in India whose main object is providing long-term finance for construction or purchase of houses in India for residential purposes.

Illustration 6) Mr. Ram having salary income of Rs. 7,90,000 , borrows from Indian Bank @ 10% on 01.04.2014 a sum of Rs. 25,00,000 and purchased a house property for Rs. 30,00,000 on 04.04.2014. Since its acquisition it’s been used as residential property for self. On date of loan, He does not have any residential house property. He has made a total investment of Rs.1, 00,000 u/s 80C. Compute his total income.

Solution 6)

Income from salary		7, 90,000
Less: Deduction u/s 80C	1, 00,000	
Deduction u/s 80EE	<u>1, 00,000</u>	<u>(2, 00,000)</u>
Taxable Income		<u>5, 90,000</u>

$$\text{Interest} = 25, 00,000 * 10 / 100 * 1$$

DEDUCTION IN RESPECT OF DONATIONS TO CERTAIN FUNDS, CHARITABLE INSTITUTIONS, ETC. (SECTION 80G)

ELIGIBLE: 1) All Assessee.

QUANTUM: Aggregate of all the deductions permissible under:

- 1) 100% deduction without qualifying limit
- 2) 50% deduction without qualifying limit
- 3) 100% deduction with qualifying limit
- 4) 50% deduction with qualifying limit

IMPORTANT POINTS:

- a) Donation should be in cash or money but not in kind. Also, any donation exceeding Rs. 10,000 would be allowed as deduction if payment is made in any mode other than cash. Assessee has to produce the proof for claiming the deduction under this section, otherwise it will not be available.
- b) Donation should be made only to specified institutions and funds.
- c) List of deduction included in 80G:

(A) 100% Deduction without any qualifying limit:

- (i) National Defence fund.
- (ii) Prime Minister's National relief fund.
- (iii) Prime Minister's Earthquake relief fund.
- (iv) Africa fund.
- (v) National Trust for welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities.
- (vi) National cultural fund set up by the Central Government.
- (vii) The Chief Minister's relief fund or the lieutenant Governor's relief fund.
- (viii) National Illness Assistance fund.
- (ix) The Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996.
- (x) The Army/Air force Central welfare fund or the Indian Naval Benevolent fund.
- (xi) Any fund set up by a State Government to provide medical relief to poor.
- (xii) The National/State Blood transfusion Council.
- (xiii) Zila Saksharta Samiti constituted in any district.
- (xiv) Any fund set up by the State Government of Gujarat, exclusively for providing relief to the victims of earthquake in Gujarat.
- (xv) Maharashtra Chief Minister's Earthquake Relief Fund.
- (xvi) University/Educational Institute of National Eminence approved by the prescribed authority.
- (xvii) National foundation for communal harmony.
- (xviii) Fund for technology development and application, set up by the Central Government.
- (xix) National sports fund set up by the Central Government.
- (xx) National Children's Fund.

(B) 50% Deduction without any qualifying limit:

- (i) Jawaharlal Nehru Memorial Fund.
- (ii) Indira Gandhi Memorial Trust.
- (iii) Rajiv Gandhi Foundation.
- (iv) Prime Minister's Drought Relief Fund.

(C) 100% Deduction subject to qualifying limit:

- (i) Any sum to Government or any approved local authority, institution or association to be utilized for promoting family planning.
- (ii) Any sum paid by the assessee, being a company, in the previous year as donation to Indian Olympic Association or to any other association established in India and notified by the Central Government for:
 - I. Development of infrastructure for sports and games or
 - II. Sponsorship of sports and games in India.

(D) 50% Deduction subject to qualifying limit:

- (i) Donation to Government or any approved Local Authority, Institution or Association to be utilized for any Charitable purpose other than promoting family planning.
- (ii) Any other Fund or Institution, which satisfies the conditions of Section 80G (5).
- (iii) Notified Temple, Mosque, Gurudwara, Church or any other place notified by the Central Government to be of historic, as chorological or artistic importance, for renovation or repair of such place.
- (iv) Any corporation established by the Central or State Government specified under Section 10(26BB) for promoting interests of the members of a minority community.
- (v) Any authority constituted in India by or under any law for satisfying the need for housing accommodation or for the purpose of planning development or improvement of cities, towns and villages or for both.

For applying qualifying limit, all donations made to funds/institutions covered under (C) and (D) above shall be aggregated and the aggregate amount shall be limited to 10% of adjusted Gross Total Income:

Gross total income
Less: long term capital gain
Short term capital gain (u/s 111A)
All deduction except 80G

Illustration 7) Mr. Sujit, an Indian citizen, has following particulars:

Income from business	8, 00,500
Winning from puzzles	1, 00,800

Contribution u/s 80C	80,000
Donation to Jawaharlal Nehru Memorial fund	30,000
Donation to charitable institute (approved)	1, 00,000
Donation to National Defence Fund	50,000
Donation to government for family planning	35,000

Calculate his net total income.

Solution 7)

Income from business	8, 00,500
Winning from puzzles	<u>1, 00,800</u>
Gross Total Income	9, 01,300
Less: Deductions	
Contribution u/s 80C	80,000
Donation u/s 80G *	<u>1, 18,565</u>
Net total income	<u>7, 02,735</u>

***CALULATION OF DEDUCTION U/S 80G**

Adjusted total income =

Gross total Income – deductions = 9, 01,300- 80,000 = 7, 21,300

Qualifying amount= 10% of Adjusted total income

= 10% of 7, 21, 300

= 72,130

WITHOUT QUALIFYING LIMIT

Donation to Jawaharlal Nehru Memorial fund (50%)	15,000
Donation to National Defence Fund (100%)	50,000

WITHQUALIFYING LIMIT

Actual Donation made (35,000+ 1, 00,000 = 1, and 35,000)

Donation to government for family planning (100% with limit to Rs. 72,130)	35,000
Donation to charitable institute (approved) (Balance Rs. 72,130- 35000 = 37, 130 @50%)	<u>18,565</u>
TOTAL	<u>1, 18,565</u>

DEDUCTION IN RESPECT OF RENT PAID (SECTION 80GG)

ELIGIBLE: Only to an individual (who is not entitled to House Rent Allowance).

QUANTUM:

- i. Rent paid minus 10% of the adjusted total income,
- ii. Rs. 2,000 per month, or
- iii. 25% of the adjusted total income, whichever is less.

IMPORTANT POINTS:

- a) Deduction under 80GG can be claimed on the house rent paid in the previous year for his accommodation (furnished or unfurnished) on a condition that he or his spouse or any minor child or HUF of which he is a member does not own any house at the place of assessee's work or dwelling. If individual owns any residential accommodation at any place, other than the place of residence or work of the assessee, then such property should not be assessed in the hands of the individual as self-occupied property.
- b) Deduction under this section is allowed to be claimed if the assessee is not entitled to House Rent Allowance from his employer and he should furnish a copy of the certificate in Form no. 10BA to the assessing Officer (whenever asked for examining).
- a) "Adjusted total income" means

Gross total income
Less: long term capital gain
Short term capital gain (u/s 111A)
All deduction except 80GG

Illustration 8) Mrs. Mohan, a businesswoman has following furnished following information for previous year 2014-15:

Business Income	80,000
Income from house property	1, 30,000
Capital Gain (long term)	40,000
Capital Gain (short term)	20,000
Income from other sources: interest from bank	15,000
Deposit in PPF	10,000

She pays Rs. 5000 p.m. as rent for his residential accommodation in Delhi.

Assuming, she or her family has no other residential accommodation, calculate her total income for the relevant assessment year.

Solution 8)

Income from house property	1, 30,000
Business income	80,000
Capital Gain (long term)	40,000
Capital Gain (short term)	20,000
Income from other sources: interest from bank	<u>15,000</u>
Gross Total Income	2, 85,000

Less: Deductions u/s 80C to 80U		
80C	10,000	
80GG	24,000	<u>34,000</u>
Total Income		<u>2, 51,000</u>

*Adjusted Total Income= Gross Total Income-Long term Capital Gain- Deductions
= 2, 85,000 - 40,000 - 10,000
=2, 35,000

Deduction u/s 80G

(i) Rent paid minus 10% of the adjusted total income	60,000-23,500 =	36,500
(ii) Rs. 2,000 per month,		24,000
(iii) 25% of the adjusted total income		58,750

DEDUCTION IN RESPECT OF CERTAIN DONATIONS FOR SCIENTIFIC RESEARCH OR RURAL DEVELOPMENT (SECTION 80GGA)

ELIGIBLE: To an assessee who does not have income from business or profession.

QUANTUM: The amount of donation or contribution made (not more than Rs. 10,000 in cash) in the previous year.

IMPORTANT POINTS:

- Deduction under 80GGA can be claimed on donations made to an approved research association, university, college or other institution in the field of science, social science or statistics.
- Deduction under this section is also allowed on donations made for any rural development program. Though the assessee should furnish a certificate to Assessing Officer in this regard.
- Donations in the form of cash, cheque or draft are allowed but not more than Rs. 10,000 in cash.

DEDUCTION IN RESPECT OF CONTRIBUTION TO POLITICAL PARTY OR ELECTORAL TRUST BY AN INDIAN COMPANY (SECTION 80GGB)

ELIGIBLE: To an Indian Company.

QUANTUM: The amount of donation or contribution made in the previous year. (not made by cash)

NATURE:

Deduction under 80GGB can be claimed on the contribution made by an Indian Company in the previous year to any political party or an electoral trust.

DEDUCTION IN RESPECT OF CONTRIBUTION TO POLITICAL PARTY OR ELECTORAL TRUST BY ANY PERSON (SECTION 80GGC)

ELIGIBLE: Any person (except local authority and any artificial juridical person wholly or partly funded by the Government).

QUANTUM: The amount of donation or contribution made in the previous year.
(not made in cash)

NATURE:

Deduction under 80GGC can be claimed on the contribution made by any person (except local authority and any artificial juridical person wholly or partly funded by the Government) in the previous year to any political party or an electoral trust.

Knowledge Assessment – I

1. Deduction under section 80E for interest on education loan taken for higher education can be claimed for a maximum period of –
 - a) 8 years
 - b) 9 years
 - c) 10 years
 - d) 12 years
2. The quantum of deduction allowed under section 80D in case of HUF shall be limited –
 - a) Rs. 10,000
 - b) Rs. 15,000
 - c) Rs. 20,000
 - d) Rs. 50,000
3. Maximum qualifying limit for deduction under section 80C is –
 - a) Rs. 50,000
 - b) Rs. 1,50,000
 - c) Rs. 2,00,000
 - d) Rs. 3,00,000
4. Deduction under 80G on account of donation is allowed to.
 - a) a business assessee only
 - b) any assessee
 - c) individual or HUF only
 - d) individual only
5. Deduction under section 80EE is allowed on interest on home loan, subject to that the cost of the house property bought should not exceed –
 - e) 25 lakhs
 - f) 35 lakhs
 - g) 40 lakhs
 - h) 55 lakhs

Answer: 1. a 2. b 3. b 4. b 5. c

SESSION 2: BASIC OVERVIEW OF DEDUCTIONS IN RESPECT OF CERTAIN INCOMES & DEDUCTION 80QCB, 80RRB, 80TTA & 80U

DEDUCTIONS IN RESPECT OF CERTAIN INCOMES

Section	Who can claim	Nature of deduction	Amount of deduction
80IA	All Assessee	<p>Profits and gains from undertakings or enterprises engaged in infrastructural development etc.</p> <p>(a) Enterprise engaged in business of</p> <p style="padding-left: 40px;">(i) Developing</p> <p style="padding-left: 40px;">(ii) Operating and maintaining</p> <p style="padding-left: 40px;">(iii) Developing, operating, and maintaining any infrastructure facility.</p> <p>(b) An undertaking which is engaged in generation, transmission, distribution of power etc.</p>	<p>100% of such profit for 10 consecutive assessment years out of 15 years beginning with the year in which undertaking engages in such business.</p> <p>Enterprise engaged in developing etc. of any infrastructural facility other than port, airport, inland waterway or inland port or navigation channel in the sea, the period of 15 years shall be replaced by 20 years.</p>
80IAB	Special Economic Zone	Profit and gain by an undertaking or enterprise engaged in development of SEZs	100% of such profit for 10 consecutive assessment years out of 15 years beginning from the year SEZ has been notified by central government
80IB	All assesses	Profits and gains from individual undertakings other than infrastructure development undertaking.	*
*80IB (9)	Industrial undertaking producing or refining mineral oil in north eastern region or in any part of India		100% for 7 assessment years

80IB (11A)	undertaking engaged in the business of processing, Preservation and packaging of fruits/ vegetables/ meat and meat products/poultry/marine/dairy products. OR integrated business of handling, storage and transport of food grains.	commencing from initial assessment years	
Assessee	Period of deduction (commencing from initial AY)	Percent age of profit eligible for deduction	
(a) Owned by a company	First 5 years Next 5 years	100 30	
(b) Owned by other assessee	First 5 years Next 5 years	100 25	
80IC (11C)	Undertaking operating and maintaining a hospital located anywhere in India other than excluded area.	100% for 5 Assessment year consecutively	
80IC	All Assessee	Profit and gain in respect of certain undertakings in certain special category of states (i) Production/ Operation of any article/thing in notified specified area in state of Himachal Pradesh/Uttarakhand. (ii) Mention in schedule 14 in any area in said state.	100% of such profit for 5 assessment years and thereafter 25% of profit or gain (30% in case of company)
80ID	All Assessee	Profit in gains from business of hotels and reservation Centres in specified areas.	100% of profit gain for 5 consecutive assessment year commencing with initial assessment year
80IE	All Assessee	Profit from certain undertaking in North Eastern States	100% of such gain for 10 consecutive assessment years

		operative society does not exceed Rs. 20,000.	100% is allowed in case of a co-operative society not being (i) Housing society (ii) Urban consumer society (iii) Transport business (iv) Engaged in manufacturing business with aid of power, provided gross total income does not exceed 20,000.
--	--	---	--

DEDUCTION IN RESPECT OF ROYALTY INCOME OF AUTHORS (SECTION 80QQB)

ELIGIBLE: To a Resident Author (or joint author).

QUANTUM:

- (1) 100% of such income; or
- (2) Rs. 3, 00,000; whichever is less.

IMPORTANT POINTS:

- a) Deduction under 80QQB can be claimed on the royalty or copyright fees (payable in lump sum or otherwise) or lump sum consideration for transfer (or grant) of any interest in the copyright of the book authored by him which is work of literacy, artistic or scientific nature (excluding text-books for schools, tracts and other publications of similar nature, by whatever name called).
- b) Deduction under this section is also allowed if the assessee furnishes a copy of the certificate in Form no. 10CCD to the Assessing Officer from the person responsible for paying the income (whenever asked for examining).

DEDUCTION IN RESPECT OF ROYALTY INCOME ON PATENTS (SECTION 80RRB)

ELIGIBLE: To a Resident Individual

QUANTUM:

- 1) 100% of such income; or
- 2) Rs. 3, 00,000; whichever is less.

IMPORTANT POINTS:

- a) Deduction under 80RRB can be claimed on the royalty received on respect of patent (he may be a co-owner of a patent) which is registered.
- b) Deduction under this section is also allowed if the assessee furnishes a copy of the certificate in Form no. 10CCE to the Assessing Officer from the person responsible for paying the income (whenever asked for examining).
- c) When the eligible income is earned outside India, such income is brought into India in convertible foreign exchange on or before September 30 of the assessment year in order to avail deduction under this section. A certificate of foreign inward remittance should be taken in Form no. 10H from a prescribed authority (i.e., RBI or an authorized bank).

DEDUCTION IN RESPECT OF INTEREST ON DEPOSITS IN SAVINGS ACCOUNTS (SECTION 80TTA)

ELIGIBLE: 1) Individual 2) HUF

QUANTUM: The total amount of interests on deposits in savings accounts maximum up to Rs. 10,000.

IMPORTANT POINTS:

- a) Deduction under 80TTA can be claimed on interest on deposits of savings accounts with a bank / co-operative bank / post office.
- b) Interests on time deposits are not considered.

DEDUCTION IN THE CASE OF A PERSON WITH DISABILITY (SECTION 80U)

ELIGIBLE: Only to a Resident Individual with disability.

QUANTUM: Rs. 50,000 (1, 00,000 in case of a person with severe disability).

IMPORTANT POINTS:

- a) Deduction under 80U can be claimed by a person with disability.
- b) For claiming the deduction under this section, the assessee should furnish to the Assessing Officer a copy of the certificate issued by the medical authority; whenever asked for examining.

- c) Where the condition of disability requires reassessment (when the medical certificate is issued for a specific period), a fresh certificate shall have to be obtained soon after the expiry of the period. No deduction shall be allowed if the medical certificate stands expired in the year preceding the assessment year.

Knowledge Assessment – II

1. The maximum limit of deduction specified under section 80RRB for claim on the royalty received in respect of patent is –
 - a) Rs. 50,000
 - b) Rs. 1,50,000
 - c) Rs. 2,00,000
 - d) Rs. 3,00,000
2. Deduction available under section 80QQB in respect of royalty income of authors shall not exceed _____ in a previous year.
 - a) Rs. 50,000
 - b) Rs. 1,50,000
 - c) Rs. 2,00,000
 - d) Rs. 3,00,000
3. Deduction u/s 80-IC is allowed if the business of the assessee is situated:
 - a) in any state
 - b) in any Backward state
 - c) in the states of Sikkim, Himachal Pradesh and Uttaranchal
 - d) in the states of Himachal Pradesh or Uttaranchal.
4. Mr. X receives Rs. 2, 50,000 as royalty fees for writing a science book of class 8th. He is entitled to claim a deduction of Rs. 2, 50,000 from his Gross Total Income.
5. Mr. M gets an interest of Rs. 10,855 as interest on his fixed deposits with a co-operative bank. He is entitled to get a deduction of Rs. 10, 855 under section TTA.

Answer: 1. d 2. d 3. d 4. True 5. False

Illustration. 9) Mr. V, being a 52 year old Indian citizen, provides us the following information for the year ending 31.03.2015

(a) Income from salary	3,40,000
(b) Income from house property	50,000
(c) Long term capital gain	1,20,000
(d) Short term capital loss	20,000
(e) LIP on his own life (sum assured-5,000)	1,000
(f) Amount incurred on education of younger child	1,200
(g) 5 year term deposit in post office	3,000
(h) Premium of Medi-claim insurance taken for self	7,000
(i) Payment for medical treatment of wife (60% disabled)	50,000
(j) Interest on education loan taken (Loan taken for his elder son to pursue B.Tech)	90,000
(k) Interest on home loan paid (Loan taken in April 2013) (Interest of 70,000 already claimed in 2014-15)	80,000
(l) Deposited to PM's Relief fund	10,000

He also pays a premium on Medi-claim of his father of Rs. 21,000 who is 78 years of age. Calculate his total income for the relevant previous year.

Solution 9) According to the particulars of Mr. V

Income from salary	3,40,000
Income from house property	50,000
Income from capital gains	
Long term gain	1,20,000
less: Short term loss	<u>(20,000)</u>
	<u>1,00,000</u>
GROSS TOTAL INCOME	<u>4,90,000</u>
Less: Deduction under section 80C	(4,700)
Deduction under section 80D	(27,000)
Deduction under section 80DD	(1,00,000)
Deduction under section 80E	(90,000)
Deduction under section 80EE	(30,000)
Deduction under section 80G	<u>(10,000)</u>
TOTAL INCOME	<u>2,28,300</u>

Working Notes:-

1. Deduction u/s 80C –

LIP on his own life (10% of amount assured)	500
Tuition fee of younger child	1,200

5 year term deposit in Post Office	<u>3,000</u>
<i>Total</i>	<u>4,700</u>
2. Deduction u/s 80D –	
Premium paid on Medi-claim taken for self	7,000
Medi-claim premium for senior citizen father	
Rs. 21,000 restricted to maximum	<u>20,000</u>
<i>Total</i>	<u>27,000</u>
3. Deduction u/s 80DD –	
In case of severe disability of wife flat 1, 00,000 deductions provided irrespective of the amount paid.	
4. Deduction u/s 80E –	
Interest on education loan taken for higher studies	
5. Deduction u/s 80EE –	
Interest on home loan is already claimed in 2014-15 of Rs. 70,000, can be deducted up to 1, 00,000; the balance of 30,000 can be accrued. Therefore, Rs. 30,000 is still claimed.	
6. Deduction u/s 80G –	
Deposit to Prime Minister’s relief fund, being a 100% without qualifying limit head is claimed fully.	

Illustration. 10) Mr. X, being an author and a businessman, provides us the following information for the year ending 31.03.2015

(a) Income from business	4,20,000
(b) Income from house property	80,000
(c) Long term capital gain	2,10,000
(d) Short term capital loss	70,000
(e) LIP on his own life (sum assured-10,000)	1,000
(f) LIP on his wife (sum assured-8,000)	400
(g) Amount incurred on education of younger child	800
(h) Deposit in PPF	13,000
(i) Contribution to RPF	3,000
(j) Premium of Medi-claim insurance taken for self	7,000
(k) Premium of Medi-claim insurance taken for child 8,000 (Independent)	
(l) Premium of Medi-claim insurance taken for wife	9,000
(m) Payment for medical treatment of child (40% disabled)	20,000
(n) Interest on home loan paid (Loan taken in May 2013)	1,00,000

	(Interest of 1, 00,000 already claimed in 2014-15)	
(o)	Deposited to Rajiv Gandhi Foundation	50,000
(p)	Royalty received on a novel written	50,000
(q)	Royalty received on a registered patent	3,20,000

Calculate his total income for the relevant previous year.

Solution 10)

According to the particulars of Mr. X

Income from business		4,20,000
Income from house property		80,000
Income from capital gains		
Long term gain	2,10,000	
less: Short term loss	<u>(70,000)</u>	<u>1,40,000</u>
GROSS TOTAL INCOME		<u>6,40,000</u>
Less: Deduction under section 80C		(18,200)
Less: Deduction under section 80D		(15,000)
Less: Deduction under section 80DD		(50,000)
Less: Deduction under section 80EE		NIL
Less: Deduction under section 80G		(25,000)
Less: Deduction under section 80QQB		(50,000)
Less: Deduction under section 80RRB		<u>(3,00,000)</u>
TOTAL INCOME		<u>2,28,300</u>

Working Notes:-

1. Deduction u/s 80C –

LIP on his own life	1,000
LIP on his wife	400
Tuition fee of younger child	800
Deposit in PPF	13,000
Deposit in RPF	<u>3,000</u>
<i>Total</i>	<u>18,200</u>

2. Deduction u/s 80D –

Premium paid on Medi-claim taken for self	7,000
Medi-claim premium for independent child	NIL
Premium paid on Medi-claim taken for wife	<u>9,000</u>
<i>Total</i>	<u>16,000</u>

But restricted to a maximum of Rs. 15,000

3. Deduction u/s 80DD –

In case of 40% disability of dependent child flat 50,000 deduction provided irrespective of the amount paid.

4. Deduction u/s 80EE –

Interest on home loan is already claimed in 2014-15 of Rs. 1, 00,000, can be deducted only up to 1, 00,000 which is already claimed. Therefore no deduction is allowed in this year.

5. Deduction u/s 80G –

Deposit to Rajiv Gandhi Foundation, being a 50% without qualifying limit head is claimed half i.e., 25,000 instead of 50,000.

6. Deduction u/s QQB –

Royalty received in his work of literacy

7. Deduction u/s RRB –

Royalty received in respect of patent Rs. 3, 20,000 but it is subject to a maximum of Rs. 3, 00,000.

KEYWORDS

1. **Disability:** include autism, cerebral palsy and multiple disabilities as provided for in the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.
2. **Medical authority:** means any hospital or institution specified for the purpose of this act by notification by the appropriate government.
3. **Person with disability:** means a person suffering from not less than 40% of any disability as certified by the medical authority.
4. **Person with severe disability:** means any person with 80% or more of one or more disabilities.
5. **Financial institution:** means banking company to which the Banking Regulation Act, 1949 act applies.
6. **Housing finance company:** means a public company formed or registered in India whose main object is providing long-term finance for construction or purchase of houses in India for residential purposes.

SUMMARY

- **Section 80C:** Deduction on life insurance premia, contribution to provident fund, etc - Available to individual/HUF for a maximum amount of Rs.1, 50,000.
- **Section 80CCC:** Deduction for contribution to pension fund - Available to individual for maximum amount of Rs.1, 50,000.
- **Section 80CCD:** Deduction in respect of contribution to pension scheme of Central Government available to individual.
- **Section 80CCE:** Limit on deductions under Sections 80C, 80CCC and 80CCD - cannot exceed Rs. 1, 50,000.
- **Section 80CCG:** Deduction in respect of investment made under any equity saving scheme: Available to resident individual subject to maximum of Rs. 25,000.
- **Section 80D:** Deduction in respect of medical insurance premia - Available to individual/HUF.
- **Section 80DD:** Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability – Available to resident individual/HUF for a fixed amount of Rs.50, 000 and `Rs.1, 00,000.
- **Section 80DDB** read with **Rule 11DD:** Deduction in respect of medical treatment, etc.: Available to Resident individual/resident HUF for maximum of Rs.40, 000.
- **Section 80E:** Deduction in respect of repayment of loan taken for higher education: Available to individual.
- **Section 80G:** Deduction in respect of donations to certain funds, charitable institutions, etc. Available to all assessee subject to maximum of 50% of qualifying amount, 100% as the case may be.
- **Section 80GG:** Deduction in respect of rent paid Available to individual for a maximum of Rs. 24,000.
- **Section 80GGA:** Deduction in respect of certain donations for scientific research or rural development.
- **Section 80GGB:** Deduction in respect of contributions given by companies to political parties.
- **Section 80GGC:** Deduction in respect of contributions given by any person to political parties
- **Section 80QQB:** Deduction in respect of royalty income, etc., of authors of certain books other than text books – Available to resident individual, for a maximum deduction of Rs.3, 00,000.
- **Section 80RRB:** Deduction in respect of royalty on patents – Available to Resident Individual, maximum of Rs. 3, 00,000.
- **Section 80TTA:** Deduction in respect of interest on deposits in savings account – Available to Individual/HUF up-to Rs.10, 000.
- **Section 80U:** Deduction in case of a person with disability – Available to Resident individual subject to maximum of Rs. 100,000

EXERCISE QUESTIONS

Short Answer Questions

1. What are the basic rules governing deduction 80C to 80U?
2. What is the aggregate amount of deductions under Sections 80C, 80CCC and section 80CCD?
3. Name any five investments in respect of Section 80C which can be claimed as deduction under this section.
4. State the quantum of deduction in respect of Section 80D.

Long Answer Questions

1. Write short notes on:
 - (a) Deduction u/s 80QQB in respect of royalty income of authors of certain books.
 - (b) Deduction u/s 80DDB in respect of medical treatment.
 - (c) Deduction u/s 80U in respect of a person with disability.
 - (d) Deduction u/s 80GG in respect of rent paid.
2. What are the provisions relating to deductions from Gross total income in respect of donations to certain funds, charitable institutions etc. under section 80G of Income Tax Act?
3. What is the deduction available in respect of 80-IA & 80-IB?
4. Explain the deduction in respect of royalty on patents under section 80RRB.

Numerical Questions

1. Mr. Vyapak, being a 40 year old Indian citizen, provides us the following information for the year ending 31.03.2015:

(a) Income from salary	3,40,000
(b) Income from house property	50,000
(c) Long term capital gain	1,20,000
(d) Short term capital gain	20,000
(e) Income from other sources	30,000
(f) LIP on his own life (sum assured-5,000)	1,000
(g) Amount incurred on education of younger child	1,000
(h) 5 year term deposit in post office	3,000
(i) Contribution to PPF	4,000
(j) Contribution to RPF	6,000
(k) Premium of Medi-claim insurance(self)	10,000
(l) Payment for medical treatment of wife (40% disabled)	30,000
(m) Interest on education loan taken (Loan taken for his elder son to pursue MBA)	80,000
(n) Interest on home loan paid (Loan amount – 25 lakhs) (Cost of the house – 48 lakhs)	80,000
(o) Donation to govt for family planning	15,000

He also pays a premium on Medi-claim of his father of Rs. 30,000 who is 68 years of age. Calculate his total income for the relevant previous year.

(Answer: Rs. 2, 90,500)

2. Mr. Aarav, being an author and a businessman, provides us the following information for the year ending 31.03.2015

(a) Income from business	5,20,000
(b) Income from house property	30,000
(c) Long term capital gain	2,10,000
(d) Short term capital loss	10,000
(e) Income from other sources	30,000
(f) LIP on his own life (sum assured-10,000)	1,000
(g) LIP on his wife (sum assured-8,000)	400
(h) Amount incurred on education of younger child	800
(i) Deposit in PPF	15,000
(j) Contribution to RPF	8,000
(k) Preventive medical check-up of self	4,000
(l) Preventive health check-up of independent child	2,000
(m) Premium of Medi-claim insurance taken for wife	9,000
(n) Payment for medical treatment of child (60% disabled)	20,000
(o) Interest on home loan paid (Loan amount being 30 lakhs) (Cost of house being 40 lakhs)	50,000
(p) Royalty received on a novel written	3,50,000
(q) Royalty received on a registered patent	20,000

Calculate his total income for the relevant previous year.

(Answer: Rs. 3, 71,800)

3. Mr. Siddhartha, being 42 years old resident, provides us the following information for the year ending 31.03.2015

(a) Income from salary	2,20,000
(b) Income from house property	28,000
(c) Interest on saving bank account	1,000
(d) Income from other sources	30,000
(e) LIP on his wife (sum assured-8,000)	900
(f) Amount spent on education of 3 children(each)	1000
(g) Deposit in PPF	18,000
(h) Contribution to RPF	5,000

(i) Preventive medical check-up of self	4,000
(j) Preventive health check-up of dependent child	2,000
(k) Premium of Medi-claim insurance taken for self	9,000
(l) Interest on home loan paid	50,000
(Loan amount being 25 lakhs)	
(Cost of house being 40 lakhs)	
(m) Donation to family planning	20000
(n) Donation to notified temple	15,000

Calculate his total income for the relevant previous year.

(Answer: Rs. 1, 69, 380)

UNIT 2 : COMPUTATION OF TAX LIABILITY OF AN INDIVIDUAL

Unit Code:	UNIT TITLE: COMPUTATION OF TAX LIABILITY OF AN INDIVIDUAL			
	Duration:			
Location:	SESSION 1: INTRODUCTION : CALCULATION OF TAX LIABILITY OF INDIVIDUAL			
Classroom	Learning Outcome	Knowledge Evaluation	Performance Evaluation	Teaching and Training Method
	1. Basic rules related to computation of tax liability.	1. How total taxable income and tax liability is calculated for an individual?	1. Write the basic steps to calculate tax liability. 2. List the rates of income tax for Assessment year 2015-16.	Interactive Lecture: Discussion related to rules related to computation of tax liability
	2. Practical illustration	1. Calculation of tax liability and taxable income.	1. Calculation of tax liability and taxable income.	Interactive Lecture: Discussion on Practical problems

(Note: The location would depend upon the topic under discussion, wherein it will be the classroom for the theoretical interactions and the students can visit Income tax department website www.incometaxindia.gov.in to have a practical hands on experience on the same.)

UNIT : COMPUTATION OF TAX LIABILITY OF AN INDIVIDUAL

Learning Objectives:

After reading this unit, the students will be able to:

1. understand the rules for computation of taxable income,
2. calculate taxable income and tax liability of an individual,

SESSION 1: INTRODUCTION: CALCULATION OF TAX LIABILITY OF INDIVIDUAL

INTRODUCTION

An individual means a natural person i.e. human being. Individual includes a male, female, minor child and a lunatic or an idiot.

In case of male/female who is a major, income tax will be levied on his/her Total Taxable Income separately, unless the income is to be clubbed under provisions of section 60-64.

As regards a minor child, the income of a minor after giving exemption up to Rs. 1,500 per minor child will be clubbed with the income of that parent who's Total Income, before clubbing such income, is greater. However, there are certain incomes which are not to be clubbed. Such income of the minor, which is not to be clubbed, will be assessable in the hands of the representative assessee on behalf of the minor.

Income of a lunatic or an idiot will be assessed in the hands of the representative assessee.

◆ An individual is liable to pay tax in respect of the following incomes

- i) **Income earned by an individual himself:** i.e. income earned by an individual in his individual capacity.
- ii) **Income earned as a partner of a firm or a limited liability partnership:** Following types of incomes can be earned by an individual as partner of a firm or limited liability partnership:
 - (a) **Share of profit of the firm or limited liability partnership:** The share of profit from a partnership firm or a limited liability partnership, is exempt from tax at the time of individual assessment of the partner; [Section 10(2A)];

- (b) Remuneration from a firm: The remuneration by way of salary, bonus, commission, etc., received by a partner, is taxable as business income in the hands of a partner [Section 28(v)];
 - (c) Interest on capital or loan: Interest on capital or loan to a firm or limited liability partnership, in which he is a partner, is also assessed as income from business.
- iii) **As a member of an association of persons, etc.:** Where an individual is member of an association of persons or body of individuals, his share of income from such AOP/BOI shall be taxed as under:
- (a) Where the income of association of persons or body of individuals is chargeable at maximum marginal rate: Share of income of a member from such AOP or BOI will not be included in his taxable income at all.
 - (b) Where the income of AOP or BOI is taxed at normal rates i.e. the rates applicable to an individual: Share of income of a member from such AOP or BOI will be included in the taxable income of the individual only for rate purposes and a relief under section 86 shall be allowed.
 - (c) Where no income tax is chargeable on the income of the AOP or BOI: Share of income of a member from such AOP or BOI will be chargeable to tax as part of his total income.
- iv) **Income of the other persons included in the income of the individual [Section 60 to 65]:** as already discussed under the chapter on 'clubbing of income', the income of other persons will also be included in the individual's Total Income under respective heads of income.

◆ **Computation of total income and tax liability**

- Step 1:** Compute the income of an individual under 5 heads of income on the basis of his residential status.
- Step 2:** Income of any other person, if includible under section 60 to 64, will be included under respective heads.
- Step 3:** Set off of the losses if permissible, while aggregating the income under 5 heads of income.
- Step 4:** Carry forward and set off of the losses of the past years, if permissible, from such income.
- Step 5:** The income computed under step 1 to 4 is known as Gross Total Income from which deductions under section 80C to 80U (Chapter VIA) will be allowed. However, no deduction under these sections will be allowed from short term capital gain covered under section 111A, any long term capital gain and winning of lotteries etc., though these incomes are part of gross total income.
- Step 6:** The balance income after allowing the deductions is known as total income which will be rounded off to the nearest Rs. 10.
- Step 7:** Compute tax on such total income at the prescribed rates of tax.

Step 8: Add education cess and secondary and higher education cess @ 3%.

Step 9: Allow relief under section 89, if any.

Step 10: Deduct the TDS and advance tax paid for the relevant assessment year.

The balance is the net tax payable which must be rounded off to the nearest Rs.

10. This tax has to be paid as self-assessment tax before submitting the income tax return.

◆ **For the assessment year 2015-16 the following deductions are available to an individual under Chapter VIA**

Section	Nature of Deduction	To which individual allowed
80C	Deduction in respect of Life Insurance Premium, Provident Fund, etc.	Resident and Non-Resident
80CCC	Contribution to certain pension funds	Resident and Non-Resident
80CCD	Deduction in respect of contribution to pension scheme of Central Government	Individual employed by Central Government
80CCE	Limit on deduction under section 80C, 80CCC and 80CCD	
80CCG	Deduction in respect of investment made in an equity saving scheme	Resident individual
80D	Payment of Medical Insurance Premium	
80DD	Maintenance including medical treatment of a disabled dependent	Resident only
80DDB	Expenditure on medical treatment of certain diseases	
80E	Interest on loan taken for higher education	Resident and Non-Resident
80EE	Interest on loan sanctioned not before the financial year 2013-14 for acquiring residential house property	Individuals only
80G	Donations to certain funds or charitable institutions etc.	
80GG	Deduction in respect of rent paid	
80GG A	Certain donations for scientific research or rural development	
80GGC	Deduction in respect of contribution given by any person to political parties	
80-IA	Profits and gains of new industrial undertakings, etc.	Resident and Non-Resident
80-IB	Profits and gains from certain industrial undertakings other than infrastructure development undertakings.	
80-IC	Deduction in respect of certain undertakings or enterprises in certain special category States	Resident and Non-Resident
80-ID	Deduction in respect of profits and gains from business of hotels and convention centers in specified area	
80-IE	Special provisions in respect of certain undertakings in North-Eastern States	

80JJA	Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste	Resident and Non-Resident
80QQB	Deduction in respect of royalty income, etc., of authors of certain books other than text books	Resident Author
80TTA	Deduction in respect of interest on deposits in saving account	Individual or HUF whether resident or non-resident
80U	Deduction in case of a person with disability	Resident only

◆ **Rates of income tax for assessment year 2015-16**

Particulars	Rate of Tax
i) Winnings from lotteries, crossword puzzles or races including horse races or card games and other games of any sort or from gambling or betting of any form or nature whatsoever [section 115BB]	30%
ii) Short term capital gains on equity shares in a company or units of an equity oriented fund where the transaction is chargeable to securities transaction tax [section 111A]	15%
iii) Long term capital gains [section 112]	20%
iv) The balance of total income in case of:-	
(a) An individual (man or woman), resident in India who is not more than 60 years of age, a non-resident individual, HUF, AOP/BOI (other than a co-operative society).	
Up to Rs. 2, 50,000	Nil
Rs. 2, 50,010 to Rs. 5, 00,000	10%
Rs. 5, 00,010 to Rs. 10, 00,000	20%
Above Rs. 10, 00,000	30%
(b) An individual (man or woman), resident in India, who is of the age of 60 years or more at any time during the previous year, but less than 80 years of age.	
Up to Rs. 3, 00,000	Nil
Rs. 3, 00,010 to Rs. 5, 00,000	10%
Rs. 5, 00,010 to Rs. 10, 00,000	20%
Above Rs. 10, 00,000	30%
(c) An individual (man or woman), resident in India who is of the age of 80 years or more at any time during the previous year.	
Up to Rs. 5, 00,000	Nil
Rs. 5, 00,010 to Rs. 10, 00,000	20%
Above Rs. 10, 00,000	30%

◆ **Rebate of maximum Rs. 2,000 for resident individuals having a total income up to Rs. 5 lakhs [section 87A] [W.e.f. assessment year 2014-15]**

With a view to provide tax relief to the individual tax payers who are in lower income bracket, the Act has provided rebate for the tax payable by an assessee, if the following conditions are satisfied:

- i) The assessee is an individual,
- ii) He is resident in India,
- iii) His total income does not exceed Rs. 5, 00,000.

Quantum of Rebate: The rebate shall be equal to:

- (a) The amount of income tax payable on the total income for any assessment year, or
- (b) Rs. 2,000,

Whichever is less.

◆ **Alternate Minimum Tax (AMT) on all persons other than companies [section 115JC to 115JF]**

Where the regular income tax payable for a previous year by a person (other than a company) is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of such person and he shall be liable to pay income tax on such total income at the rate of 18.5%. [Section 115JC (1)]

Report from an accountant [section 115JC (3)]: Every person to whom this section applies shall obtain a report, in such form as may be prescribed, from an accountant, certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of this Chapter and furnish such report on or before the due date of furnishing of income tax return under section 139(1).

To whom AMT shall be applicable [section 115JEE (1)]:

The provisions of AMT shall apply to a person who has claimed any deduction under –

- (a) Sections 80-IA to 80RRB other than section 80P; or
- (b) Section 10AA.

To whom AMT shall not be applicable [section 115JEE (2)]:

The provisions of AMT under Chapter XII-BA shall not apply to –

- (a) An individual; or
- (b) A HUF; or
- (c) An AOP or a BOI (whether incorporated or not); or
- (d) An artificial juridical person referred to in section 2(31)(vii);

If the adjusted total income of such person does not exceed Rs. 20, 00,000.

Tax credit for AMT: Section 115JD provides the credit for tax (tax credit) paid by a person on account of AMT under Chapter XII-BA shall be allowed to the extent of the excess of the AMT paid over the regular income tax. This tax credit shall be allowed to be carried forward up to the tenth assessment year immediately succeeding the assessment year for which such credit becomes allowable. It shall be allowed to be set off

for an assessment year in which the regular income tax exceeds the AMT to the extent of the excess of the regular income tax over the AMT.

No interest shall be payable on tax credit allowed under section 115JD.

With a view to enable an assessee who has paid AMT in any earlier previous year to claim credit of the same, in any subsequent year, the Act has inserted section 115JEE (3) so as to provide that the credit for tax paid under section 115JC shall be allowed in accordance with the provisions of section 115JD, notwithstanding the conditions mentioned in section 115JEE (1) or (2).

For this purpose:

- (a) “adjusted total income” shall be the total income before giving effect to provisions of sections 115JC to 115JF as increased by the deductions claimed under sections 80-IA to 80RRB other than section 80P included in Chapter VI-A and deduction claimed under section 10AA [section 115JC(2)].
- (b) “alternate minimum tax” shall be the amount of tax computed on adjusted total income at a rate of 18.5% [section 115JF(b)]
- (c) “Regular income tax” shall be the income tax payable for a previous year by a person other than a company on his total income in accordance with the provisions of Chapter XII-BA (i.e. sections 115JC to 115JF). [Section 115JF (d)]

Knowledge Assessment - I

1. Income tax is rounded off to:
 - a) nearest ten rupees
 - b) nearest one rupee
 - c) no rounding off of tax
2. Education cess is leviable @:
 - a) 2%
 - b) 3%
 - c) 5%
3. The maximum amount on which income tax is not chargeable for the assessment year 2015-16 in case of an individual who is of age 60 years or above but not resident of India is :
 - a) 2,00,000
 - b) 2,50,000
 - c) 5,00,000
4. Secondary and Higher Education Cess (SHEC) is leviable on:
 - a) income tax,
 - b) income tax, surcharge if applicable
 - c) income tax, surcharge if applicable and education cess
5. Mrs. A, a resident of India, is 56 years old. Her total income for assessment year 2015-16 is Rs. 7, 26,500. Her tax liability shall be:
 - a) Rs. 72,410
 - b) Rs. 74,210
 - c) Rs. 70,410

Answer:

1. a ,2.a , 3.b , 4. b, 5. a

ILLUSTRATIONS

Illustration 1) Mr. X, being a 64 year old Indian citizen, provides us the following information for the year ending 31.03.2015

(a) Basic Pay	3,40,000
(b) Education Allowance (Rs. 350 per month for a son and Rs. 400 per month each for 2 daughters)	13,800
(c) Transport Allowance (For journey between office and residence)	8,000

(d) Employer's contribution towards UPF	4,000
(e) Share of profit from a firm	50,000
(f) X's contribution towards UPF (Unrecognized Provident Fund)	8,900
(g) Premium of Medi-claim insurance policy	
i. Self	15,000
ii. Wife's	2,000
(h) Donations made to PM's relief fund	10,000
(i) Donations made to Rajiv Gandhi Foundation	8,000

He purchased a house of Rs. 30 lakhs, taking a loan of 20 lakhs. The interest paid during the year being Rs. 30,000. He does not own any other house property. Compute the total income of X.

Solution 1)

According to the particulars of Mr. X -

Income from salary	3,51,400
Income from profession	<u>Nil</u>
GROSS TOTAL INCOME	<u>3,51,400</u>
Less: Deduction under section 80D	15,000
Less: Deduction under section 80G	14,000
Less: Deduction under section 80EE	<u>30,000</u>
TOTAL INCOME	<u>2,92,400</u>

Working Notes:-

1. Income from salary –

Basic Pay		3, 40,000
Education Allowance	13,800	
Exempt: (100x2x12)	<u>(2,400)</u>	11,400
Transport Allowance		Exempt
(Exempted maximum up to 9,600)		
Employer's contribution to UPF		Nil
(Not taxable even if exceeds 12% of salary)		
Total		<u>3, 51,400</u>

2. Income from profession/business –

Profit from a firm is fully exempted.

3. Deduction u/s 80 D (15000+2000) subjected to a maximum of
Rs. 15,000)

4. Deduction u/s 80G

a) PM relief fund (100%) 10,000

b) Rajiv Gandhi Foundation (50%) 4,000

Illustration 2) Compute the total income of Mr. Varun from the following particulars for the assessment year 2015-16.

(a) Basic Pay	12,00,000
(b) Free watchman	80,000
(c) Free gardener	15,000
(d) Share of profit from a firm	12,000
(e) Winnings from horse race	12,000
(f) Royalty income from patent	30,000
(g) Contribution to PPF	30,000
(h) Donation to Indira Gandhi Memorial Trust	80,000
(i) Interest on Post Office saving account	20,000
(j) Loss from a business	50,000
(k) Purchase of a work of art from a friend for RS. 50,000; market value, however being Rs. 90,000	
(l) Expenditure incurred for the medical treatment of his elder dependent brother of Rs. 20,000; being a person with disability (80%).	

Solution 2) According to the particulars of Mr. Varun -

Income from salary	12,95,000
Income from house property	NIL
Income from profession/business	(50,000)
Income from capital gains	40,000
Income from other sources	<u>62,000</u>
GROSS TOTAL INCOME	13,47,000
Less: Deduction under section 80C to 80 U	<u>2,10,000</u>
NET TOTAL INCOME	<u>11,37,000</u>

Working Notes:-

1. Income from salary –

Basic Pay	12,00,000
Free watchman	80,000
Free gardener	<u>15,000</u>
	12,95,000

2. Income from profession/business –

Profit from a firm is fully exempted

3. Income from capital gains –	
Art work (90,000-50,000)	40,000
4. Income from other sources –	
Winnings from horse race	12,000
Royalty income from patent	30,000
Interest on Post Office saving account	<u>20,000</u>
	<u>62,000</u>
5. Deduction u/s 80C (PPF)	30,000
Deduction u/s 80 G (50% W/O limit)	
-Indira Gandhi Memorial Trust (80,000)	40,000
Deduction u/s 80TTA (Rs. 20,000 subjected To maximum of Rs. 10,000)	10,000
Deduction u/s RRB	30,000
Deduction u/s 80 U (disability 80%)	<u>1,00,000</u>
	<u>2,10,000</u>

Illustration 3)

Mr. Harish, being an author and a businessman, aged 61 years, provides us the following information for the year ending 31.03.2014. Compute total taxable income.

(a) Income from business	3,20,000
(b) Income from house property(computed)	20,000
(c) Long term capital gain	2,40,000
(d) Short term capital loss	40,000
(e) Income from other sources	50,000
(f) LIP on his own life (sum assured-10,000)	2,000
(g) LIP on his wife (sum assured-8,000)	1,000
(h) Amount incurred on education of younger child	800
(i) Deposit in PPF	18,000
(j) Contribution to RPF	5,000
(k) Preventive medical check-up of self	5,000
(l) Preventive health check-up of independent child	3,000
(m) Payment for medical treatment of child (60% disabled)	20,000
(n) Interest on home loan paid (Loan amount being 30 lakhs) (Cost of house being 40 lakhs)	40,000

Solution 3)

According to the particulars of Mr. Harish -

Income from business	3,20,000
Income from house property	20,000
Income from capital gains	2,00,000
Income from other sources	<u>50,000</u>
GROSS TOTAL INCOME	5,90,000
Less: Deduction under section 80C to 80U	<u>80,600</u>
NET TOTAL TAXABLE INCOME	<u>5,09,400</u>

TAX LIABILITY

Tax on total income of Rs. 5,09,400

Up to 3,00,000	NIL	NIL
3,00,000 to 5,00,000	10%	20,000
Balance 9,400	20%	<u>1880</u>
		21,880
Add: Education Cess @ 3%		<u>656</u>
		<u>22,536</u>

Amount rounded off total liability amounts to Rs.22,540.

Working Notes:-

1. Income from Capital Gains

LTCG	2,40,000	
STCL	<u>(40,000)</u>	2,00,000

2. Deduction u/s 80C to 80U

- 80 C LIP on self

(Rs. 10,000 sum assured subjected to maximum of 10% of sum assured)	1000	
LIP on wife (sum Assured- Rs. 8000)	800	
Amt on education of child	800	
Contribution to PPF	18,000	
Contribution to RPF	<u>5,000</u>	25,600

- 80 D Preventive health -check-up (Max. 5,000)

Self	5000	
Independent child	NA	5,000

- 80 DD Payment for medical treatment of disable

(Irrespective of amt spent) 50,000

- 80 EE Payment of interest on house loan

(Amount of loan exceeds Rs. 25 lakhs) NIL
80,600

Illustration 4) Mr. Aarav, being an author and a businessman, provides us the following information for the year ending 31.03.2014.

- a) Salary – Rs. 32,500 per month
- b) D.A. – Rs. 8,000 per month
- c) Commission on turnover achieved by him @ 5% of 20,00,000
- d) He is provided a car of 1.8l engine capacity with chauffeur for his official and private purposes
- e) Bonus – Rs. 20,000
- f) He is provided a rent free furnished house and the employer pays Rs. 10,000 per month for the house and Rs. 5,000 per month for the furniture.
- g) Premium of Medi-claim insurance taken for wife 9,000
- h) Royalty received on a book written for school 3,50,000

Compute his total income taxable for the year.

Solution 4)

According to the particulars of Mr. Aarav –

Income from salary	7,96,200
Income from other sources(royalty)	<u>3, 50,000</u>
GROSS TOTAL INCOME	11,46,200
Less: Deduction under section 80D	9,000
Deduction under section 80QQB (maximum subjected limit)	<u>3,00,000</u>
TOTAL TAXABLE INCOME	<u>8,37,200</u>

Working Notes:-

1. Income from salary –

Basic salary	3, 90,000
DA	96,000
Car facility with chauffeur (2400 x 12 + 900 x 12)	39,600
Commission on turnover (5% of 20, 00,000)	1, 00,000
Bonus	20,000

Rent free accommodation	1, 50,600
(15% of salary + rent of furniture)	
(Salary =basic+DA+comm. +bonus)	
Total	<u>7, 96,200</u>

Illustration 5) Mr. J, a Government employee and a citizen of India, was sent to New Zealand on official duty, on 1.8.2014. He stayed there up to 28.2.2015. The salary and allowances drawn by him during this period are given below. Compute his total income for the assessment year 2015-16.

- | | |
|---|----------|
| (a) 5 months' salary in India | 4,50,000 |
| (b) 7 months' salary in New Zealand | 6,30,000 |
| (c) Overseas Allowance | 5,00,000 |
| (d) Free residence in New Zealand | 3,50,000 |
| (Rent Rs. 50,000 per month for 7 months) | |
| (e) He has a house property in Mumbai which is self-occupied. During his stay in New Zealand his wife and children were staying in this property throughout the previous year. The fair rental value of the house is Rs. 60,000. He has paid Rs. 8,000 as municipal taxes and Rs. 2,000 as ground rent during the year. | |
| (f) He received dividend from an Indian company amounting to Rs. 5,000. | |
| (g) He has donated a sum of Rs. 10,000 to National relief fund of Prime Minister as applicable under section 80G. | |

Solution 5) According to the particulars of Mr. J

Income from salary	10,80,000
Income from house property	Nil
income from other sources	<u>Nil</u>
GROSS TOTAL INCOME	10,80,000
Less: Deduction under section 80G	<u>10,000</u>
TOTAL INCOME	<u>10,70,000</u>

Working Notes:-

- Income from salary –

Salary in India	4, 50,000
Salary in New Zealand	6, 30,000
Overseas Allowances (exempt)	Nil
Value of free residence in New Zealand (exempt)	<u>Nil</u>
Total	<u>10, 80,000</u>
- Income from house property –
Self-occupied house is not taxable

3. Income from other sources –
Dividend from an Indian company is exempt from income tax
4. Deduction u/s 80G –
100% in respect of donation without qualifying limit

Illustration 6) Mrs. Rati, being 55 years old resident, is employed with R Ltd. She furnishes us with the following details regarding the previous year. Compute her total income for the assessment year 2015-16.

- (a) Basic salary – Rs.25,000 per month
- (b) D.A. (50% of which forms a part of salary for retirement purposes) – Rs. 8,000 per month
- (c) Medical bills reimbursement (out of which Rs. 20,000 is in respect of treatment in a Government hospital) – Rs. 40,000
- (d) Free electricity for personal use – Rs. 20,000
- (e) Free telephone at residence – Rs. 24,000
- (f) Free meals in office (Rs. 80 per day for 300 days) – Rs. 24,000
- (g) Medi-claim insurance premium reimbursed on spouse – Rs. 20,000
- (h) House rent allowance for 4 months – Rs. 10,000 per month
- (i) Rent paid for house in Mumbai – Rs. 15,000 per month
- (j) After 4 months he was provided rent free unfurnished house in Mumbai whose rent is Rs. 18,000 per month.
- (k) R Ltd. Spent Rs. 20,000 for repairs of the house.
- (l) Amount deposited in PPF – Rs. 50,000
- (m) Income from other sources – Rs. 1,20,000

Solution 6)

According to the particulars of Mrs. Rati -

Income from salary	4,64,800
Income from other sources	<u>1,20,000</u>
GROSS TOTAL INCOME	5,84,800
Less: Deduction under section 80C	<u>50,000</u>
TOTAL TAXABLE INCOME	<u>5,34,800</u>

Working Notes:-

1. Income from salary –

Basic salary (25,000 x 12)		3, 00,000
D.A. (8,000 x12)		96,000
Medical bills reimbursed		5,000
(40,000 - 20,000 - 15,000)		
Free electricity		20,000
Free telephone at residence		Tax free
Free meal (80-50=30; 30x300)		9,000
H.R.A received	40,000	
Less: exempt (see note below)	<u>(40,000)</u>	Nil
Rent free unfurnished house		<u>34,800</u>
(See note below)		
Total		<u>4, 64,800</u>

➤ Calculation of H.R.A:-

1. Actual HRA received (10,000 x 4) 40,000
2. Rent paid-10% of salary 46,800
(60,000-13,200)
3. 50% of salary (29,000 x 4) 1,16,000
(Basic + 50% of DA)
Whichever is less

➤ Calculation of Rent free accommodation:-

- 15% of salary, where salary is basic + 50% of DA
I.e. 15% of (29,000 x 8) 34,800

2. Deduction u/s 80C –

Amount deposited to PPF	50,000
-------------------------	--------

Illustration 7) Mr. Rahul in Mumbai High Court provides us with his Receipts and Payments A/c for the year ending 31.3.2015, which is as follows:

Balance B/d	2,350	Subscription and membership	6,000
Legal fees		Purchase of legal books	10,000 36,000
2014-15 4,20,000	5,70,000	Rent	20,000
2013-14 <u>1,50,000</u>		Car Expenses	
Special commission	8,000	Office expenses	10,000
Exam remuneration	8,000	Electricity expenses	24,000
Salary as part time lecturer	3,20,000	Income tax	12,000
Interest on saving bank deposit	12,000	Domestic expenses	60,000
Sale proceeds of	3,20,000	Car purchased	6,40,000
		Life insurance	80,000

residential property		premium	
Rent from house	48,000		
property			
Agricultural income	<u>38,000</u>	Balance C/f	<u>4,28,350</u>
	<u>13,26,350</u>		<u>13,26,350</u>

Following information is available:-

- i. The rent and electric expenses are related to a house, of which two-third portion is used for self-residence and remaining one-third portion is used for office.
- ii. Car is used for professional purposes.
- iii. Outstanding legal fees is Rs. 20,000
- iv. Rent has been paid for 6 months only.
- v. Car was purchased on 31.12.2014. Law books purchased are annual publications out of which books of Rs. 5,000 were purchased on 2.8.2014 and the remaining on 25.10.2014.
- vi. The house was purchased in January 1999 for Rs. 35,000 and sold on 1.6.2014
- vii. Rent of the property which has been sold was Rs. 8,000 per month. The property was vacated by the tenant on 30.9.2014.

Solution 7):

Income from salary	
Salary as part of lecturer	3, 20,000

Income from House Property	
(Gross Annual Value Rs. 8000x12= 96,000	
Proportionate for 6 months 96000x 6/12 =	48,000
(-) Municipal Taxes	<u>nil</u>
Net Annual Value	48,000
(-) Standard Deduction @ 30%	<u>14,400</u>
	33,600

Income from PGBP	
(1) Legal Fees	5, 70,000
Special Allowance	<u>8,000</u>
	5, 78,000
(2) Allowable Expenses	
Subscription & membership	6,000
1/3 office rent	12,000
Car Expenses	20,000
1/3 Electric Charges	8,000

Office Expenses	10,000		
Depreciation on Car (7.5%) (less than 180 days)	48,000		
Depreciation on books (100%+50%) (More than 180 days 100%) (less than 180 days 50%)	<u>7,500</u>	1, 11 500	4, 66,500
Income from Capital Gain			
Sales Consideration		3, 20,000	
(-) Indexed cost of acquisition 35,000 x1024/ 161		<u>2, 22,609</u>	97, 391
Income from other sources			
Interest on saving bank		12,000	
Exam Remuneration		<u>8,000</u>	<u>20,000</u>
TOTAL TAXABLE INCOME			<u>9, 37, 491</u>
Tax on Rs. 7, 50,100(excluding LTCG)			
2, 50,000	NIL	Nil	
2, 50,000 to 5, 00,000	10%	25, 000	
2, 50,100 balance	20%	<u>50, 200</u>	
		75, 020	
LTCG @ 20% Rs. 97, 391		<u>19, 478</u>	
		94, 498	
Add: education cess @ 3%		<u>2,835</u>	
Total tax liability (rounded off)		<u>97, 330</u>	

Illustration 8) Mr. Xavier, submits the following particulars of income for assessment year 2015-16:

(a) Income from salary (computed)	2,50,000
(b) Income from house property (computed)	30,000
(c) Long term capital gain	40,000
(d) Short term capital loss	(15,000)
(e) Interest on securities (Gross)	11,000
(f) Interest on Bank Deposits	8,000

(g) LIP on his own life	2,000
(h) PPF	20,000
(i) Donation to National children fund	5,000
(j) Donations to PM's Relief Fund	6,000
(k) Donation to approved charitable institution	25,000
(l) Donation to Government for family planning	15,000
(m) Payment by cheque to GIC for incurring:	
Health of his wife	9,000
Health of dependant son	9,000
Father not dependant who is 67 years old	25,000
(n) Expenses on medical treatment of dependant being a disable	25,000
(o) Payment of interest on loan taken from charitable institution for the education of his daughter pursuing M. Tech.	30,000

Compute his total income & tax payable for mentioned assessment year.

Solution 8):

Income from salary		2, 50,000
Income from House Property		30,000
Income from capital gain		
Long term capital gain	40,000	
Short term Capital gain	<u>(15,000)</u>	25,000
Income from other sources		
Interest on securities	11,000	
Interest on Bank Deposits	<u>8,000</u>	<u>19,000</u>
Gross Taxable Income		3, 24,000
Less: Deduction u/s 80C and 80U		
80C (2,000+20,000)		22,000
80D – Insurance on life	9,000	
-Insurance on dependent Son	<u>9,000</u>	
	<u>18,000</u>	
(Limited to Rs. 15,000)	15,000	
Insurance on father life Rs.25, 000		
But limited to Rs. 20,000	<u>20,000</u>	35,000
U/s 80DD		50,000
U/s 80E		30,000
U/s 80G		
National Relief Fund (100%)	5,000	
PM's Relief Fung (100%)	6,000	
Approved charitable fund (Rs. 25,000)		
And Family Planning – Total Rs. 40,000		
but limited to 10% of Adjusted total		
income.i.e.		

(GTC--LTCG all deduction except 80G)
 (Rs. 3, 24,000 – Rs. 25,000 – 1, 37,000 =
 1, 62,000)

Therefore Rs. 15,000 - 100%	15,000		
Balance Rs. 1200 – 50%	<u>600</u>	15,600	<u>1, 63,600</u>
			<u>1, 60,400</u>

Tax on Rs. 1, 60,400 shall be

On Long Term Capital Gain (Rs.25, 000 - Rs. 25,000)	NIL
On other income (Rs. 1, 35,400 - Rs. 25,000) shifted from LTCG	<u>NIL</u>
Tax Liability	<u>NIL</u>

Illustration 9) Mr. Avijit, a business man submits the following details for the assessment year 2015-16.

Income from House Property (Computed)	8,000
Profit gain from personal business	25,000
Short term capital gain	68,000
Long term capital gain on sale of a building	17,000
The following items have been brought forward from the preceding assessment year:	
Business Loss	30,000
House Property Loss	10,000
Compute his gross total income & deals with carried forward losses.	

Solution:

Income from House Property	8,000	
(-) Loss of past year	<u>(10,000)</u>	NIL
To be carried forward	(2,000)	
Profit gains from personal business	25,000	
(-) Business Loss	<u>(30,000)</u>	NIL
	(5,000)	
Income under Head Capital Gain		
Short term capital gain		68,000
Long term capital gain		<u>17,000</u>

85,000

1. Balance house property loss of Rs. 2,000 shall be carried forward & set off only against the income from House Property.
2. Brought forward business loss of Rs. 5,000 shall be carried forward and set off only against business income.

KEYWORDS

- 1. Individual:** a natural person i.e. human being. Individual includes a male, female, minor child and a lunatic or an idiot.
- 2. Adjusted Total Income:** the total income before giving effect to provisions of sections 115JC to 115JF as increased by the deductions claimed under sections 80-IA to 80RRB other than section 80P included in Chapter VI-A and deduction claimed under section 10AA.

SUMMARY

- The taxable income of an individual is calculated by adding incomes from all the 5 heads of income and income of any other person includible under Sec 60 to Sec 64 and then any loss is set off while calculating the aggregate income under 5 heads.
- Next, any carry forward loss of past year is settled if permissible and this gives us Gross Total Income.
- From Gross Total Income, deductions under chapter VI is done to arrive at total taxable income.
- Last, tax is computed on such total income at the prescribed rate. Education cess @ 3% is then charged.

EXERCISE QUESTIONS

Short Answer Questions

1. Who is an individual according to Income tax Act?
2. When is an individual liable to pay tax?
3. State the tax rate slabs for Indian citizen aged (i) 45 years (ii) 65 years (iii) 89 years.

Long Answer Questions

1. How is the total income of an individual computed?
2. Discuss in brief, the deductions available to an individual from Gross Total Income.
3. State the incomes in respect of which an individual is liable to pay tax

Numerical Questions

1. Mr. Y, being a 61 year old Indian citizen, is an employee of M Ltd. Compute his total income for the assessment year 2015-2016 from the following particulars:

- | | |
|---|----------|
| a) Basic Pay | 8,00,000 |
| b) Free meals in office (290 working days) | 15,000 |
| c) Contribution of Y to PPF | 80,000 |
| d) Income from interest on securities | 50,000 |
| e) Business Loss of Y | 40,000 |
| f) Payment of premium on Medi-claim
(Policy taken for independent son) | 8,000 |
- g) Free car (1150cc) facility for Y's official and private purposes, cost to the employer being Rs. 28,000
- h) Y has taken a loan for the education of his major son. The loan was taken for pursuing BBS course from University of Uttarakhand. Amount of interest for the previous year 2014-15 is 30,000. However, he has paid Rs. 60,000 on account of interest, i.e. Rs. 30,000 for the current year and 30,000 for the previous year.

(Answer: Rs. 6, 76,900)

2. Z, a lecturer (34 years) in Delhi University submits the following particulars of incomes and payments for the Assessment year 2015-16:

- | | |
|--|--------------------|
| a) Basic salary | : 32,500 per month |
| b) Dearness allowance | : 8,000 per month |
| c) Examiner-ship remuneration | – Rs. 8,000 |
| d) Royalty on books for school students textbook | – Rs. 70,000 |
| e) Royalty on books of literature | – Rs. 50,000 |
| f) Income from house property | – Rs. 18,000 |
- (Expenses being house tax of Rs. 12,000. He has received a sum of Rs. 40,000 being advance rent of April and May of the assessment year; municipal valuation – Rs. 1,80,000; fair rent – Rs. 1,84,000; unrealized rent – nil; house remained vacant for 2 months).
- | | |
|---|--------------|
| g) Contribution to SPF | – Rs. 20,000 |
| h) Contribution to PPF | – Rs. 50,000 |
| i) Medical insurance premium on the health of spouse | – Rs. 20,000 |
| j) Interest paid on education loan of daughter pursuing LLB | – Rs. 50,000 |
| k) Medi-claim premium of father (aged: 52 years) | – Rs. 18,000 |
| l) Donation to a research institute | – Rs. 20,000 |
| m) Donation to government for family planning | – Rs. 35,000 |
- Compute his total taxable income and tax liability.

(Answer: Rs. 4, 76,600, Rs. 23,340)

3. Mr. B provides us the following information for the year ending 31.03.2015. Compute his total income.

- | | |
|--|-----------|
| (a) Basic salary | 6, 00,000 |
| (b) Bonus | 50,000 |
| (c) City Compensatory Allowance | 30,000 |
| (m) Winnings from lotteries | 50,000 |
| (n) Loss in betting | 20,000 |
| (o) House Rent Allowance | 25,000 |
| (House is at Hyderabad and rent actually paid amounts to Rs. 60,000) | |
| (p) Winning from horse races | 70,000 |
| (q) Tuition fee of son | 15,000 |
| (r) Contribution to RPF | 20,000 |
| (s) Medical Insurance premium of self | 30,000 |
| (t) Medical treatment of a child
(80% disabled) | 20,000 |
| (u) He owns a 1510 cc car which is used for personal and official purposes. Expenditure reimbursed by the employer – Rs. 2, 00,000 (Rs 1, 80,000 for official purposes). | |
| (v) Donation of Rs. 50,000 given to a famous Gurudwara. | |

(Answer: Rs. 6, 70,000)

4. Mrs. Z, 82 years of age, is a resident Indian working in private company as a Finance Head at Mumbai. She was appointed in the grade of Rs. 30,000 – 500 – 60,000 on April 1, 2010 (salary falls due on the last day of each month). Besides, she gets Rs. 8,000 per month as Dearness Allowance. She has been provided with the facility of a Gardener, watchman and driver who are paid by the employer at the rate of Rs. 800, Rs. 1,000 and Rs. 3,000 per month respectively. She owns a house property, which consists of 2 floors. One floor is used by Mrs. Z for private residential purpose and one floor is let out to a tenant for residential purpose at monthly rent of Rs. 15,000. Municipal valuation of the house property is Rs. 3, 00,000; fair rent is Rs. 2, 70,000 and the standard rent of the house is Rs. 3, 20,000. During the previous year, she contributes Rs. 80,000 to a RPF. She even donates Rs. 30,000 to Prime Minister's relief Fund. She even pays Rs. 800 per month as tuition fee of her son. Compute his total taxable income and tax liability.

(Answer: Rs. 5, 98,000, Rs. 20,190)

5. Mr. V (aged 62 years) provides us the following information for the year ending 31.03.2015. Compute his total taxable income and tax liability.

- | | |
|------------------|-----------|
| (a) Basic salary | 12,50,000 |
|------------------|-----------|

(b) Commission on sales @ 5% on turnover of Rs. 20,00,000	
(c) Advance salary of April and May	2,00,000
(d) Rent free furnished house in Bhopal (rent of unfurnished house paid by employee – Rs. 90,000 and rent of furniture – Rs. 30,000)	
(e) Free services of cook (Rs. 2,000 per month) and of watchman (Rs. 1,000 per month)	
(f) Income from business	1,00,000
(g) Winning of lottery(gross)	30,000
(h) Long term capital gain	2,10,000
(i) Short term capital loss	70,000
(j) LIP on his own life (sum assured-10,000)	1,000
(k) LIP on his wife (sum assured-8,000)	400
(l) Amount incurred on education of younger child	800
(m) Premium of Medi-claim insurance taken for child (Independent)	8,000
(n) 5 year term deposit in post office	3,000
(o) Payment for medical treatment of wife (60% disabled)	50,000
(p) Interest on education loan taken (Loan taken for his elder son to pursue B.Arch)	90,000
(q) Deposited to PM's Relief fund	10,000

(Answer: Rs. 16, 20,800, Rs. 3, 01,010)

6. Mr. K being a 45 year old Indian citizen, provides us the following information for the year ending 31.03.2015. Compute his total income and tax liability.

(a) Income from salary	6,40,000
(b) Income from house property(computed)	30,000
(c) Long term capital gain	1,40,000
(d) Short term capital gain	30,000
(e) Income from other sources	40,000
(f) LIP on his own life (sum assured-5,000)	2,000
(g) Amount incurred on education of younger child	1,500
(h) 5 year term deposit in post office	5,000
(i) Contribution to PPF	2,000
(j) Contribution to RPF	5,000
(k) Premium of Medi-claim insurance taken for self	12,000
(l) Payment for medical treatment of wife (40% disabled)	20,000
(m) Interest on education loan taken (Loan taken for his elder son to pursue MFC)	50,000

- (n) Interest on home loan paid 80,000
 (Loan amount – 25 lakhs)
 (Cost of the house – 48 lakhs)
- (o) Premium on Medi-claim of his father of Rs. 30,000 who is 68 years of age.
- (p) Donation to Rajiv Gandhi Foundation 20,000
- (Answer: Rs. 7, 24,000, Rs. 71, 900)

7. Mr. Siddhartha (non govt. employee) being 25 years old resident provides us the following information for the year ending 31.03.2015. He lives in Delhi. Compute his taxable income.

- (a) Salary – Rs. 30,000 per month
 (b) Convergence allowance spent for official purpose – Rs. 800 per month.
 (c) Entertainment allowance at Rs 1000 per month.
 (d) Received HRA of Rs. 5000 per month. But he paid a rent of Rs. 6000 per month.
 (e) Personal preventive health-check up of Rs 18000.
 (f) Contribution to PPF 30,000.
 (g) Interest on saving bank deposits received Rs. 15000.
 (h) Donation paid to PM's Drought Relief Fund, Rs. 50,000
 (i) LIP paid during the year – Rs. 8400
- (Answer: Rs. 3, 32,600)

8. Mr. Utsav furnishes with the following information for the year ended 31.3.2015.

- (a) Salary @ Rs. 40,000 p.m.
 (b) Bonus equal to 3 month's salary
 (c) Conveyance allowance Rs. 2,400 p.m. for travelling from residence to office and back.
 (d) House rent allowance @ Rs. 12,000 p.m. He paid Rs. 20,000 p.m. as rent of the house where he resides.
 (e) The employer reimbursed his personal medical bills of Rs. 10,000 and he also gave education allowance in respect of his four children @ Rs. 600 p.m.
 (f) The employer contributed to Statutory Provident Fund @ 10%, whereas the assessee's contribution was 20%.
 (g) Interest on Government securities Rs. 12,000
 (h) Interest received on Bank fixed deposits Rs. 24,000
 (i) Income from units of U.T.I. Rs. 8,000
 (j) He paid premium of Rs. 16,000 on his life policy.
 (k) He paid 1,000 as tax on employment.

Compute the total income of Mr. Utsav for the assessment year 2015-16.

(Answer: Rs. 5, 55, 000)

9. R, General manager of a Private Ltd. Company retired on 31.3.2015 after 30 years of service. Compute his total for the assessment year 2015-16 on the basis of following information indicating clearly the amount of gratuity and leave salary, if any includible in salary income.

- (a) Salary Rs. 7, 500 p.m. from 1.4.2014. House rent allowance Rs. 3500 p.m.
He lives in his own house.
- (b) Medical expenses reimbursed by employer Rs. 11, 600.
- (c) R went to his home town with his family and he was reimbursed Rs. 5,600 being the return fare by 1st class (train).
- (d) A car of 1400cc is provided by the company for official and personal use and all expenses of its running and maintenance including drivers salary are borne by the Company.
- (e) R contributes 20% of his salary to recognized provident fund which includes 8% additional voluntary contribution. The company matches his regular contribution, i.e. 12%.
- (f) Reimbursement of personal club bills of R: Rs. 360.
- (g) He has invested Rs. 30,000 in National Savings Certificate (VIII Issue) and Rs. 18,000 in Public Provident Fund Account.
- (h) Deposit under National Savings Scheme, 1992 Rs. 20,000.
- (i) He received Rs. 75,000 as gratuity.
- (j) He received Rs. 75000 for encashment of 10 months accumulated leave.

(Answer: Rs. 78, 760)

10. R is a lawyer of Punjab high court. He keeps his account on cash basis. His receipts and payments A/c for the year ending 31.3.2014 is given below.

	Rs.		Rs.
Balance B/d	7,500	Subscription and membership	6,000
Legal fees		Purchase of legal books	9,000
	1,80,000	Rent	51,000
2014-15		Car Expenses	17,000
Special commission fees	7,000	Office expenses	7,500
Salary as part time lecturer	48,000	Electricity expenses	5,000
Exam salary	2,500	Income tax	9,000
Interest on saving bank deposit	6,000	Donation to approved institution u/s 80G	3,000
Sale proceeds of residential property	2,95,000	Domestic expenses	27,000
		Car purchased	2,30,000
		Life insurance premium	7,000
			15,000

		Gift to daughter	
Dividend from co-operative society	3,000		
Dividend received from the units of U.T.I.	-		
	<u>6,000</u>	Balance C/f	<u>1,68,500</u>
	<u>5,55,000</u>		<u>5,55,000</u>

Following information is available:

- The rent and electric expenses are related to a house, of which half portion is used for self-residence and remaining half portion is used for office.
- Car is used for professional purposes.
- Outstanding legal fees is Rs. 25,000
- Rent has been paid for 10 months only.
- Car was purchased on 25.9.2014. Law books purchased are annual publications out of which books of Rs. 3,000 were purchased on 5.5.2014 and the remaining on 3.12.2014.
- The house was purchased in January 1989 for Rs. 40,000 and sold on 1.8.2014
- Rent of the property which has been sold was Rs. 6,000 per month. The property was vacated by the tenant on 31.7.2014.

Compute his total income taxable for the concerned year and tax liability.

(Answer: Rs. 1, 96,390, NIL)

11. Mrs. M, a salaried employee, furnishes the following information in respect of the previous year ending 31.3.2015:

- Salary income - Rs. 6,40,000
- Interest on debentures - Rs. 2,25,000
- Payment of medical insurance premium on the life of her grandfather - Rs. 4,000
- Donation to the Prime Minister's Drought Relief Fund - Rs. 1,00,000
- Donations to a public charitable institution - 1,50,000
- Other income - 40,000

Determine the net income of Mrs. M for the assessment year 2015-16, assuming that her income from long term capital gains is Rs. 25, 00,000.

(Answer: Rs. 33, 09, 750)

12. Mrs. Nika, 40 years old, is a Finance manager of a private company at Chennai. She was appointed in the grade of 34,000-1,000-50,000; on April 1, 2010(salary falls due on

the last day of the month). Besides, she gets Rs. 6,000 p.m. as dearness pay which does not form part of salary. She had been provided with a rent free unfurnished house whose lease rental value is Rs. 70,000 per annum, which is taken on lease by the employer. She has also been provided with the facility of a gardener, watchman and personal attendant who are paid by the employer at the rate of Rs. 12,000, Rs. 15,000 and Rs. 18,000 per annum respectively. She uses company's car for official purposes. Mrs. Nika and her employer contribute 16% of salary towards the recognized provident fund. She gets prize of Rs. 90,000 (being winning from camel race) and bank's interest of Rs. 4,00,000 (i.e., fixed deposit interest: Rs. 3,71,500 + saving bank: Rs. 28,500) during the previous year 2014-15. On January 20, 2014, she transfers bonus equity in Tata chemicals (held since 1992) for Rs. 8,23,000. Besides brokerage @1%, she pays securities transaction tax of Rs. 823. Determine the taxable income of Nika for the assessment year 2015-16. (Answer: Rs. 10,66,680)

UNIT:3 - TDS AND ADVANCE PAYMENT OF TAX

<p>Unit Code:</p>	<p>UNIT TITLE: TDS AND ADVANCE PAYMENT OF TAX</p>			
<p>Duration:</p>				
<p>Location:</p>	<p>SESSION 1: TAX DEDUCTED AT SOURCE</p>			
<p>Classroom or internet</p>	<p>Learning Outcome</p>	<p>Knowledge Evaluation</p>	<p>Performance Evaluation</p>	<p>Teaching and Training Method</p>
<p>1. Meaning of Tax Deducted at Source</p>				
<p>1. State various ways for collection and recovery of income-tax</p> <p>2. Explain the meaning of tax deducted at source</p> <p>3. Explain the significance of TDS to government and taxpayers</p>	<p>1. Analyze the utility of TDS in the taxation system</p>	<p>Interactive Lecture: Introduction of various ways for collection and recovery of income-tax and TDS</p>		
<p>2. Provisions relating to deduction of tax at source in respect of various incomes</p>				
<p>1. State and explain various sections relating to deduction of tax at source in respect of different incomes like salary, interest income, dividend income, etc.</p>	<p>1. Compare and differentiate between the provisions of sections 192 to 206 relating to deduction of tax at source in respect of various incomes</p> <p>2. State various rates of TDS applicable to different incomes</p> <p>3. State when the obligation to deduct TDS shall arise in respect of various incomes</p>	<p>Interactive Lecture: Discussion of the provisions relating to deduction of tax at source in respect of different incomes</p> <p>Activity: Collection and analysis of TDS returns of various taxpayers such as salaried employee, corporate assessee, etc.</p>		
<p>3. Other provisions related to tax deducted at source</p>				
<p>1. Explain the provisions related to lower or non-deduction of tax, deposition of TDS, credit of TDS, refund of TDS, requirement of E- TDS, etc.</p> <p>2. State the form numbers of certificates</p>	<p>1. State and explain the conditions for lower or non-deduction of tax, refund of tax, etc.</p> <p>2. Explain the prosecution proceedings in case of defaults</p>	<p>Interactive Lecture: Acquaint with various provisions related to lower or non-deduction, duties of persons deducting tax at source and rights of tax payers, possible defaults and prosecution</p>		

		of tax deducted and form numbers of various returns 3. State the various duties of persons deducting tax at source and rights of tax payers 4. State the possible defaults on part of persons deducting tax and taxpayers		proceedings, etc.
SESSION 2 ADVANCE PAYMENT OF TAX				
1. Meaning of Advance payment of tax	1. Explain the meaning of advance payment of tax 2. State the persons liable to pay and not liable to pay advance tax	1. Differentiate between TDS and Advance Payment of Tax	Interactive Lecture: Acquaint with the concept advance payment of tax	
2. Provisions of Presumptive Taxation Scheme	1. State the Provisions of Presumptive Taxation Scheme	1. Explain and analyze the Presumptive Taxation Scheme 2. Determine the applicability of Presumptive Taxation Scheme on a particular assessee	Interactive Lecture: Discussion of provisions of Presumptive Taxation Scheme	
3. Due dates for payment of Advance Tax	1. State the various due dates for payment of advance tax for corporate and non-corporate assesses 2. State the percentage of advance tax to be paid by the assesses on due dates	1. Calculating the liability of Advance Tax on various due dates for different assessees	Interactive Lecture: Discussion of method to calculate the liability of advance tax on due dates	
4. Role of Assessing Officer in Relation to Advance Payment of Tax	1. Explain the role of Assessing Officer in Relation to Advance Payment of Tax	1. State under what condition AO can order payment of advance tax 2. State when can AO revise his order	Interactive Lecture: Discussion of the role of AO	

(Note: The location would depend upon the topic under discussion. Major portion of the unit will be covered in classroom. The students can visit different assesses to collect and analyze their TDS returns. The students may also visit the website www.incometaxindia.gov.in to collect various forms and certificates required by different assesses.)

UNIT: TDS AND ADVANCE PAYMENT OF TAX

Learning Objectives:

After reading this unit, the students will be able to:

1. state various ways for collection and recovery of income-tax
2. explain the meaning of tax deducted at source,
3. describe the Sources and applications of cash,
4. explain various provisions relating to deduction of tax at source in respect of various incomes
5. explain the meaning of advance payment of tax
6. explain the Presumptive Taxation Scheme
7. calculate the liability of advance tax on various due dates for different assesses
8. explain the meaning of certain keywords.

SESSION 1: TAX DEDUCTED AT SOURCE

The Income-tax Act provides for collection and recovery of income-tax in the following ways:

- a) Advance Tax
- b) Self Assessment Tax
- c) Tax Deducted at Source (TDS)
- d) Tax Collected at Source
- e) Tax on Regular Assessment

The provisions relating to tax deduction at source and payment of tax in advance of assessment are discussed in this chapter.

MEANING OF TAX DEDUCTED AT SOURCE

Tax deducted at source (TDS) means collection of tax at the very source of income. The concept of TDS requires that the person, on whom the responsibility has been cast by the Act, is to deduct tax at the appropriate rates, from payments of specific nature which are being made to a specified recipient. The person who deducts the amount of tax from the payment has the responsibility to deposit such deducted amount to the credit of the Central Government

according to the prescribed rules and procedures. The recipient from whose income, the tax has been deducted at source, gets the credit of the amount deducted in his personal assessment on the basis of the certificate issued by the deductor.

SIGNIFICANCE TO GOVERNMENT

Its significance to the government lies in the fact that:

- i. it pre-pones the collection of tax,
- ii. ensures a regular source of revenue to government, and
- iii. provides for a greater reach and wider base for tax.

SIGNIFICANCE TO TAX PAYER

It is also significant to the tax payer because:

- i. it distributes the incidence of tax, and
- ii. provides for a simple and convenient mode of payment.

PROVISIONS RELATED TO DEDUCTION OF TDS

Sections 192 to 206 of the Income-tax Act lay down the provisions relating to deduction of tax at source. The provisions in respect of different incomes are as follows:

1) SALARY (Section 192)

1. This section casts an obligation on every person responsible for paying any income (employer) which is chargeable under the head 'salary', to deduct income tax on the amount payable.
2. The tax is required to be calculated at the average rate of income tax as computed on the basis of the rates in force for the relevant financial year in which the payment is made.
3. Average rate of income tax means the rate arrived at by dividing the amount of income tax calculated on total income, by such total income.
4. The salary shall be computed in the same manner as discussed under the head 'Salaries'.
5. Unlike the provisions of TDS, pertaining to payments other than salary where the obligation to deduct tax arises at the time of credit or payment, whichever is earlier, the *responsibility to deduct tax from salaries arises only at the time of payment.*

6. It is provided that the assessee (employee) may furnish the details of the losses under the head 'Income from House Property' to the employer who shall adjust such loss in the salary income for the purposes of computing the tax deductible from salaries. Thus, the TDS from salaries may be reduced in such a case. No other loss from any other income shall be adjusted to reduce the TDS deductible from the head salaries.
7. No tax will be required to be deducted at source in case the Gross Total income does not exceeds limits prescribed Finance Act of relevant financial year.
8. The employer shall issue a certificate of deduction of tax to the employee in Form No. 16. This certificate is to be furnished by the employee with his income tax return after which he gets the credit of the TDS in his personal income tax assessment.
9. The employer is required to furnish, to the employee, a statement giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof in prescribed form (Form 12BA) and manner.
10. Finally, the employer/deductor is required to prepare and file quarterly statements in Form No.24Q with the Income-tax Department showing:
 - a. the name and address of every employee who is drawing such amount as may be prescribed;
 - b. the amount of income so received by or so due to each such person; and
 - c. the amount of tax deducted and deposited from the income of such person.

Illustration 1

Mr. Ram Kishore has a salary of Rs. 70,000 per month. He has claimed deductions of Rs. 1,00,000 during the previous year 2015- 2016. Calculate the average rate of TDS payable on his salary and amount that would be deducted every month as TDS on salary.

Solution

The normal tax rates for the Assessment Year 2016-17 applicable to an individual below the age of 60 years are as follows:

- Nil up to income of Rs. 2,50,000
- 10% for income above Rs. 2,50,000 but up to Rs. 5,00,000
- 20% for income above Rs. 5,00,000 but up to Rs. 10,00,000
- 30% for income above Rs. 10,00,000.

Surcharge: 12% of the Income Tax, where taxable income is more than Rs. 1 crore (subject to marginal relief)

Education Cess: 3% of the total of Income Tax and Surcharge.

Calculation of TDS payable every month on salary

Monthly income	Rs. 70,000
Annual income	Rs. 8,40,000
Deductions	Rs.1,00,000
Net Taxable Income	Rs. 7,40,000
Income Tax Rs. [25,000 + 20% of 7,30,000 – 5,00,000]	Rs. 73000
Surcharge	Nil
Education Cess	Rs. 1,460
Secondary and higher education cess	Rs. 730
Total Tax Liability	Rs.75,190

$$\begin{aligned}\text{Average Rate of Tax on Salary} &= \text{Total tax payable} * 100 \div \text{Total Annual Income} \\ &= 75,190 * 100 \div 8,40,000 \\ &= 8.95\%\end{aligned}$$

Therefore, in case of Mr. Ram Kishore, 8.95% of Rs. 70,000, i.e., Rs. 6,265 would be deducted every month as TDS on salary

2) INTEREST ON SECURITIES (Section 193)

1. Section 193 provides that the person responsible for paying to a *resident* any income by way of interest on securities shall deduct income-tax at the rates in force on the amount of the interest payable.
2. Such tax should be deducted at the time of:
 - a. at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, or
 - b. credit of such income to the account of the payee, or
 - c. transfer of such income to interest payable account or suspense account, whichever is earlier.

3. However, payments from certain categories of bonds, debentures etc. are exempt from TDS.
4. The *rate of TDS* on Interest on securities is 10%. The rate of TDS shall be 20% if PAN is not quoted by the payee. No education cess and SHEC shall be added to the rate from 1st October 2009.

3) **DIVIDENDS (Section 194)**

1. Where any amount is payable in the nature of “Dividends” by an Indian Company or a Company that has made arrangement for declaration and payment of dividend within India, the said company has to deduct tax at source as per rates in force.
2. The deduction has to be done
 - a. before the payment is made in cash or issue of cheque or dividend warrant or
 - b. before making any distribution or payment to the share holder of any dividend u/s 2(22).
3. Exemption:
 - a. No such deduction shall be made in the case of a shareholder (being an individual, who is resident in India), of a company, if:
 - i. the dividend is paid by such company by an account payee cheque; and
 - ii. the amount of dividend paid during the financial year by the company to the shareholder does not exceed Rs. 2,500.
 - b. No such deduction shall be made in respect of any dividends referred to in Section 115-O.

4) **INTEREST OTHER THAN INTEREST ON SECURITIES (Section 194A)**

1. Section 194 A casts the obligation on any person not being an individual or a H.U.F. who is responsible for paying to a *resident* any interest other than interest on securities amounting to more than rupees Rs. 5,000 or Rs. 10,000 as the case may be to deduct tax at source.
2. Payments made to non-residents are also covered under TDS mechanism, however, tax in such a case is to be deducted as per section 195.
3. The obligation to deduct TDS shall arise at the time of:
 - a. credit of such income to the account of the payee, or
 - b. at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, or

- c. transfer of such income to interest payable account or suspense account;
whichever is earlier.
- 4. With effect from 1.6.2002, individuals and HUF covered under Section 44AB (a) and (b) i.e. whose gross turnover of the business in the immediately preceding financial year exceeds Rs. 1 crore (or receipts from the profession Rs. 25 Lakhs), are also required to deduct tax at source.
- 5. *Rate of Tax:*
 - i. 10% plus education cess. No surcharge, education cess or SHEC shall be added.
 - ii. When the payee does not furnish his PAN to deductor, tax will be deducted 1st April 2010 @ 20%.
- 6. The obligation to deduct tax shall arise only if aggregate interest during the financial year, does not exceed Rs. 5000 (Rs. 10,000 in case of banking company, a co-operative society engaged in the business of banking or a post office).

5) WINNING FROM LOTTERIES OR CROSSWORD PUZZLES (Section 194B)

- 1. Under Section 194B, winnings from lottery or crossword puzzle or card game and other game of any sort exceeding Rs. 10,000 are also subject to deduction of tax at source as per rates in force.
- 2. The deduction is to be done at the time of payment of the winnings.
- 3. *Rate of Tax:* The prescribed rate is 30%. No surcharge, education cess or SHEC shall be added.
- 4. When the prize is given partly in cash and partly in kind, income-tax will be deducted from cash prize with reference to the aggregate amount of the cash prize and the value of the prize in kind.
- 5. No income-tax will be deducted from the prize given only in kind.
- 6. When the prize is given in installments, the tax will be deducted only at the time of actual payment of each installment.

6) WINNING FROM HORSE RACES (Section 194BB)

- 1. Section 194BB casts the obligation on the following persons to deduct tax at source-
 - i. a book maker, or

- ii. a person to whom a license has been granted by the Government under any law for the time being in force-
 - a. for horse racing in any race course or
 - b. for arranging for wagering or betting in any race course.
2. The obligation to deduct tax at source arises when the above mentioned persons make payments by way of winnings from horse races in excess of Rs. 5,000.
3. *Rate of Tax:* The prescribed rate is 30%. No surcharge, education cess or SHEC shall be added from 1st October 2009. When the payee does not furnish his PAN to deductor, tax will be deducted with effect from 1st April 2010 @ 30%.

7) INSURANCE COMMISSION (Section 194D)

1. Section 194BB casts the obligation on any person responsible for paying to a resident any income by way of commission or otherwise for soliciting or procuring insurance business (including continuance or renewal of policies).
2. Such person shall deduct income tax, at the time of crediting the account of the payee or at the time of payment thereof, whichever is earlier.
3. No deduction shall be made from the amount of any sum credited or paid to, if such sum does not exceed Rs. 20,000.
4. *Rate of Tax:*
 - a. The prescribed rate is 10%. No surcharge, education cess or SHEC shall be added.
 - b. When the payee does not furnish his PAN to deductor, tax will be deducted @ 20%.

8) PAYMENT IN RESPECT OF DEPOSITS UNDER NATIONAL SAVINGS SCHEME ETC. (Section 194EE)

1. Where any payment is made by a person of an amount referred to in clause (a) of sub section (2) of sec 80CCA, then such person is required to deduct tax @20% there on
2. Tax is to be deducted at the time of making such payment.
3. The amount standing to the credit of an assessee under National Saving Scheme, 1987 and the interest accrued thereon is covered under this provision. However, in following cases no tax is deductible:
 - a. where amount so payable in a financial year is less than Rs.2500/- or

b. where payment is made to heirs of a deceased assessee or

4. *Rate of Tax:*

- a. The prescribed rate is 20%. No surcharge, education cess or SHEC shall be added.
- b. When the payee does not furnish his PAN to deductor, tax will be deducted @ 20%.

9) **COMMISSION, ETC. ON SALE OF LOTTERY TICKETS (Section 194G)**

1. The person responsible for paying any income by way of commission, remuneration or Prize on lottery ticket has to deduct tax @ 10%,
2. Tax shall be deducted at the time of:
 - a. credit of such income to the account of the payee, or
 - b. at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, or
 - c. transfer of such income to suspense account, whichever is earlier.
3. However, no tax is to be deducted, if the amount does not exceed Rs.1000.
4. *Rate of Tax:*
 - a. The prescribed rate is 10%. No surcharge, education cess or SHEC shall be added.
 - b. When the payee does not furnish his PAN to deductor, tax will be deducted @ 20%.

10) **COMMISSION OR BROKERAGE (Section 194H)**

1. Any person, not being an individual or a Hindu Undivided Family, who is responsible for paying, to a resident any income by way of commission (not being insurance commission referred to in Section 194D) or brokerage, shall deduct income-tax thereon.
2. The obligation to deduct TDS shall arise at the time of:
 - a. credit of such income to the account of the payee, or
 - b. at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, or
 - c. transfer of such income to suspense account, whichever is earlier.
3. *Rate of Tax:*
 - a. The prescribed rate is 10%. No surcharge, education cess or SHEC shall be added.
 - b. When the payee does not furnish his PAN to deductor, tax will be deducted @ 20%..

11) **RENT (Section 194-I)**

1. Any person not being an individual / HUF responsible for paying to a resident any income by way of rent, has to deduct tax at source.
2. The obligation to deduct TDS shall arise at the time of:
 - a. at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, or
 - b. credit of such income to the account of the payee, or
 - c. transfer of such income to suspense account, whichever is earlier.
3. The obligation to deduct TDS shall arise only if the amount paid as rent exceeds Rs.1,80,000.
4. Essential features of rent are following -
 - a. Payment is made under any lease, sub-lease tenancy, or any other agreement or arrangement.
 - b. Payment is made either for use of land or building (including factory building) (together or separately) with or without furniture, fittings & land appurtenant thereto.
 - c. Immaterial whether land or not of such building is owned by the person to whom rent is paid.
5. Individuals and HUF covered under Section 44AB (a) and (b) i.e. whose gross turnover of the business in the immediately preceding financial year exceeds Rs. 1 crore (or receipts from the profession Rs. 25,00,000), are also required to deduct tax at source.
6. *Rate of Tax:*
 - a. TDS has to be deducted at the following rates:
 - i. 2% for the use of any machinery, plant or equipment.
 - ii. 10% for use of any land or building (including factory building) or land appurtenant to a building (including factory building or furniture or fittings).
 - b. No surcharge, education cess or SHEC shall be added. When the payee does not furnish his PAN to deductor, tax will be deducted @ 20%.

12) PROFESSIONAL AND TECHNICAL FEES (Section 194J)

1. Any person other than an individual or a HUF is required to deduct tax @ 10% on professional or technical fees or on any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 192, to a director of a company; or royalty, or any sum referred to in clause (va) of section 28 .

2. The obligation to deduct TDS shall arise at the time of payment or credit whichever is earlier.
3. This obligation shall arise if the aggregate of such fees given to a person exceeds Rs. 30,000 in a financial year.
4. *Rate of Tax:*
 - a. The prescribed rate is 10%. No surcharge, education cess or SHEC shall be added.
 - b. When the payee does not furnish his PAN to deductor, tax will be deducted @ 20%.

13) INTEREST OR DIVIDEND OR ANY SUM PAYABLE TO GOVERNMENT/ RBI/ CERTAIN CORPORATIONS (Sec. 196)

1. Section 196 provides that no deduction of tax is to be done from interest or Dividend or any sum payable to
 - a. Government or
 - b. RBI or
 - c. a Corporation established by or under any Central Act which is exempt from income-tax on its income
 - d. a Mutual Fund specified under Section 10(23D)
2. Where such sum is payable by way of interest or any other income accruing or arising to it or as dividend in respect of securities or shares owned by it or in which it has full beneficial interest.
3. With effect from 1st January 2013, no tax shall be deducted on the following payments made by a person to a bank listed in the Second Schedule to the Reserve Bank of India Act, 1934, excluding a foreign bank;
 - a. bank guarantee commission;
 - b. cash management service charges;
 - c. depository charges on maintenance of DEMAT accounts;
 - d. charges for warehousing services for commodities;
 - e. underwriting service charges;
 - f. clearing charges (MICR charges);
 - g. credit card or debit card commission for transaction between the merchant establishment and acquirer bank.

14) PAYMENTS OF OTHER SUMS TO NON- RESIDENTS (Section 195)

1. Any person responsible for paying to a non-resident or foreign company any interest or any other sum chargeable to income-tax in India, shall at the time of payment, deduct tax at the rates in force. This sum should not be in nature of salaries.
2. Tax is to be deducted at the time of actual payment or at the time of credit to A/c of payee, interest payable a/c or suspense a/c, whichever is earlier.

3. In case of interest of mutual fund payable by Govt / public sector bank or in financial institution, TDS is to be done only at the time of payment in cash or issue of cheque/draft or any other mode.
4. No tax to be deducted in case of payment of dividend referred in Sec 115(O).

Illustration 2

Mukesh Enterprises, a partnership firm took a loan of Rs. 9,60,000 from a non-resident. Interest on loan for the financial year 2015-16 amounted to Rs. 96,000. Should the firm deduct tax at source from the interest?

Solution

Tax is to be deducted under section 194A on interest (other than interest on securities) if the interest is paid to a resident. In this case, the firm has paid interest (other than interest on securities) to a non-resident and hence, the firm is not liable to deduct tax at source under section 194A. However, section 195 requires deduction of tax at source from payment made to a non-resident. Hence, the firm is not required to deduct tax at source under section 194A but it is required to deduct tax at source under section 195.

LOWER DEDUCTION/ NON- DEDUCTION OF TAX

Section 197 gives a right to the assessee to apply to the Assessing Officer for obtaining a certificate that tax may not be deducted or be deducted at a lower rate in case of any sum payable under Sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194I, 194J, 194K, 194LA, and 195.

1. For issue of a certificate u/s 197 the assessing officer should be satisfied that the non-deduction/deduction of tax at a lower rate in the hands of recipient is justified.
2. The application u/s 197 has to be made in form No. 13 enclosing the documents and furnishing particulars specified therein.
3. Where the Assessing Officer is satisfied that existing and estimated tax liability of the person justifies the deduction of tax at lower rate or no deduction of tax, as the case may be, he shall issue a certificate for deduction of tax at such lower rate or no deduction of tax.

DEPOSITION OF TAX

Where tax has been deducted under Sections 193, 194, 194A, 194B, 194BB, 194C, 194D, 194E, 194EE, 194F, 194G, 194H, 194I, 194J, 194K, 195, 196A, 196B, 196C and 196D (these sections relate to cases other than salary), it is duty of the *person deducting tax at source* to deposit the amount of tax so deducted within the prescribed time in any branch of Reserve Bank of India or State Bank of India or any authorised bank accompanied by prescribed Income-tax challans as per the time limit and mode specified in Rule 30.

CREDIT OF TDS

Where taxes have been deducted at source from any payment of income receivable by an assessee, the amount of tax deducted at source would be included in the income of the assessee while computing the income of the assessee and would be deemed to be the income received (Section.198). Further credit will be given to the assessee while calculating the net tax payable by him and the tax deducted at source will be treated as a payment of tax on his behalf (Section 199).

CERTIFICATE OF TAX DEDUCTED (Section 203)

The person who deducts tax has to issue a certificate in the prescribed form to the person from whose payments deduction has been made, showing therein the particulars of payment, the date of tax deducted at source and the date of its credit to the Central Government. It is on the basis of this certificate that the payee can claim credit for tax paid on his behalf and can claim refund, if any, due to him on the basis of tax liability for the relevant year. Following certificates have to be issued:

- a. Form No. 16, if the deduction or payment of tax is under section 192 (case of salary); and
- b. Form No. 16A if the deduction is under any other provision of Chapter XVII-B (cases other than salary).

The deductor is required to specify the following in Form No. 16:

- a) Valid Permanent account number (PAN) of the deductee;
- b) Valid tax deduction and collection account number (TAN) of the deductor;
- c) (i) Book identification number or numbers where deposit of tax deducted is without production of challan in case of an office of the Government;
(ii) Challan identification number or numbers in case of payment through bank.
- d) (i) receipt number of the relevant quarterly statement of tax deducted at source which is furnished in accordance with the provisions of rule 31A;
(ii) receipt numbers of all the relevant quarterly statements in case the statement referred to in clause(i) is for tax deducted at source from income chargeable under the head "Salaries".

REFUND OF TDS

In case of excess deduction of tax at source, claim of refund of such excess TDS can be made by the deductor in prescribed format. The difference between the actual payment made by the deductor and the tax deductible at source will be treated as the excess payment made.

E-TDS RETURN

E-TDS implies, filing of the TDS return in electronic media as per prescribed data structure in either a floppy or a CD ROM. The aforesaid requirement is essentially a part of the process of

automation of collection, compilation and processing of TDS returns. Preparation of returns in electronic forms or e-TDS will eventually be beneficial to the deductor by cutting down the return preparation time, reducing the volume of documentation and thereby economizing the compliance cost. At the same time, it will also facilitate the Government in better co-relation of taxes deducted with the taxes finally deposited in the banks and credits of TDS claimed by the deductees.

The following points should be considered with respect to E-TDS:

1. E-TDS return is prepared in the form Nos. 24Q, 26Q or 27Q in electronic media as per prescribed data structure either in a floppy or in a CD-ROM. The floppy or CD-ROM prepared should be accompanied by Form No. 27A should be signed and verified in the prescribed manner.
2. The CBDT has appointed the Director General of Income Tax (Systems) as *e-filing administrator* for the purpose of electronic filing of returns of TDS Scheme, 2003.
3. CBDT has also appointed National Securities Depository Limited (NSDL) as *e-TDS intermediary*.
4. E-TDS return can be filed at any of the TIN Facilitation Centres (TIN FCs) opened by the e-TDS intermediary for this purpose.
5. E-Filing of quarterly statement of TDS is mandatory for the deductors where;
 - a. The deductor is an office of the Government
 - b. The deductor is the principal officer of a company
 - c. The deductor is a person required to get his accounts audited under section 44AB in the immediately preceding financial year or
 - d. The number of deductees records in a quarterly statement for any quarter of the financial year are twenty or more,
6. However, for other deductors filing of e-TDS return is optional.

TAX DEDUCTION AND COLLECTION ACCOUNT NUMBER (TAN)

A person who deducts tax at source, if not already allotted a TAN (or a tax collection account number) should apply for allotment of TAN. The application has to be made in Form No. 49B in duplicate to the Assessing Officer (AO) or to any particular Assessing Officer where this duty is assigned by the Chief Commissioner or the Commissioner to that A.O. The assessee has to file

the application within one month from the end of the month in which the tax is deducted for the first time

DUTIES OF PERSONS DEDUCTING TAX AT SOURCE

1. **Deduct Tax at Correct Rate and deposit in Government Account (Sec. 200)**- Every person responsible for deducting tax at source shall at the time of payment or credit of income, whichever is earlier, must deduct such tax as per the prescribed rates and deposit such tax deducted in the Central Government Account within the prescribed time as specified in Rule 30.
2. **Issue a TDS certificate**- Further, such person is required to issue a certificate of tax deduction at source u/s 203 to the person from whose income the TDS has been done, in the prescribed form, i.e., Form No.16A or 16 within prescribed time (as discussed earlier).
3. **File Prescribed Return/Quarterly Statement**- A return of TDS is a comprehensive statement containing details of payments made and taxes deducted thereon along with other prescribed details. W.E.F. 01.04.2005, only Quarterly statements of T.D.S. (and not annual returns) are to be submitted in form 26Q by the deductors.
4. **Filing of Return on Computer Readable Media**- Section 206(2) states that the deductor may file the statement of TDS on computer readable media. However, the Finance Act 2003 has provided that w.e.f. 01.06.2003, a statement in computer readable media is to be filed only in accordance with such scheme and manner, as may be specified by the Board.

RIGHTS OF TAX PAYER

1. **Credit of TDS** -The person from whose income (payment) the tax has been deducted i.e. Payee or assessee shall not be asked upon to pay the tax himself to the extent tax has been deducted(Sec.205). Moreover such tax deducted at source shall be treated as payment of tax on behalf of the payee (assessee).
2. **TDS Certificate** -U/s 203 payee (tax payer) is entitled to obtain a certificate from the payer (tax deductor) in Form 16-A specifying the amount of tax deducted and other prescribed particulars. This has been discussed in detail earlier.
3. **Form 26 AS** - As per section 203AA the prescribed income tax authority or the person authorized by such authority will be required to deliver to the person from whose income the tax has been deducted/ paid, a *statement of deduction of tax* in the prescribed form(Form

no.26AS) by the 31st July following the financial year during which the taxes were deducted/paid.

PENALTIES AND PROSECUTION

Any default in compliance of various provisions of TDS can attract, levy of interest, penalty and in certain cases initiation of prosecution proceedings. The possible defaults and the consequential proceedings are as follows:

1. **Failure to deduct tax-** Where the employer has failed to deduct tax or when short deduction of tax has been done, following statutory provisions are attracted:-

a. **Interest u/s 201(1A)** - The deductor is treated to be 'assessee in default' in respect of the short deduction/non deduction of tax. He is liable to pay simple interest @ 1% for every month or part of a month on the amount of tax in arrear from the date on which such tax was deductible to the date on which such tax is actually deducted. Further such interest shall be paid before furnishing the quarterly statement of each quarter.

Charging of interest u/s 201(1A) is mandatory and there is no provision for its waiver.

b. **Penalty**

i. **Penalty u/s 221-** The assessee in default is liable to imposition of penalty where the assessing officer is satisfied that the defaulter has failed to deduct tax as required without good and sufficient reason. The quantum of penalty is not to exceed the amount of tax in arrear. Besides, a reasonable opportunity of being heard is to be given to the assessee.

ii. **Penalty u/s 271C-** A penalty equivalent to the amount of tax the deductor has failed to deduct, is leviable u/s 271C. Such penalty is however, only leviable by a Joint Commissioner of Income Tax.

2. **Failure to deposit tax in govt. account after deduction:** Where the employer has deducted the tax at source but failed to deposit wholly or partly, the tax so deducted in government account, the following statutory provisions are attracted:-

a. **Interest u/s 201(1A)-** The deductor is treated as an assessee in default and interest u/s 201(1A) is leviable @ 1.5% for every month or part of the month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid. Further, the tax along with the simple interest u/s 201(1A) becomes a charge upon all the assets of the deductor.

- b. **Penalty u/s 221-** Penalty to the extent of tax not deposited is leviable by the A.O. as discussed earlier.
 - c. **Prosecution proceedings u/s 276 B-** Where the deductor has failed to deposit tax deducted at source, in Government account without a reasonable cause then he is punishable with rigorous imprisonment for a term extends from 3 months to 7 years and with fine.
3. **Failure to apply for T.A.N or to quote T.A.N. (tax deduction and collection account number)-** Where a person who is responsible to deduct tax at source has failed, without reasonable cause:-
- a. To apply for T.A.N. within prescribed period or
 - b. After allotment, failed to quote such TAN in challans for payment of tax or TDS certificate or returns of TDS, then a penalty of a sum of Rs.10,000 and is imposable by the assessing officer. However, a reasonable opportunity of hearing must be given to the employer/ deductor.
4. **Failure to furnish TDS certificate or returns/ statement of tax deduction at source (penalty u/s 272A(2)) -** Where the employer has failed to issue TDS certificate (form 16) within one month of the end of financial year(by 31st of May of the next F.Y. for F.Y. 2010-11 onwards) or has failed to furnish the quarterly statement of tax in form 24Q, within the time prescribed u/s 200(3) (rule 31A), then a penalty of Rs. 100 is leviable for each day during the period for which default continues. The quantum of penalty is not to exceed the tax deductible and it is to be levied only by a Joint Commissioner or Joint D.I.T. after giving the assessee an opportunity of being heard.
5. **Prosecution u/s 277-** Where a person, who is required to furnish statement u/s 200(3) (quarterly statements) makes a false statement in verification or, delivers an account or statement which is false and which the person knows or believes to be false, then he is punishable with rigorous imprisonment for a term which shall not be less than 3 months but which may extend to 7 years along with fine. Where the amount of tax, which would have been evaded if the statement or account had been accepted as true, is 1 lakh rupees or less, then rigorous imprisonment may be from 3 months to three years and with fine.

Knowledge Assessment - I

1. Under Payment in respect of Deposits under National Savings Scheme, Section 194EE, deduction shall not be made if the amount of payment or the aggregate of payment to the payee during the financial year is less than_____.
 - a. Rs. 1,500
 - b. Rs. 2,500
 - c. Rs. 3,500
 - d. Rs. 4,500
2. The obligation to deduct TDS shall arise only if the amount paid as rent exceeds
 - a. Rs. 60,000
 - b. Rs. 90,000
 - c. Rs. 1,20,000
 - d. Rs. 1,80,000
3. Which of the following does not relate to the meaning of 'rent'?
 - a. Payment under lease
 - b. Payment under purchase
 - c. Payment under sub-lease
 - d. Payment under tenancy
4. The responsibility to deduct tax from source arises only at the time of payment in which of the following case:
 - a. Salary
 - b. Dividends
 - c. Insurance commission
 - d. Interest other than securities
5. Which of the following has been appointed as e-filing administrator for the purpose of electronic filing of returns of TDS Scheme, 2003
 - a. CBDT
 - b. Director General of Income Tax
 - c. National Securities Depository Limited
 - d. Central Government
6. Which of the following form is used, if the deduction or payment of tax is under section 192:
 - a. Form 16
 - b. Form 16A
 - c. Form 24Q
 - d. Fm 26Q

Answers: 1. (b); 2. (d); 3. (b); 4 (a); 5 (b); 6 (a)

SESSION 2: ADVANCE PAYMENT OF TAX

Section 207-219 of the Income Tax Act deals with the issues relating to advance payment of tax. Advance tax payment is the payment of tax liability by an assessee before the end of the financial year. As the name suggests, advance tax refers to paying a part of the taxes before the end of the financial year. Also called 'pay-as-you-earn' scheme, it should be paid in the year in which the income is received. It is kind of mandatory payment of tax, assessed by the assessee himself on income before completion of the Financial Year. For instance: if the advance tax liability of the assessee for the financial year 2015-16 is Rs. 70,000, he is expected to pay it in FY15-16 itself.

Advance tax receipts help the government to get a constant flow of income throughout the year so that expenses can be incurred rather than receiving all tax payments at the end of the year.

LIABILITY OF ASSESSEE TO PAY ADVANCE TAX

As per section 208, every person whose estimated tax liability for the year is Rs. 10,000 or more, shall pay his tax in advance, in the form of "advance tax".

PERSON NOT LIABLE TO PAY ADVANCE TAX

Certain persons are not liable to pay advance tax even if their tax liability is Rs. 10,000 or more:

1. A resident assessee 60 years or more, not having any income from business or profession, need not pay advance tax and are allowed to discharge their tax liability (other than TDS) by payment of self-assessment tax, and
2. An assessee who has opted for the Presumptive Taxation Scheme under section 44AD on at the rate of 8 per cent of turnover, shall be exempted from payment of advance tax related to such business w.e.f. from the assessment year 2011- 12.

Notes:

1. The scheme of section 44AD, commonly known as Presumptive Taxation Scheme applies to small taxpayers engaged in a business (other than the business of plying, hiring or leasing of goods carriages referred to in section 44AE).

2. A taxpayer adopting these provisions will not be required to maintain the regular books of account and is also exempt from getting the books of account audited.
3. This scheme can be opted for by the eligible assessee who is engaged in a business (except the business of plying, hiring or leasing goods carriages referred to in section 44AE), whose turnover or gross receipts from such business do not exceed the limit prescribed (*i.e.*, Rs. 1,00,00,000 from the previous year 2012-13).
4. The provisions of section 44AD are applicable to resident assessee who is an Individual, Hindu Undivided Family and Partnership Firm but not an LLP.
5. The Presumptive Taxation Scheme under section 44AD cannot be adopted by an assessee who is engaged in any profession as prescribed under section 44AA or is carrying on an agency business or is earning income in the nature of commission or brokerage.
6. If an assessee adopts this scheme, his income will be computed on an estimated basis. The rate of computation of income on an estimated basis is 8% of turnover or gross receipts of the eligible business for the previous year.

ADJUSTMENT OF ADVANCE TAX

Section 219 states that the total advance tax paid by an assessee other than for interest is to be adjusted against the total tax liability computed under regular assessment.

If an assessee, who is liable to pay advance tax, under Section 208 has failed to pay such tax or where the advance tax paid under Section 210 is less than 90% of the assessed tax, he shall be liable to pay interest @ 1% for every month or part of the month.

Illustration 3

Mr. Pandey is running a departmental store. The turnover of the store for the financial year 2015-16 amounted to Rs. 75,00,000. He wants to declare income under section 44AD at 8% of the turnover. He does not have any other source of income. Is he liable to pay advance tax?

Solution

As Mr. Pandey satisfies the criteria of section 44AD in respect of departmental store business, so he can opt for the provisions of section 44AD and declare income at 8% of the turnover.

An assessee who is adopting the provisions of section 44AD will not be liable to pay advance tax in respect of business covered under section 44AD. Thus, if Mr. Pandey adopts the scheme of

section 44AD, he will not be liable to pay advance tax in respect of income generated from business of departmental store.

Illustration 4

Mr. Gupta (age 45 years) is running an interior decoration business. His turnover for the financial year 2015-16 amounted to Rs. 60,00,000. He has not adopted the presumptive taxation scheme of section 44AD and has maintained the books of accounts. The accounts revealed a net profit of Rs 6,00,000. Is he liable to pay advance tax?

Solution

Mr. Gupta has not adopted the provisions of section 44AD. Therefore, he will be liable to pay advance tax in respect of income generated from his business *if his estimated tax liability for the financial year comes out to Rs. 10,000 or more.*

The taxable income of Mr. Gupta is Rs. 6,00,000. His tax will be Rs. 46,350 which is more than Rs. 10,00. Thus, Mr. Gupta will be liable to pay advance tax.

The normal tax rates for the Assessment Year 2016-17 applicable to an individual below the age of 60 years are as follows:

- Nil up to income of Rs. 2,50,000
- 10% for income above Rs. 2,50,000 but up to Rs. 5,00,000
- 20% for income above Rs. 5,00,000 but up to Rs. 10,00,000
- 30% for income above Rs. 10,00,000.

Surcharge: 12% of the Income Tax, where taxable income is more than Rs. 1 crore (subject to marginal relief).

Education Cess: 3% of the total of Income Tax and Surcharge.

DUE DATES FOR PAYMENT OF ADVANCE TAX

Status	By 15th June of the previous year	By 15th Sept. of the previous year	By 15th Dec. of the previous year	By 15th March of the previous year
Corporate	Upto 15% of	Upto 45% of	Upto 75% of	Upto 100% of

	advance tax due	advance tax due as reduced by amount paid in earlier instalments	advance tax due as reduced by amount paid in earlier instalments	advance tax due as reduced by amount paid in earlier instalments
Non-Corporate	Nil	Upto 30% of the advance tax payable	Upto 60% of the advance tax payable as reduced by amount paid in earlier installments	Upto 100% of the advance tax payable as reduced by amount paid in earlier installments

NOTES:

1. Any payment of advance tax payable made before March 31 shall be treated as advance tax paid during the financial year.
2. In case of public holiday or bank holiday, date of payment automatically falls in the next working day. Interest is not charged for that delay.
3. Tax is to be computed at the prevailing rate on the current income of the assessee, in a financial year.

Illustration 5

Mr. Khanna is a architect. His estimated tax liability for the financial year 2015-16 amounted to Rs. 2,00,000. By which dates he should pay advance tax and how much?

Solution

Installments	Due date	Amount due to Be paid	Amount paid
First installment	15th September, 2015	Upto 30% of the advance tax payable	Rs. 60,000

Second installment	15th December, 2015	Upto 60% of the advance tax payable as reduced by amount paid in earlier installments, i.e., Rs. 1,20,000 – Rs. 60,000	Rs. 60,000
Third installment	15th March, 2016	Upto 100% of the advance tax payable as reduced by amount paid in earlier installments	Rs. 80,000

MODE OF PAYMENT OF ADVANCE TAX

It is mandatory for a corporate taxpayer (i.e., a company) and a tax payer under section 44AB to pay taxes through the electronic payment mode using the internet banking facility of the authorised banks.

Other taxpayers can pay tax either by electronic mode or by physical mode i.e. by depositing the challan at the receiving bank.

CHANGE IN TAX LIABILITY AFTER MAKING PAYMENT OF FIRST OR SECOND INSTALLMENT

If, after paying first or second installment of advance tax, there is a change in the tax liability, then the taxpayer can revise the amount of advance tax in the remaining installments and pay the tax according to revised tax liability.

Illustration 6

Mr. Sohan is a lawyer. His estimated tax liability for the year 2015-16 amounts to Rs. 2,00,000. He has paid advance tax of Rs. 60,000 by 15th September. In late September, a client paid him a fee of Rs. 3,60,000 after deducting tax at source of Rs. 40,000 (Such fees of Rs. 3,60,000 was considered at earlier occasion for estimating the tax liability of taxpayer). In this case how much of advance tax he is required to pay in the remaining installments?

Solution

First installments

The first installment becomes due on 15th September when Mr. Sohan has to pay 30% of his estimated tax liability (30% of Rs. 2,00,000 = Rs. 60,000)

Second installment

The taxpayer can adjust the TDS from his income while computing the advance tax liability. In this case, at the time of estimate of first installment there was no TDS credit with Mr. Sohan. His estimated tax liability without TDS amounted to Rs. 2,00,000. But in late September he received Rs. 3,60,000 after deduction of tax of Rs. 40,000 for which he can get a TDS credit of Rs. 40,000. Therefore, his tax liability will decrease after granting the credit of TDS to Rs. 1,60,000. In second installment, i.e., by 15th December he has to pay up to 60% of his revised tax liability. Thus, he should pay up to Rs. 96,000 (i.e., 60% of Rs. 1,60,000) by 15th December. But he has already paid Rs. 60,000 by 15th September and, hence, he will have to pay only the balance of Rs. 36,000 by 15th December.

Third installment

In third installment, i.e., by 15th March he has to pay 100% of his estimated tax liability. Thus, he should pay Rs. 1,60,000 by 15th March. He has already paid Rs. 96,000 till 15th December. Therefore, he has to pay balance of Rs. 64,000 by 15th March (i.e., Rs. 1,60,000 – Rs. 96,000).

ROLE OF ASSESSING OFFICER IN RELATION TO ADVANCE PAYMENT OF TAX

1. An Assessing Officer (AO) can order payment of advance tax if following conditions are satisfied:
 - a. The assessee has already been assessed by way of regular assessment in respect of total income of any previous year.
 - b. The assessee has failed to pay such tax.
 - c. The AO is of the opinion that such person is liable to pay advance tax on current year's income.
 - d. The order must specify the amount of advance tax and installments in which advance tax has to be paid.
 - e. The order must be made in writing.
 - f. Such order may be passed during the previous year but not later than last day of February.

2. The assessee can pay advance tax at a rate lower than assessment made by the AO, after submitting his own estimate of income in Form No. 28A. However, for higher estimate made by the assessee, Form 28A is not required to be furnished.
3. The AO will find out the current income of the assessee on the following basis:
 - a. Total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment;
 - b. The total income returned by the assessee for any previous year subsequent to the previous year for which regular assessment is made, whichever is higher;
4. Section 210(4) provides that AO can revise his order issued to the taxpayer to pay advance tax (as discussed above), if subsequent to the passing of an order to pay advance tax but before 1st March of the relevant financial year, (i) a return of income in respect of any later year has been furnished by the taxpayer or (ii) any assessment for any later year has been completed, at a higher figure.

On receipt of such order, the procedure to be followed by the taxpayer will be same as discussed earlier.

Knowledge Assessment – II

State whether the following statements are true or false:

1. If a person responsible for deduction of tax at source fails to deduct the appropriate tax, or after making the due deduction fails to deposit it into the Government treasury, he is liable to prosecution.
2. It is obligatory for an assessee to pay advance tax where the amount of tax payable is Rs. 5000 or more.
3. Presumptive Taxation Scheme is incorporated to give relief to a resident assessee of 60 years or more.
4. If an assessee, who is liable to pay advance tax, under Section 208 has failed to pay such tax, he shall be liable to pay interest @ 5% for every month or part of the month.
5. It is mandatory for every assessee to pay taxes through the electronic payment mode.
6. A corporate tax payer must pay 15% of the advance tax due by 15th June of the previous year.

Answers

1. False, 2. False, 3. False, 4. False, 5. False, 6. True

KEYWORDS

1. **TDS:** Tax deducted at source (TDS) means collection of tax at the very source of income.
2. **E-TDS:** E-TDS implies, filing of the TDS return in electronic media as per prescribed data structure in either a floppy or a CD ROM.
3. **TAN:** It is Tax Deduction and Collection Account Number. It is mandatory for every person who deducts tax at source, to have a TAN.
4. **Advance Payment of Tax:** Advance tax payment is the payment of tax liability by an assessee before the end of the financial year.
5. **Presumptive Taxation Scheme:** An assessee who has opted for the Presumptive Taxation Scheme under section 44AD on at the rate of 8 per cent of turnover, shall be exempted from payment of advance tax related to such business w.e.f. from the assessment year 2011- 12.

SUMMARY

- The Income-tax Act provides for collection and recovery of income-tax in the following ways, namely,
 - deduction of tax at source in respect of income by way of salaries, interest on securities, interest other than interest on securities, winnings from lotteries and crossword puzzles, winnings from horse-race, insurance commission, dividends, payment to contractors or subcontractors and payments to non- residents;
 - advance payment of income-tax before the assessment by the assessee himself;
 - direct payment of income-tax by the assessee on self-assessment;
 - after the assessment is made by the Assessing Officer;
 - Tax collected at source
- Sections 192 to 206 of the Income-tax Act lay down the provisions relating to deduction of tax at source.
- Section 197 gives a right to the assessee to apply to the Assessing Officer for obtaining a certificate that tax may not be deducted or be deducted at a lower rate in case of any sum payable under Sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194I, 194J, 194K, 194LA, and 195.
- Certificate of tax deducted at source is to be issued by the person deducting TDS to the assessee so that the latter can claim credit for tax paid on his behalf and can claim refund, if any, due to him on the basis of tax liability for the relevant year.
- E-TDS implies filing of the TDS return in electronic media as per prescribed data structure in either a floppy or a CD ROM.
- Section 207-219 of the Income Tax Act deal with the issues relating to advance payment of tax. In advance payment of tax, the assessee has to pay tax in a financial year under estimated income which is to be taxed in the subsequent assessment year. It follows the doctrine known as pay as you earn scheme.

- It is obligatory for an assessee to pay advance tax where the advance tax payable is Rs. 10,000 or more (Section 208).

EXERCISE QUESTIONS

Short Answer Questions

1. What is Tax deducted at Source?
2. What is E- TDS? For which persons is e-filing of TDS mandatory?
3. What is Advance Tax payment? Which persons are not liable to pay advance tax?
4. Differentiate between TDS and Advance Tax Payment.
5. Explain the benefits of tax deducted at source to government.
6. What is TAN? Which form is required to apply for TAN?
7. State which forms have to be issued as certificate of tax deducted at source.

Long Answer Questions

1. Explain the provisions of section 197 regarding lower deduction/non-deduction of tax.
2. Explain the various duties of persons deducting tax at source and the rights of taxpayers.
3. Explain the Presumptive Taxation Scheme under section 44AD.
4. Explain the role of Assessing Officer in relation to Advance Payment of Tax.
5. Explain the possible defaults in compliance of provisions of TDS and the consequential proceedings.
6. State the provisions regarding deduction of tax at source in respect of the following incomes:
 - a. Rent
 - b. Dividends
 - c. Professional or technical fees.
 - d. Winning from horse races

Numerical Questions

1. Mr. Sharma is an architect. His estimated tax liability for the year 2016- 17 amounts to Rs. 3,00,000. He has paid advance tax of Rs. 90,000 by 15th September. On 26th November, 2016, he got a contract after which the, his income for the year increased and his revised tax liability for the year amounted to Rs. 4,00,000. In this case, how much advance tax he is required to pay in subsequent installments?

(Answer: 15th December- Rs. 1,50,000; 15th March- Rs. 1,60,000)

2. Mr. Tondon (age 45 years) runs a furniture business. The turnover of the business for the financial year 2015-16 amounted to Rs. 50,00,000. He has not adopted the provisions of section 44AD and has maintained the regular books of account as per the provisions of section 44AA. The accounts revealed a net profit of Rs. 2,64,000. Will he be liable to pay advance tax?

(Answer: No)

3. Sheela Enterprises, a partnership firm took a loan of Rs. 10,00,000 from a person resident in India. Interest on loan for the financial year 2015-16 amounted to Rs. 10,000. Should the firm deduct tax at source from the interest?

(Answer: Yes, under section 194A)

4. Mr. Umesh Kumar has a monthly salary of Rs. 80,000. Deductions claimed by him are Rs. 50,000 during the previous year 2015- 2016. Calculate the average rate of TDS payable on his salary and amount that would be deducted every month as TDS on salary.

(Answer: Total tax liability- Rs. 110210, Average Tax Rate- Rs. 11.48%, Rs.9184 would be deducted every month)

Annexure 1

List of forms of certificates to be issued and necessary form to be filed with Assessing Officer by the persons deducting the tax at source.

<i>Categories of payment</i>	<i>Form No. of Certificate</i>	<i>Form No. of return to be filed with Assessing Officer</i>
1. Salaries	12BA, 16, 16AA	24Q
2. Interest on Securities (Government)	16A	26Q
3. Interest on Securities (others)	16A	26Q
4. Interest other than Interest on Securities	16A	26Q
5. Dividends	16A	26Q
6. Winnings from Lotteries/Crossword puzzles	16A	26Q
7. Winnings from Horse Races	16A	26Q
8. Insurance commission	16A	26Q
9. National Savings Scheme etc.	16A	26Q
10. Payment to non-resident 16A 27Q	16A	27Q
11. Rent	16A	26Q
12. Commission (not being insurance commission) or brokerage		26Q
13. Fee for professional or technical services	16A	26Q

UNIT: 4(i) – INTRODUCTION TO INDIRECT TAXES – VAT/CST

Unit Code: 11	UNIT TITLE: INTRODUCTION TO INDIRECT TAXES			
	Duration:			
Location: Classroom or registered and unregistered dealers' office	SESSION 1: MEANING OF DIRECT AND INDIRECT TAX			
	Learning Outcome	Knowledge Evaluation	Performance Evaluation	Teaching and Training Method
	1. Meaning of Direct and Indirect Taxes	1. Explain the meaning of Direct and Indirect Taxes	1. Differentiate between direct and indirect taxes 2. Identify various taxes into direct and indirect tax	Interactive Lecture: Introduction of various types of direct and indirect taxes
	SESSION 2: INTRODUCTION TO VAT			
	1. Meaning of VAT	1. Explain the meaning of VAT 2. Describe the difficulties in previous regime of Sales Tax	1. Analyze the meaning of VAT 2. Differentiate between existing taxation system of VAT and previous system of Sales Tax	Interactive Lecture: Discussion on the system of VAT and Sales Tax
	1. Objectives, Advantages and Disadvantages of introducing VAT	1. Explain the objectives of introducing the regime of VAT 2. Express the advantages of introducing VAT 3. Explain the disadvantages of VAT system	1. Analyze the objectives, advantages and disadvantages of introducing VAT system 2. Differentiate between first point tax, last point tax and VAT	Interactive Lecture: Discussion of objectives, advantages and disadvantages of VAT system
	1. Methods of computing VAT 2. Concept of input tax credit	1. Explain the various methods of computing VAT 2. Explain the concept of input tax credit	1. Analyze the advantages of Tax credit method 2. Calculate the VAT payable by Tax credit method	Interactive Lecture: Discussion of various methods of VAT computation and advantages of Tax credit method

	1. Basic features of VAT	1. State the various features, concepts and provisions of state level VAT	1. Explain and analyze the various features and provisions of VAT	Interactive Lecture: Discussion of features of state level VAT Activity: Visit any registered dealer. Collect and analyse his VAT return
SESSION 3: INTRODUCTION TO CENTRAL SALES TAX				
	1. Meaning of Central Sales Tax 2. Important concepts under CST	1. Explain the meaning of Central Sales Tax 2. Explain the important concepts under CST like declared goods, sale, sale price, etc.	1. Analyze the meaning of CST 2. Distinguish between VAT and Central Sales Tax 3. Analyse important concepts under CST	Interactive Lecture: 1. Discussion on the meaning of CST 2. Acquaint with various concepts under CST
	1. Declaration forms for CST transactions	1. State the various forms used for CST transactions	1. Explain the applicability of various forms	Interactive Lecture: Discussion on various forms under CST
	1. Withdrawal of CST 2. Goods and Service Tax	1. State the reason for withdrawal of CST and introduction of GST	1. Analyze the importance of introducing GST	Interactive Lecture: Interactive discussion on withdrawal of CST and introduction of GST

(Note: The location would depend upon the topic under discussion, wherein it will be the classroom for the theoretical interactions, the student will be required to visit registered and unregistered dealers and also the websites of tax department of respective states like <http://dvat.gov.in/> and ministry of finance, government of India i.e., <http://dor.gov.in/>)

UNIT: INTRODUCTION TO INDIRECT TAXES

Learning Objectives:

After reading this unit, the students will be able to:

1. Understand the difference between direct taxes and Indirect taxes
2. Explain the meaning of VAT
3. State the objectives of VAT
4. Describe the advantages and disadvantages of VAT
5. Identify the difference between Sales Tax and VAT
6. Understand the design/framework of VAT
7. Understand the meaning of central sales tax
8. Define some important concepts under central sales tax
9. Develop an insight about various forms under central sales tax

SESSION 1: MEANING OF DIRECT AND INDIRECT TAX

A **direct tax** is the tax whose burden is borne by the person on whom it is imposed, i.e., its burden cannot be shifted to others. For example: **Income tax** is a direct tax because the person whose income is taxed is liable to pay the tax directly to the government and bear the burden of the tax himself. Other examples of direct tax are

- i) **Corporate tax**—it is levied on profit of corporations and companies,
- ii) **Wealth tax**—it is imposed on property of individuals depending upon the value of property
- iii) **Gift tax**—it is paid to the government by the recipient of gift depending on value of gift,
- iv) **Estate duty**—it is charged from successor of inherited property.

It is difficult to avoid direct taxes as they are levied directly on income and property of persons who pay directly to the government.

On the other hand when (i) liability to pay a tax is on one person and (ii) the burden of that tax falls on some other person, the tax is called an **indirect tax**. Thus, it is a tax whose burden can be shifted to others. For example,

i) **Sales tax:**

It is an indirect tax because liability to pay tax is that of shopkeeper but the burden of that tax falls on the customer. The shopkeeper realizes the tax amount from the customer by including it in the price of the commodity,

ii) **Excise duty:**

It is paid by the producer (manufacturer) of goods, who recovers it from wholesalers and retailers,

iii) **Custom duty:**

It is charged from importer of goods from a foreign country which is recovered from retailers and customers.

SESSION 2: INTRODUCTION TO VAT

MEANING OF VAT

VAT stands for Value Added Tax. It is an indirect tax and was introduced as a state level tax into the Indian taxation system from 1 April 2005. The existing General Sales Tax Laws were replaced with the Value Added Tax Act (2005) and associated VAT Rules.

VAT is a multi-stage tax on value addition and is collected at different stages of sale with a provision for set-off for tax paid at the previous stage i.e., tax paid on inputs. It is to be levied as a proportion of the value added (i.e. sales minus purchase). This value added is equal to wages plus interest, other costs and also profits. In the system of Value Added Tax, the tax is levied on the value added at each stage of the production/distribution chain. Under the previous regime of sales tax, the goods were charged to tax at single point, or multi-point on the value of the goods, without any credit being given for taxes paid at the preceding stages. But the Value Added Tax intends to tax only the value added at each stage and not the entire invoice value of the product. By ensuring that only the incremental value is taxed, VAT aims at eliminating the cascading effect of taxes on commodities, and thereby reduces the ultimate cost to the consumer.

DIFFICULTIES IN SALES TAX REGIME

A major source of revenue of States in India is the tax levied on the sale or purchase of goods affected within the State. Under the previous regime of State Sales Tax, tax was levied either at the first point or the last point of sale or purchase in the State. The Sales Tax regime faced a lot of problems. To begin with, each State used to have a *large list of exempted goods* on which no tax was leviable. This list was subject to a lot of changes due to many reasons. States used to provide different schemes related to sales tax for attracting new industries in the State. Different goods were subject to different rates of sales tax which resulted in *multiplicity of rates*. Even for a particular type of goods the rate of tax had started changing since the implementation of the State Act due to political reasons which lead to an apparent sales tax rate “war” among the States. Many a time, the stage of levy of tax on a particular type of goods had been changed. Either levy of tax had been made at the first point of sale or purchase or at the last point of sale or purchase of goods to satisfy the demands of a particular Trade/ Manufacturing community.

Thus the tax structure had become very much complex in each State and it became difficult for a common man to conduct business without any hassles. Even sales tax officials found problems in enforcing the provisions of the Sales Tax Act. Thus, to address these issues and to make the tax structure simple, hassle-free and export oriented, a new system of taxation was required and thus VAT was seen as the probable alternative.

OBJECTIVES OF INTRODUCING VAT

The various objectives of introducing the state – level VAT are:

1. to encourage a better-administered system of taxation;
2. to replace the existing structure of multiple tax rates with two or three rates applicable throughout the country
3. to provide input tax credit for tax paid on inputs at earlier stage;
4. to do away with cascading effect resulting in non distortion of the business decisions;
5. to contribute to fiscal consolidation for the country. As a steady source of revenue, it shall reduce the debt burden in due course;
6. to stop the unhealthy tax-rate war and trade diversion among the States, which had adversely affected the interests of all the States in the past
7. to help our country to integrate better in the WTO regime;
8. to modernize tax administration, computerize operations and the information system, and simplify forms and procedures.

BENEFITS OF VAT

In the VAT system tax is charged at each stage of sale on the value added to the goods. Followings are the main benefits of the VAT system:-

1. VAT system mitigates cascading effect and economic distortions.
2. There is a greater fairness, uniformity and complete transparency of tax incidence in the sale of goods.
3. Effective documentation through invoices that supports effective audit and enforcement strategies leads to better tax compliance and there is less chance of tax evasion. This will lead to higher revenue growth.
4. VAT system is simpler than the previous system of taxation as there would be no dispute regarding taxable stage of sale and classification of goods taxable at a particular rate of tax and there would be minimum requirement of declaration forms. This is helpful for self-assessment by dealers.
5. A set-off will be given for input tax as well as tax paid on previous purchases. Other taxes, such as turnover tax, surcharge, additional surcharge, etc. will be abolished.
6. Overall tax burden will be rationalized. Ultimate consumers will be less burdened and prices will in general fall.

7. VAT permits easy and effective targeting of tax rates as a result of which the exports can be zero-rated.

DISADVANTAGES OF VAT

Following are the disadvantages of VAT:

1. VAT is costly to implement as it is based on full billing system. Modernizing tax administration, computerizing operations and the information system requires huge costs.
2. VAT is relatively complex to understand. The calculation of value added in every stage is not an easy task.
3. To implement the VAT successfully, customers need to be conscious, otherwise tax evasion will be widespread.
4. Refund of Tax- VAT credit cannot be availed if no tax is payable on final product being exempt or taxable at lower rate. Also, if the tax credit is more than the tax payable on sales in a month, the excess credit will be carried forward to the end of next financial year. Unadjusted input tax credit at the end of second year will be eligible for refund. Thus, the benefit of *zero rating* is not immediate, but deferred. (The term 'zero rating' is explained later in the chapter)

DIFFERENCE BETWEEN PREVIOUS SYSTEM OF TAX AND VAT SYSTEM

S. No.	Previous System	VAT System
1.	Earlier the local sales tax was based on single point tax. In this system, tax was levied either at first point or at last point. The First point tax (FPT) was convenient to the revenue but it had an inbuilt cascading effect because the final price paid by the consumer became high. The Last Point Tax (LPT) is an ideal system but it was evasion prone. It resulted in loss of revenue to the government.	The VAT system on the other hand reduces the disadvantages of both First point tax and Last Point Tax and at the same time draws the advantages from both. The VAT system obviously is more transparent, uniform and less prone to tax evasion.
2.	Under the previous system, states used to tax declared goods on single point basis subject to a rate of 4%.	Under the system of VAT, declared goods will also face tax at multiple levels
3.	Under the previous system of Sales tax, inputs used for manufacture, whether capital or otherwise, were eligible for concessional rate of tax.	However, under the VAT system, there are no concessions. Goods will be taxed at their respective rates, with a provision for set off in future. There is no place for incentive schemes under VAT, except

		those carried forward from the previous system.
4.	The exports are exempt from tax and supplies to exporters, i.e., penultimate sales (immediately preceding sale to exports) are also exempt subject to certain conditions.	Under VAT, exports are not exempted but zero rated, giving rise to refund of tax paid on inputs.
5.	There is no set off of prior taxes paid under the existing system of Single Point Tax and Multi – point tax.	In the VAT system, there is a system of input tax credit, i.e., all taxes paid on inputs are given set off against output tax if the sale is not an exempt sale.

COMPARISION OF FIRST POINT TAX, LAST POINT TAX AND VAT

Illustration 1

Suppose the price of raw material is Rs. 200 and the value added by manufacturer, wholesaler and retailer is Rs. 400, Rs. 200 and 200 respectively. Compare the final price of the commodity computed under the system of first point tax, last point tax and VAT find out. Assume tax rate to be 10%.

Solution

	Economy	First point Taxation	Last point Taxation (Tax leviable in the hands of the Retailer)	Value Added Taxation (Multistage Taxation)
Manufacturer				
Purchase in State	200	200	200	200
Tax on Purchase		20	0	20
Value Added	400	400	400	400
Sale in State		620	600	600
Tax on Sale		62	0	60
Wholesaler				
Purchase in State		682	600	600

Tax on Purchase		62	0	60
Value Added	200	200	200	200
Sale in State		882	800	800
Tax on Sale		0	0	80
Retailer				
Purchase in State		881	800	800
Tax on Purchase		0	0	80
Value Added	200	200	200	200
Sale in State		1,082	1,000	1,000
Tax on Sale		0	100	100
Final Value of the good		1,082	1,100	1,100

METHODS OF COMPUTATION

The following three methods are used to calculate the VAT liability:

- 1. The Subtraction method:** Under this method the tax rate is applied to the difference between the value of output and the value of input;
- 2. The Addition method:** Under the addition method, value added can be computed by summing all the payments payable to the factors of production i.e., wages, salaries, interest payments, etc.;
- 3. Tax Credit method:** Under this method, the tax paid on inputs is deducted from the tax collected on the sales to arrive at the VAT payable by the dealer.

$$\text{VAT payable = Total tax charged} \quad \text{-----} \quad \text{Total tax paid to the}$$

$$\text{(under Tax on the output or suppliers on inputs}$$

$$\text{Credit Method) sales or purchases}$$

Tax Credit Method has been adopted in India because of its inherent advantages of calculating tax liability. The other methods of computing VAT, viz., addition method and subtraction method

are not workable in the case of a manufacturer when the rate of tax is different in respect of inputs and outputs.

Advantages of Tax Credit Method

- 1) It makes easier the cross-checking of tax paid at the previous stage, as dealers are required to state the amount of tax in invoices.
- 2) Under this method, dealers at intermediate stages do not have any incentive to seek treatment in tax rate as tax burden is dependent on the tax rate at the final stage of sale.
- 3) Exports can easily be relieved of domestic indirect taxes through making them zero rate.

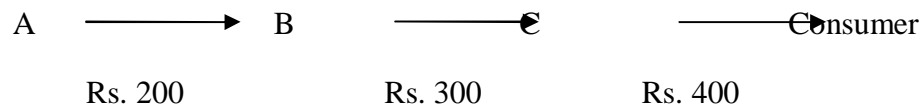
CONCEPT OF VAT AND SET – OFF/ INPUT TAX CREDIT

The basic concept of VAT is based on providing the set-off for the tax paid earlier on the inputs used and this is given effect through the concept of input tax credit/rebate. This input tax credit in relation to any period means setting off the amount of input tax by a registered dealer against the amount of his output tax. The Value Added Tax (VAT) is based on the value addition to the goods, and the related VAT liability of the dealer is calculated by deducting input tax credit from tax collected on sales during the payment period (say, a month).

In simple words, the tax which the dealer pays on the local purchases of inputs used in due course of business which include raw materials, capital goods as well as other inputs used directly or indirectly in the business is called input tax whereas output tax is the tax that a dealer charges on the sales made by him that are subject to tax.

Example:

Suppose 'A' sells goods taxable @ 10% for Rs. 200/- to a dealer 'B' in the State. The dealer 'B' further makes the sale of the goods at Rs. 300/- to another dealer 'C' in the State who in turn sells the goods to the consumer at Rs. 400/-. Then VAT payable by each of the dealers A, B & C is shown in the table below:-



P = Purchase in the State

S = Sale in the State

(Figure shown in rupees)

P = 0	P = 200	P = 300
S = 200	S = 300	S = 400

$$\begin{aligned} \text{VAT} &= 20 - 0 & & = 30 - 20 & & = 40 - 30 & & [\text{Tax on S} - \text{Tax on P}] \\ &= 20 & & = 10 & & = 10 & & \end{aligned}$$

Total VAT = Rs. 40 [20 + 10 + 10]

Illustration 2

Inputs worth Rs. 2,00,000/- are purchased and sales are worth Rs. 4,00,000/- in a month. Input tax rate and output tax rate are 4% and 10% respectively, calculate the input tax credit/set-off and VAT.

Solution

Input purchased within the month: Rs. 2,00,000

Output sold in the month: Rs. 4,00,000

Input tax paid: Rs. 8,000/-

Output tax payable: Rs. 40,000/-

VAT payable during the month: Rs. 32,000 [Rs. 40,000 – Rs. 8,000] after set-off/input tax credit

Illustration 3

The manufacturer of certain goods purchases raw materials for Rs. 1,000. The value addition is 100% in the hands of a manufacturer, 30% in the hands of a wholesaler and 20% in the hands of a retailer. Compute VAT in the hands of raw material supplier, manufacturer, wholesaler and retailer, if the tax rate is 10%.

Solution

Particulars	Raw materials supplier	Manufacturer	Wholesaler	Retailer
a. Purchase	0	1,000	2,000	2,600
b. Value added	0	1,000	600	520
c. Sale	1,000	2,000	2,600	3120
d. Tax on sale	100	200	260	312
e. Tax on purchase	0	100	200	260

VAT [d- e]	100	100	60	52
------------	-----	-----	----	----

BASIC FEATURES OF STATE VAT

1. NATURE

It is an indirect tax. It is a form of sales tax only but it is a multi stage tax which is charged at each stage of sales on the value added to the goods.

2. COVERAGE OF SET- OFF/ INPUT TAX CREDIT

The input tax credit is given to both the traders and manufacturers for purchase of inputs/ supplies meant for sales both within the State as well as to other States, irrespective of when these will be utilized or sold. This also reduces immediate tax liability.

For stock transfer/consignment sale of goods *out of the State*, the input tax paid in excess of 4 % will be eligible for tax credit.

3. CARRYING OVER OF TAX CREDIT

If in any month, the tax credit is more than the tax payable on sales, the excess credit will be carried forward to the end of next financial year. If there is any excess input tax credit which remains unadjusted even at the end of second year, then the same will be eligible for refund after adjusting any dues towards interest, penalty, etc., if any, in accordance with the State VAT Act. Thus, the benefit of zero rating is not immediate, but deferred.

Input tax credit is also available on capital goods for traders and manufacturers. Tax credit on capital goods may be adjusted over a maximum of 36 equal monthly installments. It is at the option of States to reduce this number of installments.

There are some capital goods which are in the negative list and are not eligible for input tax credit.

Illustration 4

Purchase of input/ supplies during the month - Rs. 12,50,000

Purchase of capital goods during the month - Rs. 1,50,00,000

Sales during the month - Rs. 18,75,000

Tax rate 4%

Compute the amount of tax credit to be carried over for set off.

Solution

- | | |
|---|--------------|
| i) Tax paid on procurement of input /supplies in a month | Rs. 50,000 |
| ii) Tax paid on procurement of capital goods in the month | Rs. 6,00,000 |
| iii) Tax credit available in the month [(i) + (ii)/12]* | Rs. 1,00,000 |

(Assume state gives set-off for input tax on capital goods in 12 months)

- | | |
|----------------------------------|------------|
| iv) Tax on sale during the month | Rs. 75,000 |
| v) Tax payable during the month | Nil |

[(iii) being greater than (iv)]

- vi) Carry over of Tax credit for Rs. 25,000/-

Set-Off during the next month [(iii) - (iv)]

4. VAT REGIME

- i) Mostly, each State has its own VAT Act, Rules, Schedules, and Forms. Therefore, there will remain differences even in definitions among various Acts.
- ii) The rates are more or less uniform. However, it is possible that items under the exempted category and 4% category may be broadly similar across all States.
- iii) Tobacco, Textiles and Sugar, which were under additional duty in lieu of excise and not under State taxation, are brought into the State Tax net at a rate not more than 4%, thereby integrating these products in the VAT structure.
- iv) Petroleum products, like Aviation Turbine Fuel, Naphtha, etc. used as fuel for running automobiles are brought under VAT, but credit cannot be taken on the tax paid thereon.

5. RATES OF TAX

As against the multiplicity of rates under the sales tax system, VAT has 4 broad rates.

- i) 0% for unprocessed agricultural goods, and goods of social importance. These goods are exempted
- ii) 1% for precious and semiprecious metals, like silver, gold and platinum, bullions, jewellery, etc.,
- iii) 4% for inputs used for manufacturing and on declared goods, capital goods and other necessity items like coffee, coir, cotton, edible oils, medicines, drugs, agricultural implements, etc.,
- iv) 20% is usually levied for goods such as imported liquor, cigarettes, luxury goods etc
- v) the rest of the commodities will be taxed at a Revenue Neutral Rate of 12.5%.

6. TREATMENT OF EXPORTS

For all exports made out of the country, tax paid within the State shall be refunded in full. The time to make this refund is three months. Exemption from payment of input tax will be granted to units located in SEZ and EOU or input tax paid will be refunded within three months.

7. INPUTS PROCURED FROM OTHER STATES

Tax paid on inputs procured from other States through inter-State sale and stock transfer will not be eligible for credit. However, inter- State sales tax or Central sales tax is proposed to be duly phased out in the coming years.

8. DOCUMENTATION

The entire design of VAT with essential feature of input tax credit is based on documentation of tax invoice, cash memo or bill. It is essential for every registered dealer, having turnover of sales above an amount specified, to issue serially numbered tax invoice with the prescribed particulars to the purchaser. This tax invoice should be signed and dated, showing the required particulars. A duplicate of such tax invoice duly signed and dated should be kept with the dealers. Failure to comply with the above will attract penalty.

9. REGISTRATION, SMALL DEALERS AND COMPOSITION SCHEME

Every dealer up to the retailer level is required to be registered with the Sales Tax department to avail the credit of input tax. However, the retailers with turnover below the specified limit may opt not to get registered, but pay a nominal composition tax. But, such dealers are not entitled to take credit of previous stage tax or input tax. They also cannot further pass the credit to their buyers. Thus, the VAT chain breaks effectively at this stage. The dealers do not who want to get registered under VAT can opt for general registration.

The White Paper for VAT states that registration under the VAT Act is not compulsory for the small dealers whose gross annual turnover does not exceed Rs. 5 lakh. However, the Empowered Committee of State Finance Ministers has subsequently allowed the States to increase the threshold limit for the small dealers to Rs. 10 lakh, but the concerned States will have to bear the revenue loss on account of increase in the limit beyond Rs. 5 lakh. The objective of all such composition schemes is not to burden small dealers by the provisions of record keeping.

A new dealer will be allowed 30 days time from the date of his being liable to get registered. The registration number, i.e., Taxpayer Identification Number (TIN) is allotted to each registered dealer under the VAT Act & is mentioned in the registration certificate issued to the registered dealer. It is a 12 digit unique code for the whole country.

10. SELF- ASSESSMENT OF VAT LIABILITY

VAT liability is self-assessed by the dealers themselves. They have to submit returns after setting off the tax credit. All states have simple return forms as well as other procedures. It pre-supposes that all the dealers act in honest manner. Scrutiny may be done in cases where there are doubts arising due to under reporting of transactions or evasion of tax. Otherwise, the dealer will be deemed to have been self-assessed on the basis of returns submitted by him.

11. RETURN

The return filing procedures are designed in such a way that the compliance costs are minimum. Under VAT, there are simplified forms of return. Returns are to be filed monthly/quarterly according to the State Acts/Rules. Returns should be accompanied with payment challans evidencing payment of tax. Every return furnished by dealers will be scrutinized within prescribed time limit from the date of filing the return. If any technical mistake is found on scrutiny, the dealer is required to pay the deficit accordingly.

12. DECLARATION FORM

Under the previous regime of sales tax, there were many different concessional schemes provided in states. For availing those schemes, the dealers had to file some declaration forms. Under VAT, there are no schemes for concessional sale. Hence, there is no need for declaration form, which is a further relief for dealers.

13. AUDIT

There is no compulsory assessment at the end of each year. Correctness of self-assessment will be ensured through a system of Departmental Audit. Under this system, every year a certain percentage of the dealers are taken up on a scientific basis. Their audit is conducted and if tax evasion is detected, audit may be conducted for previous periods also. The Audit Wing remains delinked from Tax Collection wing to remove any bias. The audit team completes the audit within six months. The audit report is transparently sent to the dealer also.

The tax authorities of the State Governments and the authorities of Central Excise and Income Tax are together working out a cross-checking, computerized system which can compare constantly the tax returns and set-off documents of VAT system of the States and those of Central Excise and Income Tax. This cross-checking system will help reduce tax evasion and also lead to significant growth of tax revenue. The system will also bring in more competition in the sphere of trade and industry, by protecting the interests of tax-complying dealers against the unfair practices of tax-evaders.

14. EXEMPTED SALE/ EXEMPTED GOODS

Exempted goods are the goods which are specified in the list or the schedule appended to the VAT Act, on the purchase or sale of which no tax is leviable. The exempted goods are mostly common for all the States. No tax is leviable on the purchase or sale of exempted goods.

In case of exempt sale, the dealer will not be required to pay any tax on sale. Nor would he be granted to any credit of tax paid by him on the inputs purchased. This results in breaking of the VAT chain.

15. ZERO RATING

Under the concept of zero rating, the tax payable on sale of a commodity is fixed at 0% and also the prior stage tax is set off against the 0% tax paid on sale. Zero rated goods are significantly different from the exempted goods. While in exempted goods, the tax paid on input lapses i.e. it cannot be set off but for the zero rated goods, previous stage tax is set off and effectively the entire tax paid on purchases is eligible for refund. Thus, 'Zero Rating' is advantageous to the dealer compared to 'exempting' of sale transactions. In India, the export sales are zero rated and the exporters are allowed refund of input taxes. Exporters gain significantly due to the 'Zero Rating'.

16. TREATMENT OF WORKS CONTRACT

There are some contracts which are contracts for labour, work or service and not for sale of goods, though some goods are used in carrying out of the contract, e.g., when a contractor constructs a building, the buyer pays, in lump sum, for cost of building material, labour and other services offered by the contractor. Property in the building is passed on to the buyer and there is no separate contract for sale of building material as such. These types of contracts are known as works contract.

Thus, "works contract" includes any agreement for carrying out for cash or for deferred payment or for valuable consideration, the building construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repair or commissioning of any moveable or immovable property."

It is very difficult to establish whether particular contract is 'contract for work' or 'contract of sale'. For this any rigid test is not possible. It depends upon the main object of the parties, circumstances and custom of trade.

Many High courts have held that C Form can be issued for purchase of goods which are used in works contract. The dealer is entitled to registration and he can receive sales tax forms in respect of his sales.

Central Sales Tax will be payable on goods involved in works contract if goods moved from one state to another on account of such works contract from 11.5.2002 onwards.

There can certainly be inter-state works contract in case of movable property e.g., printing contracts. In fact CST can be levied on any goods involved in works contract in case of movable property.

Knowledge Assessment – I

1. Which of the following was the first State to implement VAT w.e.f. April 1, 2003?
 - a. Maharashtra
 - b. Haryana
 - c. Karnataka
 - d. Punjab
2. Value added tax (VAT) is levied by:
 - a. Central Government
 - b. State Government
 - c. Local Authorities
 - d. None of the above
3. What is the rate of VAT for precious and semiprecious metals?
 - a. 0%
 - b. 1%
 - c. 4%
 - d. 12.5%
4. A dealer pays which of the following taxes on his/her local purchases of business inputs?
 - a. First Point Tax
 - b. Output Tax
 - c. Input tax
 - d. Last Point Tax
5. Which of the following methods involves applying the rate of tax to the difference between the value of output and the cost of input?
 - a. Subtraction method
 - b. Addition method
 - c. Tax Credit method
 - d. None of the above
6. Which of the following is outside the purview of state VAT:
 - a. Liquor
 - b. Gold
 - c. Drugs
 - d. Agricultural implements

Answers: 1. b, 2. b, 3. b, 4. c, 5. a, 6. a

SESSION 3: CENTRAL SALES TAX

Central sales tax (CST) is a tax on sales of goods levied by the Central Government of India. It is applied in all the states of India. CST is levied by the Central Government but, it is collected by that state government from where the goods are sold. The tax thus collected is revenue of the same state government which collected the tax. But in case of Union Territories the tax collected is deposited in the consolidated fund of India.

CST is applicable only in the case of inter-state sales and not on sales made within the state or import/export of sales. Whether a transaction is interstate or not, this is to be determined as per the provisions of Section 3(a)/ (b) of Central Sales Tax Act, 1956. If sale/purchase results in movement of goods from one State to another State, it is an interstate sale. Thus, consignments to agents or transfer of goods to branch or other offices are not a sale. A sale affected by transfer of documents of title to goods when goods are in inter-state movement, is also an inter-state sale. However, consignments to agents or transfer of goods to branch or other offices are not a sale. A sale in which goods are sold within a state but travel through another state is not considered as inter-state sale.

Every dealer who makes an inter-state sale must be registered and he has to display the certificate of registration at all places of his business. There is no exemption limit of turnover for the levy of central sales tax.

Under Central Sales Tax Act, 1956, the goods have been classified as:

- a. Declared goods or goods of special importance in inter-state trade or commerce and
- b. Other goods.

The rates of tax on declared goods are lower as compared to the rate of tax on goods in the second category.

Even though the central sales tax has been framed by the central government but, the state governments are allowed to frame rules regarding submission of returns, payment of tax, appeals etc., subject to such notification and alteration as it deem fit.

IMPORTANT CONCEPTS UNDER SALES TAX

DECLARED GOODS [section 2(c)]

These include the goods which are considered to be of special importance in interstate trade or commerce. Some examples of these goods are –

- a. Cereals
- b. sugar

- c. oilseeds
- d. Pulses
- e. cotton
- f. Jute
- g. coal
- h. crude oil

GOODS [section 2(d)]

Goods include all material articles or commodities and all kinds of movable property excluding newspapers, actionable claims, stocks, shares and securities. In case, the newspapers are sold as scrap then, it will be charged to central sales tax if it is an inter- state sale.

SALE [section 2 (g)]

It means transfer of property in goods by one person to another for cash or for deferred payment or for any valuable consideration. However, a mortgage, hypothecation of, or a charge, or pledge on goods is not included.

The expression “Sale of Goods” has the same meaning which it has in the Sale of Goods Act, 1930. In order to constitute a sale under the said provision, there must exist the following four elements

- a. bargain or agreement of sale;
- b. the payment or promise of payment of price;
- c. the delivery of goods and
- d. the transfer of property from the seller to the buyer.

SALE PRICE [section 2 (h)]

It means amount payable to a dealer as consideration for the sale of any Goods which includes the following –

- central sales tax
- excise duty
- bonus given for effecting additional sales
- insurance charges, if goods are insured by seller
- freight charges if, not shown separately
- cost of packing material
- packing charges
- any sum charged for anything done by the dealer in respect of goods at the time of or before delivery thereof;

Sale price does not includes the following -

- freight or transport charges for delivery of goods, if charged separately
- cost of installations, if charged separately
- cash discounts for making timely payments.
- trade discount
- insurance charges of goods insured on behalf of the buyer
- goods rejected
- goods returned within 6 months of the date of sale

TURNOVER [section 2 (j)]

It is the aggregate of the sale prices received/ receivable by the dealer in respect of sales of any goods in the course of inter-state trade or commerce made during a prescribed period. Prescribed period is the period in which sales tax return is filed.

Section 4 of the CST Act, 1956 states that the sites of sale, i.e. state in which the sale takes place, is to be decided on the location of the goods at the time of sale.

Section 5 states that the sale/purchase taking place in course of import/export are immune from levy of any tax by State Government or Central Government.

DETERMINATION OF TURNOVER

As per section 8 (A), to determine turnover following amounts will be deducted –

- Central sales tax
- Sale price of goods returned within six months
- Other items as the central government may notify

AMOUNT OF CENTRALL SALES TAX

The amount of tax collected by a registered dealer shall be deducted from his gross turnover. Tax is calculated by the following formula:

$$(\text{Rate of tax} * \text{Aggregate of sales price}) \div (100 \div \text{Rate of tax})$$

If the different rates are applicable to the turnover of a dealer, then above formula should be applied separately in respect of each part of the turnover subject to different rates of tax.

DECLARATION FORMS FOR CST TRANSACTIONS

Certain forms have been prescribed in each type of rules. Forms prescribed in the Central Sales Tax (Registration & Turnover) Rules, 1957 are applicable in all States and Union Territories. Forms prescribed in the rules framed by States are applicable in the respective States and Forms prescribed in the rules “The Central Sales Tax (Union Territories) Rules, 1957” are applicable in all Union Territories.

It is required by a registered dealer to issue/receive certain declarations in prescribed forms to buyers/sellers. These forms are supplied by the Registered Dealer's respective Tax assessing authorities (generally the CST assessments are done by VAT assessing authorities). These have to be prepared in triplicate. The types of Statutory Forms and their usage is given below:

Form A

This form is an application for obtaining registration certificate under the Central Sales Tax Act, 1956. This is a stationery form and is usually supplied free of cost by the Sales Tax / VAT / Commercial Tax Departments of the States.

Form B

In this form Registration Certificate is issued to a dealer by the State Sales Tax / VAT / Commercial Tax Department.

Form C

Form C is security printed form and is issued by the State Sales Tax / VAT / Commercial Tax Department to a registered dealer who makes inter-state purchase of goods mentioned in his registration certificate. This form is divided in three portions marked Original, Duplicate and Counter Foil. Purchasing dealer, after making relevant entries and after putting his signatures issues portions marked original and duplicate to the selling dealer of the goods, the details of which have been given on the form. The selling dealer, on the basis of this 'Form C', charges CST @ 2% or lower rate as applicable and submits the same to his assessing authorities as a proof or cause for lower collection of CST.

For example: Assume that the local sales tax rate is 3%. The sales made in the course of interstate trade, will attract levy of CST at the rates as applicable for local sales. But any registered dealer on submission of declaration in 'Form C', will be subject to the CST at 2% (3% or 2% whichever is lower). Even the registered dealer will be required to pay CST at local sales tax rates if 'Form C' is not issued.

Form E1

Form E1 is used for making subsequent sales in the course of interstate sale/purchase by the first or original purchaser of goods. This Form always has to be accompanied with 'Form C'. The Form E1 is used for first subsequent sales by transfer of document of title to goods.

Form E1 is issued by the selling dealer to the dealer who is making subsequent sales for claiming the exemption from payment of CST to the subsequent buyer. The first subsequent seller of goods receives 'Form E1' and submits it to the assessing authority to claim exemption from CST for any sale made to other interstate registered dealer.

Form E2

Form E2 is used to claim exemption from payment of CST to the seller who is a subsequent or last inter-state dealer of goods. In case where a registered dealer purchases goods from one registered inter-state dealer and sells the same while in transit, to some other registered inter-state dealer, the sales will be exempted from CST if 'Form E2' is submitted to the department.

Form F

Goods may move from one State to another State and may be delivered in other State without a sale. A principal may transfer his goods to his agent or manufacturing unit in one State or may transfer its goods to its branches in other States. In all such cases, there is no inter-state sale. Also no sale is effected during their movement of goods from one State to another. In such cases of interstate movement of goods as Stock/Branch Transfers, Form F is used for claiming exemptions. The transferor of goods can claim exemption from CST on submitting the Form to the department. In the absence of 'Form F', all such transfers will be treated as normal interstate sales and CST will be levied. The Dealer has the option to submit one 'Form F' for all the interstate Stock/Branch Transfer for a month with supporting annexure if required.

Form H

Form H is used by the seller for claiming the exemption on making penultimate sales (immediately preceding sale to exports). Sales made during the course of export are exempt from CST. The penultimate sale is also deemed to be in course of export and is exempt from CST. The dealer exporting goods will have supporting documents like customs documents, bank certificate, airway bill/bill of lading, shipping bill etc. However, the penultimate seller will not have any direct evidence to prove that the sale made is exempt from tax. In such cases, the actual exporter has to issue a certificate to the penultimate seller in form H.

Form I

Form I is used for claiming the exemption from CST in case of sales made to any Special Economic Zone (SEZ). The buying dealer issues 'Form I' to the selling dealer. The selling dealer needs to submit Form I to the department to claim all the export benefits available to original exporter.

Form J

Form J is used for claiming the exemption of CST in case of Interstate sales made to any United Nations, Diplomatic Missions etc. The Form is issued by purchasing dealer to the selling dealer. Who then submits this Form to the department to claim the exemption?

WITHDRAWAL OF CST

Presently, CST will continue, though it is proposed to be phased out in due course. The provisions in respect of Central Tax are summarized below:

1. As per Para 4.3 of White Paper on State-Level VAT, the CST may be phased out after decision in respect of loss of revenue to States is taken and comprehensive Taxation information System is put in place. CST has been reduced to 3% w.e.f. 1.4.2007, and further reduced to 2% w.e.f. 1.6.08.
2. Present forms under VAT, i.e., C, D, E-I/E-II and H will continue, Form No. D has been abolished w.e.f. 1.4.2007.
3. As per Para 2.6 of White Paper there will be no credit of CST paid on inter-state purchases
4. If goods are sent on stock transfer outside the State, input tax paid in excess of 2% will be allowed as credit. In other words, input tax to the extent of 2% will not be allowed as credit if goods are sent interstate.

GOODS AND SERVICE TAX

Introduction of the Value Added Tax (VAT) at the Central and the State level has been a major development in the evolution of indirect taxation system in India. It is a major improvement over the pre-existing Central excise duty at the national level and the Sales tax system at the state level. However, the Goods and Services Tax (GST) will be a further significant improvement and the next logical step in the journey of indirect taxation reforms in the country. The Empowered Committee of State Finance Ministers is working with the Central Government to prepare a blueprint for introduction of GST in India. The Empowered Committee has brought the First Discussion Paper on GST on 9th Feb. 2010 which deals with the outlines of GST. Detailed views of the Empowered Committee on the structure of GST are presented in terms of the First Discussion Paper. Further, Constitutional amendment bill, was also introduced in the parliament to resolve the issues arising between the state and centre relating to revenue. The government is taking wider steps for early implementation of GST like setting up of GST network etc. However, implementation of GST keeps getting delayed due to political and technical issues.

Knowledge Assessment – II

State whether the following statements are true or false:

1. Goods and Service tax is a direct tax.
2. The Empowered Committee has brought the first discussion paper on GST.
3. Form E1 is used for making subsequent sales in the course of interstate sale/purchase by the first or original purchaser of goods.
4. Sale price includes trade discount.
5. Form E2 is used to claim exemption from payment of CST to the seller who is a subsequent or last inter-state dealer of goods.
6. Crude oil is not a part of the list of declared goods.
7. Sale price does not include packing charges.

Answers: 1. False 2. True, 3. True, 4. False, 5. True , 6. False, 7. False,

KEY WORDS

1. **Direct tax:** A direct tax is the tax whose burden is borne by the person on whom it is imposed, i.e., its burden cannot be shifted to others.
2. **Indirect tax:** An indirect tax is a tax wherein (i) liability to pay a tax is on one person and (ii) the burden of that tax falls on some other person.
3. **Input tax:** Input tax means when a company buys goods or services from another supplier, VAT is charged on the purchase price that is known as input tax.
4. **Output tax:** Means when the company sells its own goods or services it charges its customers VAT this is output tax.
5. **Inter-state Sales:** Means sale made between two or more states.
6. **Intra-state Sales:** Means sales made within the state
7. **Declared Goods:** Section 2(c) of CST Act defines 'Declared Goods' as those declared under section 14 of CST Act as 'goods of special importance in Inter State Trade or commerce.
8. **Turnover:** the aggregate amount for which sales are effected or services are rendered by the enterprise.

SUMMARY

- **Background:** VAT stands for Value Added Tax. It is a state level tax and is levied in all states in India. It is a multi-stage tax on value addition and is collected at different stages of sale with a provision for set-off for tax paid on inputs.
- **Objectives:** to encourage a better-administered system of taxation; to stop the unhealthy tax-rate war and trade diversion among the States; to help the country to integrate better in the WTO regime; to modernize, computerize and simplify tax administration.
- **Advantages of VAT:** encourages a better-administered system; eliminates tax evasion; avoids under valuation; enables system of tax credit; does away with cascading effect; ensures better tax compliance; contribution to fiscal consolidation for the country.
- **Input tax credit:** input tax credit in relation to any period means setting off the amount of input tax by a registered dealer against the amount of his output tax.
- **Rates of VAT:** – 0% (Exempted) for unprocessed agricultural goods, and goods of social importance), 1% for precious and semiprecious metals, – 4% for inputs used for manufacturing and on declared goods, capital goods and other essential items, – 20% for imported liquor, cigarettes, demerit/luxury goods and – the rest of the commodities will be taxed at a common rate of 12.5%.
- **Registration:** Registration of dealers with gross annual turnover above Rs. 5 lakh will be compulsory. There will be provision for voluntary registration for dealers with gross annual turnover of less than the threshold limit.
- **VAT Audit:** There is no compulsory assessment at the end of each year. Correctness of self-assessment will be checked through a system of Departmental Audit. Under this system, a

certain percentage of the dealers are taken up for audit every year on a scientific basis. If tax evasion is detected, the concerned dealer may be taken up for audit for previous periods.

- **Exempted goods:** these are the goods which are specified in the list or the schedule appended to the VAT Act, on the purchase or sale of which no tax is leviable.
- **Zero rating:** under the concept of zero rating, the tax payable on sale of a commodity is fixed at 0% and also the previous stage tax is set off against the 0% tax paid on sale.
- **Central Sales Tax:** Central sales tax (CST) is a tax on sales of goods levied by the Central Government of India. It extends to the whole of India. The Central Sales Tax is levied by the Central Government but, it is collected by that state government. But in case of Union Territories the tax collected is deposited in the consolidated fund of India. CST is applicable only in the case of inter-state sales and not on sales made within the state or import/export of sales.
- **Declaration Forms for CST Transactions:** The types of declaration forms are C, E1, E2, F, H, I and J.
- **Withdrawal of CST:** Presently, CST will continue, though it is proposed to be phased out in due course.
- **Goods and Service Tax:** Goods and Services Tax (GST) will be a further significant improvement and the next logical step in the journey of indirect taxation reforms in the country. The Empowered Committee of State Finance Ministers is working with the Central Government to prepare a blueprint for introduction of GST in India.

EXERCISE QUESTIONS

Short Answer Questions

1. What is meant by Value Added Tax?
2. Define Input Tax credit.
3. Differentiate between Input tax and output tax.
4. What do you mean by Zero rating? What is the difference between zero rated goods and exempted goods?
5. What do you understand by declaration form?
6. Differentiate between direct and indirect tax.

Long Answer Questions

1. Explain the audit procedure applicable under the VAT system.
2. How is the value added taxation structure a significance improvement over the sales tax system? Discuss the advantages of introducing VAT in India.
3. Discuss the provisions of registration under VAT.
4. 'A registered dealer can set-off the amount of input tax against the amount of his output tax.' Explain.
5. In what purchases input tax credit is not allowed under VAT?
6. Explain the procedure of computing the VAT liability of a dealer.

Numerical Questions

1. Amit Traders have provided the following information regarding purchase and sales for the month of July, 2015:

Purchases:

Product "A" total cost 3,60,000, rate of VAT 4%.

Product "B" total cost Rs. 5,21,000, rate of VAT 12.5%.

Sales :

Product "A" total sales Rs. 4,80,000, rate of VAT 4%.

Product "B" total sales Rs.4,20,000, rate of VAT 12.5%.

You are required to calculate the eligible input tax credit and value added tax payable for Amit Traders.

(Answer: Input Tax Credit – Rs. 7,825 / Tax Payable – Nil)

2. The manufacturer of certain goods purchases raw materials for Rs. 2,000. The value addition is 100% in the hands of a manufacturer, 40% in the hands of a wholesaler and 30% in the hands of a retailer. Compute VAT in the hands of raw material supplier, manufacturer, wholesaler and retailer, if the tax rate is 4%.

(Answer: raw material supplier- Rs. 80, manufacturer- Rs. 80, wholesaler- Rs. 64, retailer- Rs. 67.2)

3. Inputs procured within the State during a month Rs. 1,00,000
Value Added-100%
Output sold in the month Rs. 2,00,000
Input tax paid @ 10%
Tax collected on sales @10 %. Compute the VAT payable during the month.

(Answer: Rs. 10,000)

UNIT 4 (ii) : INTRODUCTION TO INDIRECT TAXES



Unit Code:	UNIT TITLE: SERVICE TAX			
	Duration:			
Location:	SESSION 1: INTRODUCTION TO SERVICE TAX			
Classroom	Learning Outcome	Knowledge Evaluation	Performance Evaluation	Teaching and Training Method
	1. History of Service tax	1. How the service tax has evolved in India? 2. Explain the need and nature of service tax.	1. Service tax made its beginning in year 1994 in India. Comment. 2. Identify the various approaches to service tax and which is used in India.	Interactive Lecture: Introduction of service tax in India, Features, approaches to service tax. Activity: Trace how the number of services has been included in the service tax net since its introduction in India.
	2. Steps in determining of service tax liability	1. Describe the various steps which are undertaken in calculation of service tax liability.	1. Calculation of service tax liability on total value of taxable services (given).	Interactive Lecture: Discussion on how to calculate service tax and its basis of charge
	3. Meaning of service	1. Explain the meaning of service. 2. State the services included in declared services list. 3. List the services included in negative tax. 4. Name the services excluded from net of service tax.	1. What services are included in negative list? 2. What are declared services?	Interactive Lecture: Discussion of what activities are included and excluded in service tax.
SESSION 2: BASIC OVERVIEW ABOUT LOCATION OF SERVICE PROVIDER & RECEIVER INCLUDING RULES REGARDING PLACE OF PROVISIONS AND COMPUTATION OF SERVICE TAX LIABILITY				
1. Location of service provider and service receiver and Place of provisions	1. Explain the rules regarding the determination of location of service provider and receiver. 2. Explain the rules regarding the place of provisions of services.	1. Analyse the application of rules relating to provision of services.	Interactive Lecture: Discussion on rules related to place of provisions, how to decide location of service provider and receiver.	
2. Computation of service tax liability	1. Calculation of service tax liability. 2. How is value of taxable service	1. Calculate service tax liability	Interactive Lecture: Discussion of how to calculate service tax liability.	

		calculated? 3. Explain the concept of bundled services. 4. What is compounding scheme?		
	3. Determination of Point of taxation	1. List down the rules for determination of Point of taxation of services.	1. Analyse the rules regarding Point of taxation.	Interactive Lecture: Discussion of rules related to Point of taxation with example.
SESSION 3: SOME BASIC CONCEPT : REVERSE CHARGE MECHANISM, SMALL SCALE SERVICE PROVIDER & SERVICE TAX PROCEDURES				
	1. Concept of Reverse charge Mechanism	1. What is reverse charge mechanism? 2. What special cases are covered under reverse charge mechanism?	1. Explain the concept of reverse charge mechanism. 2. List down the cases covered under reverse charge mechanism.	Interactive Lecture: Discussion of cases related to reverse charge mechanism, how reverse charge mechanism is applicable.
	2. Concept of Small scale service provider	1. Who is small scale service provider?	1. Explain who small scale service provider is and what exemption is available to small scale service provider.	Interactive Lecture: Discussion related to small scale service provider.
	3. Basic issues related to service tax procedure	1. Explain the procedure related to service tax. 2. What are the rules of registration for service tax? 3. How payment of service tax is done? 4. Explain the method of submission of service tax return.	1. Discuss the main consideration involved in preparation of invoice. 2. Explain the procedure of filing of service tax return. 3. What are the due dates for filing of service tax return? 4. Discuss the penalty with regard to non filing and late filing of tax return.	Interactive Lecture: Discussion related to invoice, registration, payment of service tax, maintenance of records, submission of return.

UNIT II : - SERVICE TAX

Learning Objectives:

After reading this unit, the students will be able to:

1. understand the concept of service tax,
2. explain the steps involved in service tax liability calculation,
3. list the services included and excluded from service tax net,
4. determine the location of service provider and service receiver,
5. comprehend the concept of reverse charge mechanism and small scale service provider,
6. understand the basic procedures related to service tax.

SESSION 1: INTRODUCTION TO SERVICE TAX

BACKGROUND AND NATURE OF SERVICE TAX

Service tax is levied on the basis whether the services are provided in taxable territory or not.

- Non taxable territory includes Jammu and Kashmir and any country outside India.
- Taxable territory includes whole of India except Jammu and Kashmir.

Service sector has been one of the most growing sectors of the Indian economy. It is now holding the central stage of not only Indian economy but any economy and it is linked with advancement of the economy. Services constitute a very heterogeneous spectrum of economic activities.

Service sector contribution to India's GDP has been on rise persistently where after independence starting 1950-51 – 1959-60 for a whole decade it was reported to be 29.8% which is less than 30%. Presently the service sector contribution to GDP is 57% (2013-14).

The service tax made its start on the recommendation of Dr. J Chelliah committee by then Finance Minister, Dr. Manmohan Singh on July 1, 1994 with only three services under service tax net i.e. telephone, general insurance and stock broking. Since, then every year in the union budget various changes are brought into effect.

NEED OF SERVICE TAX

- Increasing share of tertiary sector to India GDP.
- Source of revenue to meet increasing demand of growing economy.

- Reduction of tax burden on international trade and domestic manufacturing sector overtime.
- To harmonize with the goals of liberalization and globalization.

DIFFERENT APPROACHES TO SERVICE TAX

<h3>COMPREHENSIVE APPROACH</h3>	<h3>SELECTIVE APPROACH</h3>
--	------------------------------------

- In selective approach, only selective services are subjected to service tax.
- In comprehensive approach, all services are taxable and a list is made for services which are to be exempted from service tax known as negative list.
- India follows comprehensive approach only.
- Liability to pay is on service provider except in few cases where service receiver pays it.
- Service provider is required to pay service tax, but he collects the same from the service receiver. If it is not collected, still the service provider will be liable to pay tax.

FEATURES OF SERVICE TAX

- A form of indirect tax
- No separate act but leived by amending Chapter V of Finance Act, 1994.
- Administered by CBEC (Central Board of Excise and Customs).
- Rate is 12% + education cess @ 3%.
- Not applicable to Jammu and Kashmir.
- Collected by central Government.
- All services are taxable except negative list or any notification issued by central Government.
- Tax liability mainly on service provider except few cases.
- No provision of deduction of tax at source from service tax.
- Small service provider exemption available.
- Voluntary compliance.
- Self assessment.
- Reverse charge mechanism is applicable in some cases where service recipient is liable to pay tax.
- No assessment year in use. It goes by financial year.

STEPS IN DETERMINING SERVICE TAX LIABILITY

STEP 1: Determination of basis charge.

STEP 2: Service should be there

STEP 3: Service should not fall in negative list or mega exemption notification

STEP 4: Service tax liability computation.

STEP 5: Point of Taxation determination.

STEP 6: Reverse charge mechanism if applicable.

STEP 7: Availment of threshold Mechanism or not.

STEP 8: Other procedural aspects.

BASIS OF CHARGE

- Section 66B has been inserted with effect from July 1, 2012 for levy of service tax. Service tax is levied:
 - a) at the rate of 12% (+ 3% education cess)
 - b) on value of all services, other than those services specified in the negative list,
 - c) provided or agreed to be provided in the taxable territory,
 - d) by one person to another.
- Service tax is levied on value of all services except certain services:
 - Specific exclusion in definition of term “service”.
 - Services in negative list
 - Services in mega exemption notification.
 - Services provided outside taxable territory.
 - Services provided by small scale service provider.
 - Some other services:
 - service received by a unit located in special economic zone (SEZ) or developer of SEZ (if a few conditions are satisfied).
 - service utilized for official as well as personal use of a foreign diplomat mission.
 - Services provided by a Technology Business Incubator (TBI) or a Science and technology Entrepreneurship Park (STEP).
 - Service received by import of technology.
(Provided certain conditions are satisfied in each case)
- In certain cases, the effective service tax (12.36%) is less than 12.36% because of abatement, valuation and compounding scheme provisions.
- A service provider is required to issue invoice within 30 days from completion of service. (banking services- 45 days)
- Point of taxation is date of issue or date of receipt of payment whichever is earlier.
- Tax liability depends upon the fact whether or not the service receiver is a “business entity”. Business Entity means any person ordinarily carrying out any activity relating to industry, commerce or any other business or profession including sole proprietors.

MEANING OF SERVICE (SECTION 65B (44))

1. Service includes:
 - an activity
 - carried out for a consideration

- carried out by one person for another
- includes declared services
- few transactions specifically excluded from the scope of term service.

DECLARED SERVICES (SECTION 65B (44))

- Declared service is defined by section 66E and includes 9 services.
- These are:
 - a. Renting of immovable property;
 - b. Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of completion certificate by the competent authority.
 - c. Temporary transfer or permitting the use or enjoyment of any intellectual property right;
 - d. Development, design, programming, customization, adaptation, up-gradation, enhancement, implementation of information technology software;
 - e. Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;
 - f. Transfer of goods by way of hiring, leasing, licensing or in any such manner without transfer of right to use such goods;
 - g. Activities in relation to delivery of goods on hire purchase or any system of payment by installments;
 - h. Service portion in the execution of a works contract;
 - i. Service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity.

SPECIFICALLY EXCLUSION FROM THE SCOPE OF TERM SERVICE U/S 65B (44)

- Function performed by a Member of Parliament/Legislative
- Assembly/Municipality/Panchayat/other local authority, etc.: The functions performed by the Members of Parliament (MP), Members of State Legislative (MLA/MLC), Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member.
- Duties performed by a person holding constitutional post by a person: The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity like Governor of a State, Diplomats, etc.
- Duties performed by any person not deemed as employee: The duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or State Governments or local authority and who is not deemed as an employee before the commencement of this section.
- A transfer of title in goods or immovable property, by way of sale, gift or in any other manner.
- A transfer, delivery or supply of any goods which is deemed to be sale within the meaning of clause (29A) of article 366 of the Constitution.

- A transaction in money or actionable claim
- A provision of service by an employee to the employer in the course of or in relation to his employment.
- Fees taken in any Court or tribunal established under any law for the time being in force.

NEGATIVE LIST

Service tax is levied on all services but few services are kept outside from scope of service tax. There is a list of 17 services as per sec 66D specified in the act. These are not chargeable to tax.

Category 1—SERVICES PROVIDED BY GOVERNMENT/ LOCAL AUTHORITY (SEC 66D (a))

Category 2—SERVICES PROVIDED BY RESERVE BANK OF INDIA (SEC 66D (b))

Category 3—SERVICES PROVIDED BY A FOREIGN DIPLOMATIC MISSION LOCATED IN INDIA (SEC 66D(c))

Category 4—SERVICES RELATED TO AGRICULTURE (SEC 66D (d))

Category 5— TRADING OF GOODS (SEC 66D (e))

Category 6— ANY PROCESS AMOUNTING TO MANUFACTURE OR PRODUCTION OF GOODS (SEC 66D (f))

Category 7— SELLING OF SPACE OR TIME SLOTS FOR ADVERTISEMENTS OTHER THAN ADVERTISEMENTS BROADCAST BY RADIO OR TELEVISION (SEC 66D (g))

Category 8— TOLL CHARGES (SEC 66D (h))

Category 9— BETTING, GAMBLING OR LOTTERY (SEC 66D (i))

Category 10— ADMISSION/ ACCESS TO ENTERTAINMENT/ AMUSEMENT (SEC 66D (j))

Category 11— TRANSMISSION OR DISTRIBUTION OF ELECTRICITY BY AN ELECTRICITY TRANSMISSION OR DISTRIBUTION UTILITY (SEC 66D (k))

Category 12 — SERVICES RELATED TO EDUCATION (SEC 66D (l))

Category 13— SERVICES BY WAY OF RENTING OF RESIDENTIAL DWELLINGS (SEC 66D (m))

Category 14— FINANCIAL SECTOR RELATED SERVICES (SEC 66D (n))

Category 15— SERVICES RELATED TO TRANSPORTATION OF PASSANGER (SEC 66D (o))

Category 16— SERVICES RELATED TO TRANSPORTATION OF GOODS (SEC 66D (p))

Category 17— FUNERAL SERVICES (SEC 66D (q))

SERVICES EXCLUDED FROM THE NET OF SERVICE TAX

Central Government has issued a notification via Notification No. 25/2012-ST, dated June 20, 2012 known as MEGA EXEMPTION NOTIFICATION where there is a list of 39 services excluded from the net of service tax. The exemptions as provided are as below:

1. Services provided to the United Nations or a specified international organization;
2. Health care services by a clinical establishment, an authorized medical practitioner or para-medics;
 - 2A. Services provided by cord blood banks by way of preservation of stem cells or any other services in relation to such preservation;
 - 2B. Services provided by operators of the Common Bio-medical Waste treatment to a clinical establishment.
3. Services by a veterinary clinic in relation to health care of animals or birds;
4. Services by an entity registered under section 12AA of the Income tax Act, 1961 by way of charitable activities;
5. Services by a person by way of—
 - (a) renting of precincts of a religious place meant for general public; or
 - (b) conduct of any religious ceremony;
6. Services provided by—
 - (a) an arbitral tribunal to—
 - (i) any person other than a business entity; or
 - (ii) a business entity with a turnover up to rupees ten lakhs in the preceding financial year;
 - (b) an individual as an advocate or a partnership firm of advocates by way of legal services to,—
 - (i) an advocate or partnership firm of advocates providing legal services;
 - (ii) any person other than a business entity; or
 - (iii) a business entity with a turnover up to rupees ten lakhs in the preceding financial year;
 - (c) a person represented on an arbitral tribunal to an arbitral tribunal;
7. Omitted
8. Services by way of training or coaching in recreational activities relating to arts, culture or sports;
9. Services provided to or by an educational institution in respect of education exempted from service tax, by way of,—
 - (a) auxiliary educational services; or

(b) renting of immovable property;

9A. Any services provided by-

(i) the National Skill Development Corporation set up by the Government of India;

(ii) a sector skill council approved by the National Skill Development Corporation;

(iii) an assessment agency approved by sector skill council or the National Skill Development Corporation;

(iv) A training partner approved by sector skill council or the National Skill Development Corporation

in relation to (a) National Skill Development Programme implemented by the National Skill Development Corporation ; or (b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (c) any other scheme implemented by National Skill Development Corporation.

10. Services provided to a recognized sports body by—

(a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;

(b) another recognized sports body;

11. Services by way of sponsorship of sporting events organized,—

(a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone;

(b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports

Council for the Deaf, Paralympics Committee of India or Special Olympics Bharat;

(c) by Central Civil Services Cultural and Sports Board;

(d) as part of national games, by Indian Olympic Association; or

(e) under Panchayat Yuva Kreedaa Aur Khel Abhiyaan (PYKKA) Scheme;

12. Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of—

(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

(b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);

(c) a structure meant predominantly for use as—(i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;

(d) canal, dam or other irrigation works;

(e) pipeline, conduit or plant for—(i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or

(f) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Act;

13. Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,—

(a) a road, bridge, tunnel, or terminal for road transportation for use by general public;

(b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;

- (c) a building owned by an entity registered under section 12 AA of the Income tax Act, 1961 and meant predominantly for religious use by general public;
- (d) a pollution control or effluent treatment plant, except located as a part of a factory; or a structure meant for funeral, burial or cremation of deceased;

14. Services by way of construction, erection, commissioning, or installation of original works pertaining to,—

- (a) an airport, port or railways, including monorail or metro;
- (b) a single residential unit otherwise than as a part of a residential complex;
- (c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;
- (d) post-harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or
- (e) mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;

15. Temporary transfer or permitting the use or enjoyment of a copyright covered under clauses (a) or (b) of sub-section (1) of section 13 of the Indian Copyright Act, 1957, relating to original literary, dramatic, musical, artistic works or cinematograph films;

16. Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador;

17. Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India;

18. Services by way of renting of a hotel, inn, guest house, club, campsite or other places meant for residential or lodging purposes, having declared tariff of a unit of accommodation below rupees one thousand per day or equivalent;

19. Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year;

19A. Services provided in relation to serving of food or beverages by a canteen maintained in a factory covered under the Factories Act, 1948, having the facility of air-conditioning or central air-heating at any time during the year;

20. Services by way of transportation by rail or a vessel from one place in India to another of the following goods—

- (a) omitted
- (b) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
- (c) defense or military equipments;
- (d) postal mail or mail bags;
- (e) household effects;
- (f) newspaper or magazines registered with the Registrar of Newspapers;
- (g) railway equipments or materials;
- (h) agricultural produce;

- (i) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or
- (j) chemical fertilizer and oilcakes;
- (k) cotton ginned or baled.

21. Services provided by a goods transport agency by way of transportation of—

- (a) agricultural produce;
- (b) goods where gross amount charged for the transportation of goods on a consignment transported in a single goods carriage does not exceed one thousand five hundred rupees; or
- (c) goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed rupees seven hundred fifty;
- (d) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or
- (e) chemical fertilizer and oilcakes;
- (f) newspaper or magazines registered with the Registrar of Newspapers;
- (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
- (h) defense or military equipments;
- (i) cotton, ginned or baled.

22. Services by way of giving on hire—

- (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or
- (b) to a goods transport agency, a means of transportation of goods;

23. Transport of passengers, with or without accompanied belongings, by—

- (a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;
- (b) a contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire; or
- (c) ropeway, cable car or aerial tramway;

24. Omitted

25. Services provided to Government, a local authority or a governmental authority by way of—

- (a) water supply, public health, sanitation conservancy, solid waste management or slum improvement and up-gradation; or
- (b) repair or maintenance of a vessel or an aircraft;

26. Services of general insurance business provided under following schemes—

- (a) Hut Insurance Scheme;
- (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojana (earlier known as Integrated Rural Development Programme);
- (c) Scheme for Insurance of Tribal's;
- (d) Janata Personal Accident Policy and Gramin Accident Policy;
- (e) Group Personal Accident Policy for Self-Employed Women;
- (f) Agricultural Pump set and Failed Well Insurance;

- (g) premia collected on export credit insurance;
- (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;
- (i) Jan Arogya Bima Policy;
- (j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana);
- (k) Pilot Scheme on Seed Crop Insurance;
- (l) Central Sector Scheme on Cattle Insurance;
- (m) Universal Health Insurance Scheme;
- (n) Rashtriya Swasthya Bima Yojana; or
- (o) Coconut Palm Insurance Scheme;

26A. Services of life insurance business provided under the following schemes:

- (a) Janashree Bima Yojana;
- (b) Aam Aadmi Bima Yojana;
- (c) life micro- insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of fifty thousand rupees.

27. Services provided by an incubatee up to a total turnover of fifty lakhs rupees in a financial year subject to the following conditions, namely:—

- (a) the total turnover had not exceeded fifty lakhs rupees during the preceding financial year; and
- (b) a period of three years has not been elapsed from the date of entering into an agreement as an incubatee;

28. Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution—

- (a) as a trade union;
- (b) for the provision of carrying out any activity which is exempt from the levy of service tax; or
- (c) up to an amount of five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex;

29. Services by the following persons in respective capacities—

- (a) sub-broker or an authorized person to a stock broker;
- (b) authorized person to a member of a commodity exchange;
- (c) mutual fund agent to a mutual fund or asset management company;
- (d) distributor to a mutual fund or asset management company;
- (e) selling or marketing agent of lottery tickets to a distributor or a selling agent;
- (f) selling agent or a distributor of SIM cards or recharge coupon vouchers;
- (g) business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; or
- (h) sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt;

30. Carrying out an intermediate production process as job work in relation to—

- (a) agriculture, printing or textile processing;

(b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under UNIT 71 of the Central Excise Tariff Act, 1985;

(c) any goods on which appropriate duty is payable by the principal manufacturer; or

(d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines up to an aggregate value of taxable service of the specified processes of one hundred and fifty lakhs rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakhs rupees during the preceding financial year;

31. Services by an organiser to any person in respect of a business exhibition held outside India;

32. Services by way of making telephone calls from—

- (a) departmentally run public telephone;
- (b) guaranteed public telephone operating only for local calls; or
- (c) free telephone at airport and hospital where no bills are being issued;

33. Services by way of slaughtering of bovine animals;

34. Services received from a provider of service located in a non- taxable territory by—

- (a) Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
- (b) an entity registered under section 12AA of the Income tax Act, 1961 for the purposes of providing charitable activities; or
- (c) a person located in a non-taxable territory;

35. Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material;

36. Services by Employees' State Insurance Corporation to persons governed under the Employees' Insurance Act, 1948;

37. Services by way of transfer of a going concern, as a whole or an independent part thereof;

38. Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets;

39. Services by a governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution.

40. Services by way of loading, unloading, packaging, storage or warehousing of rice, cotton, ginned or baled:

41. Services rendered by RBI, from outside India in relation to management of foreign exchange reserves;

42. Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.

Knowledge Assessment – I

QUES: 1 State whether the following services are chargeable to service tax or not.

- (a) Renting of place for a religious ceremony of a child.
- (b) Royalty received by an author for writing a book on fiction.
- (c) Services provided to UNO.
- (d) Transport of passengers by air from Arunachal Pradesh to Pune.
- (e) A hockey player gets fees for being part of an international event.
- (f) Construction of a national highway for government.

Answer: All services are not chargeable to tax.

QUES: 2 Discuss whether the following are chargeable to tax:

- a) Education as a part of unapproved vocational education course.
- b) Services by Post office by way of express parcel post.
- c) Storage of turmeric.
- d) Consultancy service provided by a company to RBI.
- e) Supply of labour in tea garden.
- f) Aerial advertising.
- g) Services by way of breeding of fish.
- h) Cleaning of wheat.
- i) Transportation between Port Blair and Chennai.
- j) Services pertaining to video parlours exhibiting movies.

Answer: Only a, b and d services are chargeable to tax.

**SESSION 2: BASIC OVERVIEW ABOUT LOCATION OF
SERVICE PROVIDER & RECEIVER INCLUDING
RULES REGARDING PLACE OF PROVISIONS AND
COMPUTATION OF SERVICE TAX LIABILITY**

LOCATION OF SERVICE PROVIDER

- (a) where the service provider has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained;
- (b) where the service provider is not covered under sub-clause (a);
 - (i) the location of his business establishment; or
 - (ii) where the services are provided from a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or
 - (iii) where services are provided from more than one establishment, whether business or fixed, the establishment most directly concerned with the provision of the service; and
 - (iv) in the absence of such places, the usual place of residence of the service provider.

LOCATION OF SERVICE RECEIVER

- (a) where the recipient of service has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained;
- (b) where the recipient of service is not covered under sub-clause (a);
 - (i) the location of his business establishment; or
 - (ii) where the services are used at a place other than the business establishment, that is to say, a fixed establishment elsewhere, the location of such establishment; or
 - (iii) where services are used at more than one establishment, whether business or fixed, the establishment most directly concerned with the use of the service; and
 - (iv) in the absence of such places, the usual place of residence of the recipient of service.

Place of Provision of Service (POPS) Rules, 2012 is a comprehensive set of rules which provides for whether a service has been provided in the taxable territory or not. The following table summarizes the rules under Place of Provision of Service (POPS) Rules, 2012

RULE NO	APPLICABILITY	PLACE OF PROVISION	EXCEPTION (IF ANY)	EXAMPLE
Rule 3	Main Rule	Location of Recipient of service	If the location of service recipient is not available then place of provision shall be the location of the service provider	NA
Rule 4	Performance based Services	Location where services are actually performed	Service provided in respect of goods temporarily imported into India for repairs and are exported after repairs without being put to any use in the taxable territory, other than that which is required for such repair.	X of Pune provides services to Y of Srinagar. Services are provided at Kochi where Y provides some specific goods for performance of services. PoP will be Kochi and taxable.
Rule 5	Services directly related to immovable property	Place where the immovable property is actually located or intended to be located	NA	V (Delhi) provides architectural services to Y (Jammu) for a property at Goa. Goa will be place of provision of services and chargeable to tax.
Rule 6	Services related to an event	Where the event is actually held	NA	A management school based in USA intends to organize a road

				show in Mumbai and New Delhi for prospective students. Any service provided by an event manager or the right to entry (participation fee for prospective students) will be taxable in India.
Rule 7	Where services are provided at more than one location, including a taxable territory	Taxable territory where the greatest proportion of service is provided	NA	<p>An Indian firm provides a 'technical inspection service' for a recently developed product of an overseas firm. Assuming the testing for the same is carried out in Maharashtra (10%), Kerala (15%), Jammu (20%), and the rest at an international location.</p> <p>PoP is the place in taxable territory (Maharashtra or Kerala) where greatest proportion of service is provided i.e. Kerala (15%),</p>

				even if 75% services are provided outside India.
Rule 8	Where both the service recipient as well as the service provider are located in the taxable territory	Location of service recipient	NA	A of Pune provides event services at Bangkok to B of Bhuwaneshwar. Pop will be Bhuwaneshwar.
Rule 9	<p>In case of specified services</p> <p>i. Provided by a banking company or a financial institution, or a non banking financial company to account holders</p> <p>ii. Online information and database access or retrieval services</p> <p>iii. Intermediary services</p> <p>iv. Services consisting of hiring of means of transport other than an aircraft and vessels except yacht, up to a period of one month</p>	Location of Service Provider	In case of banking services provided to a person other than the account holder, Place of Provision would be the location of the service receiver.	P Ltd. Of Mumbai provides services of allowing downloading of digital content from its website. The place of Provision is place of location of service provider. Since it is located in Mumbai (taxable territory), these services will be taxable in full irrespective of the location of the service recipient.
Rule 10	Goods transportation services other than by way of mail or courier	Destination of Goods	In case of a goods transportation agency, The	NA

			location of the Service Provider	
Rule 11	Passenger Transportation Services	Place where the passenger embarks on the conveyance for the journey	NA	<p>For a Mumbai-Delhi Flight, since the Mumbai is the place of embarkation, it is taxable.</p> <p>However, for a New York-London-Delhi Flight, New York being the place of embarkation, the service will not be taxed</p>
Rule 12	Services provided on board a conveyance	The first scheduled point of Departure of that conveyance for journey	NA	<p>A movie-on-demand is provided as on-board entertainment during the Mumbai-Delhi leg of a Bangkok-Mumbai-Delhi flight. The place of provision of this service will be Bangkok.</p> <p>However, if the above service is provided on a Delhi-Mumbai-Bangkok flight during the Mumbai-Bangkok leg, then the place of</p>

				provision will be Delhi.
Rule 13	Power of the Central Government to notify any description of service or circumstances.	POP shall be the place of effective use of a service	NA	NA
Rule 14	Order of Application of Rules	Where the service is determinable in terms of more than one rule the latter rule prevails over the earlier rule		

COMPUTATION OF SERVICE TAX LIABILITY

STEPS IN COMPUTATION OF SERVICE TAX

STEP 1: Calculation of taxable service.

STEP 2: Calculate tax @12.36%. In some cases, the effective tax rate is less than 12.36% because of availability of partial abatement or compounding scheme.

STEP 3: Claim credit on input and capital goods.

DETERMINATION OF TAXABLE SERVICE

As per section 67, the valuation of taxable service shall be determined under the following two situations:

(A) Service tax is separately charged in the bill/invoice.

(B) Bill/invoice value is inclusive of service tax

CONSIDERATION	VALUE OF SERVICE
Wholly in money	Gross amount charged (Even if the amount charged is less than market value of services)
Partly in money and partly in kind or wholly in kind	The amount of money and/or the market value of the consideration received in kind plus the service tax charged
Not ascertainable	Equivalent to the Gross Amount charged to provide similar service to any other person in the ordinary course of trade. or Equivalent money value of such consideration but not less than cost of provisions of such services.

- If service tax is not charged separately i.e. gross amount for services provided includes service tax, value of taxable service will be calculated by:

$$\text{Value of taxable services} = \frac{\text{Gross amount charged} \times 100}{100 + 12.36}$$

100+ rate of service tax

Example: If X charges Rs. 1, 00,000(inclusive of tax) for consultancy services, then total value of taxable services will be:

$$\begin{aligned} &= \frac{1,00,000 \times 100}{100+12.36} \\ &= \text{Rs. } 88,999.64 \end{aligned}$$

- Expenses which are incurred during the service being provided will be treated as part of consideration subjected to few exceptions.

BUNDLED SERVICES

- Bundled service means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services.
- Example: air transport services provided by airlines wherein transportation of passenger by air is combined with catering service on board.
- Each service involves differential treatment as a manner of determination of value of two services for the purpose of charging service tax is different. Two rules have been prescribed for determining the taxability of such services in clause (3) of section 66F of the Act.
 1. Services which are naturally bundled in the ordinary course of business: The rule is – If various elements of a bundled service are naturally bundled in the ordinary course of business, it shall be treated as provision of a single service which gives such bundle its essential character.
 - Example: A 5-star hotel in Mumbai provides a 4-D/3-N package with the facility breakfast. This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.
- 2. Services which are not naturally bundled in the ordinary course of business: The rule is – If various elements of a bundled service are not naturally bundled in the ordinary course of business, it shall be treated as provision of a service which attracts the highest amount of service tax.
- Example: A house is given on rent one floor of which is to be used as residence and the other for housing for commercial purpose. Therefore, if a single rent deed is executed it will be treated as a service comprising entirely of such service which attracts highest liability of service tax. In this case renting for use as residence is a negative list service while renting for non-residence use is chargeable to tax. Since the latter category attracts highest liability of service tax amongst the two services bundled together, the entire bundle would be treated as renting of commercial property.

COMPOUNDING SCHEMES

- It is a simplified scheme for payment of service tax when it is difficult to calculate value of services for tax payment purposes.
- It is an optional scheme to be exercised at the end of the assessee.

ABATEMENT SCHEME

- Abatement under service tax laws means that for certain services, a specified percentage of discounts are allowed from the gross amount collected for rendering the services subject to the conditions that CENVAT Credit has not been availed by the service provider.
- Notification No. 26/2012- ST dated 20/06/2012 provides the list of services on which abatement is allowed. It also provides for the percentage on which service tax is payable under the scheme of abatement.
- Example: As per notification mentioned above, Railways are required to charge service tax only on 30% value of the Taxable services. Thereby by virtue of this provision, if railways receive an amount of ` 50 Lakhs against the services, it needs to pay service tax only on 15 Lakhs i.e. 30% value of 50 Lakhs.

POINT OF TAXATION

- Point of taxation means the point in time when a service shall be provided or deemed to have been provided. This Point of time will determine rate of service tax and due date of payment of service tax.
- With effect from 1st July 2011, the liability to pay service tax was shifted from receipt basis to accrual basis with the introduction of Point of Taxation (POT) Rules, 2011. As per rule 3 of POT rules the liability to pay service tax shall arise upon issuance of invoice or receipt of payment whichever is earlier.
- The basic purpose for introduction of Point of Taxation Rules, 2011 is to bring clarity and certainty in matter of levy and collection of service tax in situations of:
 - Change of rate of service tax
 - Imposition of service tax on new services
 - Continuous supply of services
- Moreover, POT rules, 2011 have been introduced to bring synchronization between service tax and other taxes like Excise Duty and VAT which work on accrual basis and this is a step towards implementation of GST.
- As per rule 2A of POT Rules, “Date of payment” shall be the earlier of the dates on which the payment is entered in the books of accounts or is credited to the bank account of the person liable to pay tax:

Provided that —

- (I) the date of payment shall be the date of credit in the bank account when—
- there is a change in effective rate of tax or when a service is taxed for the first time during the period between such entry in books of accounts and its credit in the bank account; and
 - the credit in the bank account is after four working days from the date when there is change in effective rate of tax or a service is taxed for the first time; and
 - the payment is made by way of an instrument which is credited to a bank account,
- (II) If any rule requires determination of the time or date of payment received, the expression “date of payment” shall be construed to mean such date on which the payment is received”.

RULE 3 – GENERAL RULE

- Point of taxation shall be:
 - a) Date of invoice or payment, whichever is earlier (If invoice is issued within 30 or 45 days (in case of banking service), as per the case).
 - b) Date of completion of service or payment, whichever is earlier (If invoice is not issued within statutory period of 30 or 45 days (in case of banking service), as per the case).
- The following example will help us understand how to determine the Point of Taxation for numerous circumstances.

S.No	Date of Completion	Date of Issue of Invoice	Date on which payment is made	Point of Taxation	Remarks
1	April 10, 2015	April 20, 2015	April 15, 2015	April 15, 2015	Invoice is issued within 30 days and payment is received before issue of Invoice
2	April 10, 2015	April 20, 2015	April 30, 2015	April 20, 2015	Invoice is issued within 30 days and before payment
3	April 10, 2015	May 26, 2015	April 30, 2015	April 10, 2015	Invoice is not issued within 30 days and payment is received after completion of service

IMPORTANT POINTS:

- Point of taxation in the case of advance up to Rs. 1000/- shall be the date of invoice.
- Where the provision of the whole or part of the service is determined periodically on the completion of an event in terms of a contract, which requires the service receiver to make any payment to service provider, the date of completion of each such event as specified in the contract shall be deemed to be the date of completion of provision of service.
- Point of taxation in case of continuous supply of service: In the case of continuous supply of service, the point of taxation shall be broadly the same which has been discussed in the above point.

RULE 4– CHANGES IN EFFECTIVE RATE OF TAX BEFORE OR AFTER RENDERING OF SERVICES

TYPE 1: Taxable service is provided before the change in effective tax rate			
S.NO.	SITUATION	POINT OF TAXATION	RATE
1.	<ul style="list-style-type: none"> • Invoice issued after change in rate. • Payment received after change in rate. 	Date of payment or date of invoice, whichever is earlier.	New Rate
2.	<ul style="list-style-type: none"> • Invoice issued prior to change in rate. • Payment received after change in rate. 	Date of issue of invoice	Old rate
3.	<ul style="list-style-type: none"> • Payment received change in rate. • Invoice issued after change in rate. 	Date of receipt of payment	Old rate
TYPE 2: Taxable service is provided after the change in effective tax rate			
4.	<ul style="list-style-type: none"> • Payment received change in rate. • Invoice issued prior to change in rate. 	Date of payment	New rate
5.	<ul style="list-style-type: none"> • Invoice issued before change in rate. • Payment received before change in rate. 	Date of issue of invoice or date of payment, whichever is earlier.	Old rate
6.	<ul style="list-style-type: none"> • Invoice issued after change in rate. • Payment received before change in rate. 	Date of issue of invoice	New rate

EXAMPLE:

Tax rate- up to 31.3.2014- 10.3%

Tax rate- up to 1.4.2014- 12.36%

S.NO.	SERVICE PROVIDED	INVOICE RAISED	PAYMENT RECEIVED	POINT OF TAXATION	RATE
1.	25.03.2014	05.04.2014	15.04.2014	05.04.2014	12.36%
2.	25.03.2014	30.03.2014	15.04.2014	30.03.2014	10.3%
3.	25.03.2014	05.04.2014	30.03.2014	30.03.2014	10.3%
4.	05.04.2014	25.03.2014	07.04.2014	07.04.2014	12.36%
5.	05.04.2014	25.03.2014	30.03.2014	25.03.2014	10.3%
6.	05.04.2014	07.04.2014	25.03.2014	07.04.2014	12.36%

RULE 5– PAYMENT OF TAX IN CASE OF A NEW SERVICE IS TAXED FOR THE FIRST TIME

- Where a service is taxed for the first time, then, –
 - (a) No tax shall be payable to the extent the invoice has been issued and the payment Received against such invoice before such service became taxable;
 - (b) No tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within fourteen days of the date when the service is taxed for the first time.
- **EXAMPLE:**

S.NO.	DATE WHEN SERVICE BECAME TAXABLE FIRST TIME	DATE OF INVOICE	DATE OF RECEIPT OF PAYMENT	WHETHER TAXABLE OR NOT
1.	1.10.2014	26.09.2014	30.09.2014	Not Taxable
2.	1.10.2014	13.10.2014	15.09.2014	Not Taxable
3.	1.10.2014	26.09.2014	02.10.2014	Taxable
4.	1.10.2014	17.10.2014	15.09.2014	Taxable

RULE 6– DETERMINATION OF POINT OF TAXATION IN CASE OF SPECIFIED PERSON(S)

- It is applicable in case of reverse charge mechanism where service tax liability is on service recipient.

SITUATION	POINT OF TAXATION
Payment is made by recipient within 6 months of the date of invoice	Date on which payment is made by recipient.
Payment is not made by recipient within 6 months of the date of invoice	Rule 7 not applicable. It will be determined by other rules. If no rule, then Rule 3 will apply.

- Further, in case of .associated enterprises., where the person providing the service is located outside India, the point of taxation shall be—
 - (i) the date of debit in the books of account of the person receiving the service or
 - (ii) date of making the paymentwhichever is earlier.

RULE 7– DETERMINATION OF POINT OF TAXATION IN CASE OF COPYRIGHTS, ETC.

- In case of royalties and payments pertaining to copyrights, trademarks, designs or patents, where the whole amount of consideration is not ascertainable at the time of performance of service, the service shall be treated as having been provided each time when a payment in respect of such use or the benefit is received by the provider or an invoice is issued, whichever is earlier.

RULE 7A– DETERMINATION OF POINT OF TAXATION ON BEST JUDGMENT

- In case point of taxation cannot be determined on any of the above rules, the point of taxation will be determined by central excise officer on best judgement method after giving an opportunity of being heard.

SPECIAL PROVISIONS FOR INDIVIDUAL, FIRMS, LLPs

- In reference to rule 6(1) of service tax rules, in some cases the tax payer has an option to pay service tax on taxable services on payment basis, only if few conditions are satisfied:
 - Service provider is an individual, partnership firm or LLP.
 - Turnover of taxable service provider in the previous financial year pertaining to taxable services is Rs. 50 lakhs or less.

Knowledge Assessment – II

1. The provisions relating to valuation of taxable services are contained in:
 - a) Section 65 of Finance Act. 1994
 - b) Section 67 of Finance Act. 1994
 - c) Section 65A of Finance Act. 1999
 - d) None of the above
2. Gross amount charged for the taxable services include:
 - a) only that amount received towards the taxable services which is received before the provision of such service.
 - b) only that amount received towards the taxable services which is received after the provision of such service
 - c) any amount received towards the taxable services whether received before , during or after the provision of such service
 - d) None of the above.
3. Point of taxation of service tax for services rendered would be _____ if date of completion of service, date of invoice and date of payment are 22.07.2013, 12.08.2013 and 22.08.2013 respectively.
 - a) 31.09.2013
 - b) 22.08.2013
 - c) 12.08. 2013
 - d) 22.07.2013
4. Turnover of taxable service provider for paying service tax on Payment basis should be:
 - a) 80 lakhs or more
 - b) 70 lakhs
 - c) 60 lakhs
 - d) 50 lakhs or less
5. Zeba (Delhi) provides interior designing services to Vasu (Nagpur) for a property located at Munnar. The place of provisions of services would be:
 - a) Munnar
 - b) Nagpur
 - c) Delhi
 - d) None of the above

Answers

1. b, 2. c, 3. c, 4. d, 5. a.

SESSION 3: SOME BASIC CONCEPT: REVERSE CHARGE MECHANISM, SMALL SCALE SERVICE PROVIDER & SERVICE TAX PROCEDURES

Session 3: Some basic concepts: Reverse charge mechanism, Small Scale Service provider & service tax procedures

REVERSE CHARGE MECHANISM

It is in majority cases that the service provider is liable to pay service tax to the government. but in some situations, it might be possible that the service recipient is liable to pay tax. In other case, it may be partially payable by service receiver and balance by service provider. This is known as Reverse charge mechanism or tax shift. Where 100% liability is on service servicer, it is known as full reverse charge. However, when it is between service receiver and provider both, it is known as partial reverse charge mechanism.

CASES TO BE COVERED BY REVERSE CHARGE MECHANISM

<u>NATURE OF SERVICE PROVIDED (OR TO BE PROVIDED)</u>	<u>SERVICE RECIPIENT</u>	<u>%OF SERVICE TAX PAYABLE BYTHE SERVICE PROVIDER</u>	<u>%OF SERVICE TAX PAYABLE BYTHE SERVICE RECIPIENT</u>
1. Works contract services by individual, HUF, firm or AOP.	Body Corporate	50%	50%
2. Manpower supply for any purposes or security services by individual, HUF, firm or AOP	Body Corporate	25%	75%
3. Renting of vehicle to any person who is not engaged in the similar line of business to carry passenger by individual, HUF, firm or AOP – With abatement – Without abatement -	Body Corporate	Nil (with abatement) 50% (without abatement)	100% (with abatement) 50%(without abatement)
4. Provided by person who is located in non-taxable territory and received by any person located in taxable	Any person	Nil	100%

territory (In case of foreign services and services from J&K)			
5. Support services by Government and Local Authority (excluding renting and 66D (a) (i) to (iii))	Business Entity	Nil	100%
6. Individual advocate	Business Entity	Nil	100%
7. Arbitral Tribunal	Business Entity	Nil	100%
8. Provided or agreed to be provided by a director of a company to the said company (W.e.f. 7 August 2012 vide Not. 45/2012)	Body Corporate	Nil	100%
9. GTA(Goods transport agency)	Company, firm, factory, society	Nil	100%
10. Insurance agent to insurance companies	Insurance business	Nil	100%
11. Sponsorship	Body Corporate, partnership Firm	Nil	100%
12. Services by a recovery agent	Banking Company/ Financial institution/ Non-Banking Financial Company	Nil	100%

- Important points:

- The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.
- In works contract services, where both service provider and service recipient is the persons liable to pay tax, the service recipient has the option of choosing the valuation method as per choice, independent of valuation method adopted by the provider of service
- Invoice issued by service provider should show only that part of service tax which is to be paid by the service provider in case of reverse charge mechanism
- In those cases, outside the scope of this above mentioned table, the liability of service provider remains intact.
- Reverse charge mechanism is applicable depending upon the status of service provider and receiver. (Whether it is body corporate, business entity etc. and taxable territory or not.)
- If a service provider is availing the small scale provider exemption, then he shall not be obliged to pay tax in reverse charge mechanism. However, receiver will be still held liable for service tax portion to be paid by him. It implies that both receiver and provider liabilities are independent of each other.
- Recipient of service can claim CENVAT credit of input services.

- Payment of service tax by service recipient by using CENVAT credit is not allowed.
- Point of Taxation

1. Service Provider	Date of invoice or date of receipt of payment, whichever is earlier
2. Service Receiver	Date of payment

SMALL SERVICE PROVIDER

A service provider, whose value for taxable service, whether provided from one premise or more than one premises, does not exceeds Rs. 10 lakhs in the previous financial year is considered to be classified as small service provider. The small service provider can avail the benefit of exemption which is available vide notification No. 33/2012- ST, dated June 20, 2012. This notification gives exemption to a small service provider from service tax up to total or aggregate value of taxable service not exceeding Rs. 10 lakhs in the subsequent financial year.

- Important Points:

- **CENVAT credit OR Threshold exemption**

The decision to opt for out of two options should be taken by service provider at the beginning of financial year itself. No change in option is allowed during the financial year.

- A service provider providing services under brand name or trade name, whether registered or not, cannot avail threshold exemption
- If a service provider avails the benefit of threshold exemption, he cannot claim CENVAT credit on inputs, capital goods and input services.
- Invoices related to exempt services (Negative list or mega exemption notification or any other notification) are not considered for calculation of value of taxable services.
- In case different services are covered by one provider, values of all such services are to be considered for calculation of Rs. 10 lakhs.
- Advance payment which is received may be taken as amount charged hence to be included in computing Rs. 10 lakhs.
- Service provider can avail exemption of small service provider and not liable to pay tax being his turnover less than Rs. 10 lakhs. But service recipient is still liable to pay tax under reverse charge mechanism and cant avail small service provider. This is because the service provider and receiver liabilities are independent of each other and different.

SERVICE TAX PROCEDURES

PROCEDURES TO BE FOLLOWED:

1. Preparation of invoice.

2. Registration.
3. Maintenance of records.
4. Payment of service tax.
5. Submission of service tax return.

INVOICE

- Invoice/Bill/Challan shall be issued not later than 30 days from the date of completion of taxable service or receipt of payment whichever is earlier.
- Invoice should indicate the value of service provided or agreed to be provided.
- In case of services being provided continuously, the invoice or Challan shall be issued within 30 days from the last date of that period.
- It (including computerized) should be signed by authorized person of provider of service.
- It should contain the
 1. name, address and registration number of person providing taxable service;
 2. name and address of person receiving taxable service;
 3. description and value of taxable services;
 4. service tax payable on the taxable service.
- It should be serially numbered.

REGISTRATION

- Every person liable to pay service tax is required to get themselves registered with the designated Superintendent of Central Excise.
- An application for registration is required to be made to the Superintendent of Central Excise in form ST-1. This is to be made within a period of thirty days from the date on which the service tax is leviable on him/her and where a person commences a business of providing a taxable service. After such service has been levied, he shall make an application for registration within a period of thirty days from the date of such commencement.
- With effect from 1st June 2010 vide notification no.20-21/2010 a person shall make an online application for registration. Online registrations have been made mandatory for all assesses. Assessee has to register via online portal of Automation of Central Excise and Service Tax (ACES) or can utilize the services Certified Facilitation Centres (CFCs) set up by Company Secretaries in practice under the (ACES) project of Central Board of Excise and Custom.
- Compulsory Registration for:
 1. Every person liable to pay service tax.
 2. An input service distributor.
 3. Every provider of taxable service whose aggregate value of taxable services in a financial year exceeds Rs. 9 lakhs.
- Assessee has to fill Form ST-1 for registration and thereafter submit the following documents as specified in Order No.2/2011 dated 13-12-2011(self-certified by applicant):
 - Copy of Permanent Account number (PAN)
 - Proof of residence
 - Constitution of applicant other than individuals at the time of filing an application for registration.

– Power of attorney in respect of authorized person.

- It is also important to note that a person can become liable to pay tax both as a service provider and service receiver. Therefore, when a service receiver is liable to pay service tax he is also required to get himself registered.
- Department is required to issue the registration certificate in Form No. ST-2 within 7 days of the receipt of the application. In case, it is not granted then it will be assumed to be granted.
- A PAN based service tax code has been introduced by the department. It is a 15 digit alphanumeric code. First 10 digits is PAN number, next two digits SD and last three will be numeric code-001, 002 and so on.
- In case services are provided from more than one premise and has centralised billing system or accounting systems, he may register such premises or offices from where such centralised accounting systems are located.
- For providing more than one taxable service, a single application containing all taxable services in column no 4 of Form ST-1 will do.
- Any change in information or details or any addition to Form ST-1 should be reported to jurisdictional Assistant Commissioner or Deputy Commissioner in writing within 30 days from such change.
- If service provider stops providing taxable services in respect of which registration is obtained, the assessee must surrender the same to the designated Central Excise Officer/ Superintendent of Central Excise.
- In case of transfer of business to another person, fresh registration is to be obtained.
- Penalty for not obtaining registration is Rs. 10,000 or Rs. 200 per day during which default continues whichever is higher.

RECORDS TO BE MAINTAINED

- Every assessee shall furnish to the Superintendent of Central Excise at the time of filing of return for the first time or the 31st day of January, 2008, whichever is later, a list in duplicate of-
 - (i) All the records prepared or maintained by the assessee for accounting of transactions in regard to,-
 - (a) Providing of any service,
 - (b) Receipt or procurement of input services and payment for such input services;
 - (c) Receipt, purchase, and manufacture, storage, sale, or delivery, as the case may be, in regard of inputs and capital goods;
 - (d) Other activities, such as manufacture and sale of goods, if any.
 - (ii) All other financial records maintained by him in the normal course of business;
- All such records shall be preserved at least for a period of five years immediately after the financial year to which such records pertain.
- The records including computerized data, as maintained by an assessee in accordance with the various laws in force from time to time shall be acceptable.
- Penalty for non-maintenance of books of accounts and documents may extend up to Rs. 10,000.

DUE DATE FOR PAYMENT OF SERVICE TAX

Rule 6(1) of the Service Tax Rules, 1994 specifies the time period for payment of service tax.

ASSESSEE	DUE DATE
For individuals or proprietors or partnership firms	<ul style="list-style-type: none">• 6th of the month immediately following the respective quarter in which service is deemed to have been provided as per POT Rules made in this regard.• For the quarter ending 31st March, the due date of payment of service tax shall be 31st March.
For others	<ul style="list-style-type: none">• 6th of the month immediately following the calendar month in which service is deemed to have been provided.• For the month ending 31st March, the due date of payment of service tax shall be 31st March

Important points:

1. As stated earlier, individuals and partnership firms whose aggregate value of taxable services provided from one or more premises are fifty lakhs rupees or less in the previous financial year, the service provider shall have option to pay the service tax on receipt basis by the due dates up to 50 lakhs in the current financial year.
2. Rounding off of service tax is allowed in multiple of rupees. Where such payment includes fifty paise or more, it should be increased to one rupee and if it is less than fifty paise, it should be ignored.

MANDATORY E-PAYMENT OF SERVICE TAX

- Rule 6(2), as amended vide notification number 09/2014-ST issued on 11th July, 2014, provides that W.e.f. 1st October, 2014, every assessee shall electronically pay the service tax payable by him.
- Provided that the Assistant Commissioner or the Deputy Commissioner of Central Excise, as the case may be, having jurisdiction, may for reasons to be recorded in writing, allow the assessee to deposit Service Tax by any mode other than Internet Banking.
- Late interest for delayed payment is to be paid along with the service tax payment only.

ELECTRONIC ACCOUNTING SYSTEM IN EXCISE AND SERVICE TAX (EASIEST Scheme)

- It is a procedure for payment of excise and service tax.
- In this single copy of Challan GAR-7 instead of four copies of TR-6 Challan is used.
- The assessee has a facility for online verification of the status of tax payment using Challan Identification Number (CIN). It is a 20 digit unique identifier which will be

given on the taxpayer's counterfoil. It has 7 digit BSR code of the bank branch, 8 digits date of deposit and 5 digits Challan Serial Number.

ELECTRONIC E-PAYMENT OF SERVICE TAX

- a) To pay Excise Duty and Service Tax online, the Assessee has to enter the 15 digit Assessee Code allotted by the Jurisdictional Commissionerate.
- b) There will be an online check on the validity of the Assessee Code entered.
- c) If the Assessee Code is valid, then the corresponding assessee details like Name, Address, Commissionerate code etc. as present in the Assessee Code Master will be displayed.
- d) Based on the Assessee Code, the duty/tax i.e. excise duty or service tax to be paid will be automatically selected.
- e) The Assessee is required to select the type of duty/tax to be paid by clicking on Select Accounting Codes for Excise or Select Accounting Codes for Service Tax depending on the type of duty/tax to be paid.
- f) At a time the assessee can select up-to six Accounting Codes.
- g) The assessee should also select the bank through which payment is to be made.
- h) On submission of data entered, a confirmation screen will be displayed. If the taxpayer confirms the data entered in the screen, it will be directed to the net-banking site of the bank selected.
- i) The taxpayer will login to the net-banking site with the user id/password provided by the bank for net-banking purpose and enter payment details at the bank site.
- j) On successful payment, a Challan counterfoil will be displayed containing CIN, payment details and bank name through which e-payment has been made. This counterfoil is proof of payment being made.

CONSEQUENCES OF NON- DELAYED PAYMENT OF SERVICE TAX

According to section 75, every person liable to pay the service tax if fails to pay tax within the period prescribed, shall pay simple interest at the rate which may be prescribed by Central Government periodically. The rate of interest shall not be below 10% and shall not exceed 36% p.a. Rate of interest prescribed Central Government has been exhibited in the following table:

1	2	3	4
S.NO	PERIOD OF DELAY	RATE OF SIMPLE INTEREST IN ANY ASSESSEE OTHER THAN MENTIONED IN COLUMN 4	SMALL SCALE SECTOR ASSESSEE*
1	Up to 6 months	18%	15%
2	More than six months and up to one year	18% p.a. for the first six months of delay and 24% p.a. for the delay beyond 6 months	15% p.a. for the first six months of delay and 21% p.a. for the delay beyond 6 months
3	More than one year	18% p.a. for the first six months of delay and 24%	15% p.a. for the first six months of delay and 21%

		p.a. for the delay beyond 6 months up to one year and 30% p.a. for any delay beyond one year.	p.a. for the delay beyond 6 months up to one year and 27% p.a. for any delay beyond one year
--	--	---	--

IMPORTANT POINTS:

1. *The term "Small Scale Sector" means a service provider whose value of taxable services does not extend Rs. 60 lakhs either during any of the years covered by the notice or during the last financial year.
2. Interest is payable for the period from the first day after the due date till the actual date of payment of any defaulted service tax amount. Interest is to be calculated for delayed number of days only. It is worth highlighting here that interest payments are mandatory in nature and same cannot be waived by any adjudicating/appellate authority.

PENALTY FOR FAILURE TO MAKE PAYMENT OF SERVICE TAX BY DUE DATE (SECTION 76)

S.NO	RELAVANT HEADING	RELEVANT PROVISIONS
1.	When Penalty u/s 76 is leviable	LeviableThe person liable to pay service tax fails to pay such tax within the prescribed time. However, no penalty shall be imposable on the assessee for such delay, if the assessee proves that there was reasonable cause for the said failure
2.	Quantum of Penalty	(A) Rs. 100 per day for every day during which such failure continues OR (B) At the rate of 1% of such tax, per month, [i.e. 12% p.a.] Whichever is higher. However, total amount of penalty payable under this section shall not exceed 50% of the service tax that the assessee has failed to pay.
3.	Period for which Penalty is to be leived	Beginning with the first day of due date and ending with the date of payment.

RETURNS UNDER SERVICE TAX

- Every person liable to pay tax has to file return in prescribed form and manner.
- FORM: Form ST-3 or Form ST-3A, as the case may be along with a copy of the Form TR-6/GAR-7.
- PERIODICITY: Half yearly basis.(April to September, October to March)
- DUE DATE: On or before 25th of the month following the particular half-year in triplicate.
- CONTENTS OF RETURN:

1. General information like name of the assessee, registration number, category of taxable services.
 2. Month wise detail of payment of service tax.
 3. CENVAT credit details and other relevant information.
- Every assessee is required to file return electronically by registering at <https://www.aces.gov.in>.
 - PROCEDURE FOR E-FILING:
W.e.f. 1.10.2011, all the assesses are mandatorily required to file their return electronically irrespective of amount of service tax they have paid during the previous financial year, in terms of Notification No. 43/2011-ST dated 25.08.2011. For this, one has to follow the procedure as follows:-
 - a) Get Registered with ACES
 1. Fill the "ACES DECLARATION FORM" available on the website www.servicetaxdelhi.gov.in and deposit it with the concerned Range Superintendent.
 2. Please ensure to fill email-id correctly in the form because T-PIN and password will be communicated by the department to this email-id only.
 3. After receiving the T-PIN and password, visit the website www.aces.gov.in and click on the service tax button provided on the left side of ACES homepage to login.
 4. Enter the T-PIN and password to login into the system. For first time login, ACES will mandatorily prompt for changing the password.
 5. Set the new password. It is to note that user id (called T-PIN) once selected can never be changed, even during the course of first time login.
 6. For second and every subsequent login into ACES, take the note of this user-id and password as set above.
 - b) How to fill the return electronically
There are two methods of filling the return electronically, namely:
 1. Online filling of data in service tax return and then submits it.
 2. Offline filling of data using excel utility and then upload it.
- 1) Online filling of data in service tax return and then submits it.
 - I. Login into ACES by entering the user-id and password. Homepage of the assessee will appear.
 - II. Under 'RET' main menu, click on the 'fill' option of 'fill ST-3' sub-menu i.e. RET Menu Fill ST-3 Fill.
 - III. A page will appear listing the Premises Code and Address of the registered premises of the assessee. Premises code will appear as hyperlink. Click on the hyperlink to prepare the ST-3 Return.
 - IV. After filling the return correctly, click on the 'SAVE' Button appearing on last page and confirmation page of ST-3 will appear.
 - V. To Amend, click on the 'Modify' button or 'Save' to store the return in the database.
 - VI. To submit the ST-3 Return to the department, press 'Submit' button. Confirmation will appear for successful submission of ST-3 Return displaying the Unique No. for such Return.
 - VII. Return saved in ACES can be amended before submission by the assessee by clicking on 'Amend ST-3' button under 'Fill ST-3' sub-menu.

VIII. In the same way, Return after submission can be revised once in 90 days by clicking on the 'Revise ST-3' option of 'Fill ST-3' sub-menu.

(2) Offline filling of data using excel utility and then upload it.

- I. Click on the 'Download' button provided on the left side of ACES Homepage and download excel utility by clicking on the hyperlink 'Download ST3 Return Excel Utility'.
- II. Use the excel utility to prepare ST-3 return and click on 'Validate & Submit' button on the last page to generate XML file.
- III. The XML file will be saved in the same folder where the download utility is saved by the user.
- IV. To upload the ST-3 Return, login into ACES by entering the user-id and password. Click on 'Upload File' option of 'e-filing' submenu under 'RET' Main Menu. i.e. RET Main Menu e-filing upload file.
- V. Click the 'Save' button to save the return in the database of the assessee; else click on 'Submit' button to file the return.
- VI. Confirmation will appear for successful uploading of Return without any Unique No.
- VII. After uploading, click on 'View Status' option of 'e-filing' submenu under 'RET' Menu to view status of Return. A return will be considered as filed only when its status is shown as 'FILED' which should be appeared on or before the last due date of 25th April/25th October, as the case may be, for treating the return 'filed on time'

(3) The assesses can also 'view', 'save' and 'print' their filed ST-3 return at any time by clicking on the button 'view ST-3' under 'RET' menu after successful login into aces.

- REVISION OF RETURN: As per Rule 7B, an assessee may submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of 90 days from the date of submission of the return under rule 7.
- ENCLOSURES TO RETURN:
 1. Copies of the Form TR-6/GAR-7.
 2. Memorandum in Form ST-3A in case of provisional assessment.
 3. List of accounts maintained in reference to tax.
 4. Worksheet of calculation of interest in case of delayed payments.

PENALTY FOR NOT FILING AND LATE FILING OF RETURNS

- If return of service tax is not filed within the prescribed period penalty is leviable under section 77(2) which can be up to `20,000. Rule 7C of Service Tax Rules, 1994 provides for penalty for delay in filing of service tax return. Accordingly late fee is payable as follows:

Delay up to 15 days `	500/-
Delay beyond 15 days and up to 30 days ` 1,000/-	1,000/-

Delay beyond 30 days`	1,000 + ` 100/- per day subject to a maximum of ` 20,000 [the penalty prescribed in section 70(1)]
-----------------------	---

Penalty for late filing of return is specifically prescribed in Rule 7C subject to section 70 therefore if late fee is paid then no penalty prescribed under section 77(2) shall be leviable.

Knowledge Assessment – III

1. Application for registration is to be made in Form:
 - a) Form ST 1
 - b) Form ST 2
 - c) Form ST 3
 - d) Form ST 4
 2. Penalty for non- registration is:
 - a) Higher of Rs. 5000 or Rs. 200 for every day during which failure continues.
 - b) Higher of Rs. 10000 or Rs. 100 for every day during which failure continues.
 - c) Higher of Rs. 5000 or Rs. 100 for every day during which failure continues.
 - d) Higher of Rs. 10000 or Rs. 200 for every day during which failure continues.
 3. Service tax for the month of March or quarter ending March should be deposited by:
 - a) 31st March
 - b) 5th April
 - c) 25th April
 - d) 6th April
 4. Return of service tax has to be filed:
 - a) monthly
 - b) quarterly
 - c) half-yearly
 - d) yearly
 5. Service tax return can be revised within a period of:
 - a) 30 days
 - b) 60 days
 - c) 90 days
 - d) 120 days
- Answers**
1. a, 2. d, 3. a, 4. c, 5. c.
- Compounding scheme is also available to the service provider.

- Point of time will determine rate of service tax and due date of payment of service tax.
- The small service provider can avail the benefit of exemption which is available vide notification No. 33/2012- ST, dated June 20, 2012. This notification gives exemption to a small service provider from service tax up to total or aggregate value of taxable service not exceeding Rs. 10 lakhs in the subsequent financial year.
- Invoice is to be issued not later than 30 days from the date of completion of taxable service or receipt of payment whichever is earlier.
- Records should be properly maintained.
- Various penalties have been laid down for not obtaining service tax registration, non-filing of return and late filing of return.

EXERCISE QUESTIONS

Short Answer Questions

1. What do you mean by service?
2. Name 10 declared services.
3. List 5 services which are included in negative list.
4. What is abatement and compounding scheme?
5. Name 2 different approaches to service tax.
6. Who is a small scale service provider?
7. List the steps involved in computation of service tax liability.

Long Answer Questions

1. Discuss the rules related to registration for service tax.
2. Explain the procedure for a) E-filing of service tax return b) E-payment of service tax.
3. What are the due dates for filing of return and payment of tax.
4. Explain in brief the procedures involved related to service tax
5. Discuss the features of service tax.
6. Discuss the different approaches of service tax.
7. Discuss 4 circumstances where full reverse charge mechanism is applicable.
8. What is reverse charge mechanism? Explain the partial reverse charge mechanism process?

Numerical Questions

1. X provides the consultancy services from his main office at Pune. Value of taxation services provided during different years is given below:

	Rs.
Financial year 2011-12	15, 00,000
Financial year 2012-13	18, 00,000
Financial year 2013-14	9, 00,000

During the quarter ending June, 30, 2014, Value of taxation services provided by X is Rs. 7, 00,000. Can he claim the threshold exemption available to SSP.?

(**Answer:** Current financial year is 2014-15, in the immediately preceding financial year 2013-14, value of services is not more than Rs. 10 lakhs. In the current financial year he can avail the exemption of Rs. 10 lakhs, so no tax is payable till June, 2014 quarter, since value of taxable services is only Rs. 7 lakhs. However, X now cannot CENVAT credit exemption.)

2. In continuation of above problem in the second quarter the value of taxable services is Rs. 10 lakhs. Find out service tax liability.

(**Answer:** Total taxable services of both quarter first and second amounts to Rs. 17 lakhs. Out of this Rs. 17 lakhs, X will claim exemption of Rs. 10 lakhs as SSP. The rest of Rs. 7 lakhs will be taxable at the rate of 12.36% amounting to Rs. 86,520.)

3. State the person liable to pay service tax and extent of service tax payable.

1. Support services by government to an individual – Rs. 6 lakhs.
2. Support services by government to a business entity – Rs. 5 lakhs.
3. Services provided by a director to a company – Rs. 2 lakhs
4. Services provided to an individual by way of sponsorship of events- Rs. 1 lakhs.

(**Answer:** Service Tax under 2 and 4 points is to be paid by service provider.)
