

PRELIMINARY EXAMINATION :
SOLUTION – TAXATION

Question No. 1 is compulsory.
Attempt any five questions from the remaining six questions.

Q.1. (a) Computation of Business Income under normal provision AY 2017-18.

Particulars	₹	₹
Net profit as per profit and loss account		8,50,250
Add : Expenses debited to P & L A/c but disallowed or considered separately:		
Consultancy fees included in purchases (30% of 1,00,000, as TDS is deposited after due date of submission of return of income)	30,000	
Household expenses	20,000	
Income-tax	36,100	
Interest on capital	84,000	
Reserve for bad debts	3,400	
Depreciation on furniture	18,000	1,91,500
		10,41,750
Less: Deductions allowed as per income tax rules:		
Undervaluation of opening stock (1/9 th of ₹ 1,04,000)	11,556	
Depreciation	17,200	
Goods withdrawn by Mr. X, recorded at value higher than cost (i.e. ₹ 41,250 - ₹ 27,850)	13,400	(42,156)
		9,99,594
Add: Undervaluation of closing stock (1/9 th of ₹ 2,10,000)		23,333
Business income		10,22,927
Any other income (gift from a friend is income)		96,000
Gross total income		11,18,927
Less : Deductions under section 80C:		
a) Investment in Public Provident Fund	6,000	
b) Investment in NSC	96,000	(1,02,000)
Net income (rounded off)		10,16,930
Tax on net income		1,30,079
Add : Education cess		2,602
Add : Secondary and higher education cess		1,301
Tax payable (rounded off)		1,33,980

Notes :

- Goods withdrawn by the owner should not be treated as sale. Entry for goods withdrawn should be passed at cost price but it is passed at value higher than cost price. Notional profit of 13,400 (i.e. ₹ 41,250 - ₹ 27,850) is therefore, excluded while computing net income. This is because of the fact that one cannot make profit by selling goods to oneself.

Q.1. (b) As per valuation rules if one of the currency is Indian currency then both the currency should be converted into Indian currency at RBI reference rate and the value of taxable service shall be lower of 1% of the above amount.

In the above case value of taxable service shall be lower of :

a. $1\% (1500 \times 68.5) = 1027.5/-$

b. $1\% (1000 \times 98.5) = 985/-$

Lower of a or b i.e., value of taxable services = 985/-

Service tax @ 14% = 137.90/-

Add Swachh Bharat Cess @ 0.5% = 4.925/-

Add: Krishi Kalyan cess @ 0.5% = 4.925

Total Tax Payable = 147.75

Q.1. (c)

VAT charged (Note1)	25,000
Less: VAT credit (Note2)	71,250
VAT payable	(46,250)
Balance of VAT Credit	46,250
Less: CST Payable	4,000
Balance to be carried forward	42,250

Note 1 :

$200000 \times 12.5\% = 25,000/-$

Note 2 :

$300000 \times 5\% = 15,000/-$

$200000 \times 12.5\% = 25,000/-$

$500000 \times 12.5\% \times 50\% = 31,250/-$

Total – 71,250/-

CST payable – $200000 \times 2\% = 4000/-$

Q.2. (a) (i) Control and management of business A is situated in India. Mr. X, karta of HUF does not fulfill conditions given u/s 6(6) therefore X (HUF) is resident but not ordinarily resident in India.

As per section 6(5), If a person is resident in India in the previous year in respect of any source of income, then he shall be deemed to be resident in India in that previous year in respect of all other sources of income. X (HUF) is, therefore, resident but not ordinarily resident in India for the assessment year 2017-18.

Income of X(HUF) will be computed as follows:

Particulars	₹
Income of business A	46,000
Income of business B (₹ 80,000, being earned and revived outside India from a business which is controlled from outside India is not chargeable to tax in the case of resident but not ordinarily resident taxpayer)	36,000
Income of business C	38,000
Net income	1,20,000

(ii) Statement of computation of Net income from AY 2017-18

Particulars	₹
I] Income from house property:	
a) Fair Rent	2,16,000
b) Municipal Valuation	1,64,000
c) Higher of (a) & (b)	2,16,000
d) Standard rent	1,80,000
e) Reasonable expected rent (Lower of (c) & (d))	1,80,000
f) Actual rent (14,000 p.m. x 10 months)	1,40,000
g) Gross annual value	1,80,000
Less : Municipal tax paid & borne by the owner	(6,000)
Net annual value	1,74,000
Less : Deduction u/s 24:	
Standard deduction (30% of ₹ 1,74,000)	(52,200)
Interest on borrowed capital	(1,23,000)
Loss from house property	(1,200)
II] Income from other sources	1,86,000
Net income	1,84,800

Q.2. (b) The time limit for availment of CENVAT credit in respect of inputs is as under

- (1) CENVAT credit to be allowed immediately on receipt of input by manufacturer or provider of output service [Rule 4(1)] : The CENVAT credit in respect of inputs may be taken immediately on receipt of the inputs in the factory of the manufacturer or in the premises of the provider of output service.
- (2) Credit to Service provider on maintenance of documentary evidence of delivery of inputs and location of inputs : The CENVAT credit in respect of inputs may be taken by the provider of output service when the inputs are delivered to such provider, subject to maintenance of documentary evidence of delivery and location of the inputs.
- (3) Time limit of taking credit - Credit to be taken within 1 year from date of issue of duty paying documents: The manufacturer or the provider of output service shall not take CENVAT credit after 1 year of the date of issue of any of the documents specified in Rule 9(1).
- (4) Analysis of term 'Immediately' : As per Department clarification, "immediately" means the manufacturer can take the credit at the earliest opportunity and does not mean that if the manufacturer does not take the credit as soon as the inputs are received in the factory, he would be denied the benefit of CENVAT credit. However, it must be noted that CENVAT credit must be taken within 1 year from the date of issuance of invoice.

(c)

1.	Assessable Value [50,000 × 67]	=	33,50,000
2.	BCD @ 10% of 33,50,000	=	3,35,000
3.	Total	=	36,85,000
4.	ACD @ 12.5%	=	4,60,625
5.	Value for education cess	=	7,95,625
6.	@ 2%	=	15,912.5
7.	@ 1%	=	7,956.25
8.	Total before CVD 3(5)	=	8,19,493.75
9.	(8 + 1)	=	41,69,493.75
10.	4%	=	1,66,779.75
11.	(8 + 10) Total CD	=	9,86,274

Q.3. (a)

Particulars	(₹)
I] Business income	5,64,000
II] Income from other sources:	
UP Government loan (₹ 10,00,000 × 5%)	50,000
Debentures of ABC Ltd (₹ 40,000 × 6%)	2,400
Debentures of PQR Ltd. (Interest accrued on June 15,2016) (₹ 25,000 × 8% × ½)	1,000
Post office savings bank interest (up to ₹ 3,500 is exempt and balance is chargeable to tax)	800
SBI savings account interest	9,500
Gift from friend on marriage anniversary	1,00,000
Amount taxable under the head "Income from other sources"	1,63,700
Gross total income [I + II]	7,27,700
Less : Deduction under section 80TTA (i.e. savings account interest : post office : ₹ 800 + SBI : ₹ 9,500, subject to a maximum of ₹ 10,000)	(10,000)
Net income	7,17,700

(b) Rates of tax on sales in the course of inter-State trade or commerce: As per section 8(1), the liability to pay CST is on the dealer who sells the goods in the course inter-State trade or commerce. For computing CST payable, the applicable rates would be - determined as per the provisions of sub-sections (1) to (4) of section 8, in the following - manner: Cases Where Concessional Rate Of CST is Applicable: The concessional rate of CST is:- (i) 2% of the turnover of the dealer or (ii) Rate applicable to the sale or purchase of such goods inside the appropriate state* under the sales tax law of that State whichever is lower. (ii) in relation to a dealer who has places of business situated in different States: every such State with respect to the place or places of business situated within its territory [Section 2(a)]. Conditions to be fulfilled for concessional rate of CST: A dealer is liable to pay CST at the concessional rate of CST provided the following conditions are satisfied:-

- (I) Sale is of eligible goods: Goods described in sub-section (3)* are the goods eligible for concessional rate of CST.
- (II) Sale is made to a registered dealer: The dealer can pay CST on inter-State sale of such eligible goods at the concessional rate provided the sale has been made to a registered dealer.

(III) Form C to be furnished by the purchasing dealer:

The selling dealer is required to obtain a declaration in Form C from the purchasing dealer and furnish it to the prescribed authority, in order to secure concession in the rate of tax.

*Note: Following goods as specified in the certificate of registration of the registered purchasing dealer, are eligible for concessional rate of CST:- (a) goods of the class/classes intended:- (i) for resale by him, or (ii) for use by him in manufacture or processing of goods for sale, or (iii) for use in the telecommunications network, or (iv) for use in mining, or (v) for use in the generation or distribution of electricity or any other form of power. (b) containers or other materials intended for being used for the packing of goods for sale. Further, containers or other materials used for the packing of any goods referred to in clause (a) or (b) above are also so eligible [Section 8(3)]. Cases Where Concessional Rate of CST is not Applicable: In case any of the aforesaid three conditions are not fulfilled, the rate of CST would be the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State.

Q.3. (c) Sources of service tax law Finance Act, 1994 Service Tax Rules, 1994 Notifications issued under sections 93(Power to grant exemption), 94 & 96I (Power to make Rules) of the Finance Act, 1994. The notifications are issued generally for giving benefits to the tax payers by way of exemption or reduction in rate of tax etc. and also for amending or inserting service tax rules. The notifications are law of land & are binding on all. Circulars, Trade Notices & Office Letter issued by CBEC & Service Tax Commissionerate. Circulars are issue for clarifying the law or procedural aspects. Circulars are binding on the government department only and the circulars shall not override the law. Orders issued by CBEC or Central Government under section 95 of the Finance Act, 1994 (Power to remove difficulties). The orders are issued for settling/resolving the issue which is under litigation or likely to generate litigation. The orders are also law of land & binding on all.

Q.3. (d) Article 272 mentions “Union duties of excise other than such duties of excise on medicinal or toilet preparations as are mentioned in the Union List shall be levied and collected by the Government of India...”. Entry 84 of the Union List of the Seventh Schedule provides as under: Duties of excise on tobacco and other goods manufactured or produced in India except: (a) Alcoholic liquors for human consumption (b) Opium, Indian hemp and other narcotic drugs and narcotics; but Including Medicinal and toilet preparations containing alcohol, or any substance stated before.

Therefore the above statement is wrong as the excise duty on alcoholic liquor is state matter.

Q.4. (a) Statement of computation of salary income for AY 2017-18

Particulars	₹	₹
Basic salary (₹ 60,000 × 9 + ₹ 70,000 × 3)		7,50,000
Dearness allowance (₹ 4,000 × 12)		48,000
Education allowance (₹ 550 × 4 × 12)	26,400	
Less : Exemption (₹ 100 × 2 × 12)	2,400	24,000

Medical allowance (₹ 400 × 12)		4,800
Transport allowance (₹ 1,950 × 12)	23,400	
Less : Exemption (₹ 1,600 × 12)	19,200	4,200
House rent allowance (₹ 20,000 × 8)	1,60,000	
Less : Exempt (see Note 1)	93,696	66,304
Furnished house (see Note 2)		61,158
Salary from B Ltd. (₹ 18,000 × 3)		54,000
Gross salary		10,12,462

Notes :

1. House rent allowance exempt from tax-salary for this purpose is ₹ 62,880 per month (i.e. basic salary : ₹ 60,000 per month + dearness allowance : 72% of ₹ 4,000 per month). The amount of exemption is lower of following:

- Excess of rent paid over 10% salary.
₹ 11,712 per month i.e. ₹ 18,000 - ₹ 6,288, whichever is lower.
- 40% of salary. ₹ 25,152 per month (40% of ₹ 62,880).
- Actual HRA received ₹ 20,000 per month.

Hence, the amount exempt from tax is ₹ 11,712 per month from April 1, 2016 to November 30, 2016 (i.e. ₹ 93,696).

2. Valuation of the perquisite in respect of furnished flat – X has been provided a furnished flat at Delhi with effect from December 1, 2015. Salary, for this purpose, from December 1, 2016 to March 31, 2017 is as follows:

Particulars	₹
Basic salary (₹ 60,000 × 1 month + ₹ 70,000 × 3 months)	2,70,000
Dearness allowance (72% of ₹ 4,000 × 4 months)	11,520
Education allowance [(₹ 550 × 4 - ₹ 100 × 2) × 4 months]	8,000
Medical Allowance (400 × 4 months)	1,600
Transport allowance [(₹ 1,950 - ₹ 1,600) × 4]	1,400
House rent allowance (not received during December 1, 2016 to March 31, 2017)	
Salary from B Ltd. (₹ 18,000 × 3)	54,000
Total salary	3,46,520
Lease rent of 4 months (₹ 26,000 × 4)	1,04,000
Perquisite value of unfurnished flat (15% of ₹ 3,46,520 or ₹ 1,04,000, whichever is lower)	51,978
Add: Rent of furniture	12,780
Value of rent-free furnished flat	64,758
Less : Rent paid by X (₹ 900 × 4)	(3,600)
Value of the perquisite	61,158

Q.4. (b)

Total Turnover	=	5,00,000
Less: Dharmada	=	0
Less: Sales return	=	20,000
Less :Pkg charges	=	0
Less: Excise duty	=	0
Less: Freight	=	20,000
TAXABLE TURNOVER	=	4,60,000
CST@2% (1400000/102*2)	=	9,020

Q.4. (c) Services covered under negative list are those on which service tax dose not apply these are covered u/s 66D of finance Act 1994 example Government Services, Services of RBI, Agriculture services etc..

Where as services covered by Mega exemptions are prima facie taxable but government has exempted it under a notification with some conditions example clinic services, hotel services, legal services etc...

Q.5. Statement of computation of net income and tax liability

Particulars	₹
I] Income from salaries (Given)	6,00,000
II] Income from capital gains:	
Full value of consideration (As per section 50C)	98,36,903
Less: Expenses on transfer	Nil
Net consideration	98,36,903
Less: Indexed cost of acquisition:	(5,73,750)
a) Actual cost of acquisition = 51,000 (₹ 45,000 + stamp duty @ 12% of ₹ 50,000)	
b) FMV on 1.4.1981 = 48,000	
c) Higher of (a) & (b) 51,000 x 1125 / 100	
Less : Indexed cost of improvement incurred during 1980-81	Nil
Note: Cost of improvement incurred before 1.4.1981 cannot be claimed as deduction.	
Less : Indexed cost of improvement (2015-16) (₹ 40,000 x 1125/1081)	(41,628)
Long term capital gain	92,21,525
Less: Exemption	
Under section 54 (Pune property was purchased within 1 year before transfer; cost of acquisition, stamp duty and first floor construction expenditure is eligible for exemption, i.e. ₹ 13,00,000 + 6% of ₹ 15,00,000 + ₹ 2,70,000)	(16,60,000)
Under section 54EC (NHAI bonds were purchased before transfer of house property and therefore it is not eligible for exemption. REC bonds were purchased 6 months after the date of transfer of house property therefore even this is not eligible for exemption)	Nil
Long term capital gain	75,61,525

<u>Computation of net income and tax liability</u>	
Gross total income (I + II)	81,61,525
Less : Deduction under section 80C (not available in the case of unrecognized provident fund)	Nil
Net income	81,61,525
Tax on net income	
Income tax (20% of ₹ 75,61,525 + normal tax on ₹ 6,00,000)	15,57,305
Add : Education cess	31,146
Add : Secondary and higher education cess	15,573
Tax liability (rounded off)	16,04,020

Q.5. (b) In the absence of information RSP is taken at ₹ 10 per packet

Total RSP value (50000*10) =	5,00,000
Less : Abatement @30% =	1,50,000
Assessable value =	3,50,000
Excise duty @ 12.5% =	43,750

Q.5. (c) In case where service tax is payable under reverse charge mechanism the point of taxation shall be the date of payment by the service receiver to the service provider, provided the payment is done within the prescribed time limit of 3 months, otherwise the point of taxation shall be the immediate next day after 3 months.

Q.5. (d) If the capital goods are removed from the factory after put to use as scrap ,then such removal shall be under a cover of an Invoice and Cenvat credit to be reversed shall be Excise duty Rate on the Invoice value.(transaction value)

Q.6. (a) Statement of computation of Net Income

Particulars	₹
Business income	83,000
Long term capital gains	4,10,000
Short term capital gain under section 111A	20,000
Other short term capital gain	10,000
Interest on debentures	49,000
Gross total income	5,72,000
Less : Deductions under sections 80C to 80U	
Under section 80C in respect of public provident fund	40,000
Under section 80D in respect of medical insurance premium	3,000
Under section 80G in respect of donations [see Note 1]	14,950
Net income	5,14,050

<u>Note 1: Computation of deduction u/s 80G in respect of donations</u>	
Step 1: Gross qualifying amount:	
Donation to clean Ganga fund	4,000
Donation to Swachh Bharat Kosh	3,000
Donation to Rajiv Gandhi Foundation	1,000
Donation to the Prime Minister's Drought Relief fund	5,000
Donation to public charitable institutions	11,000
Amount given to a poor student (not eligible for deduction as the donee is not a specified fund / institution)	-
Clothes to an institution (donation in kind is not eligible for deduction)	-
Amount for construction of rest house (not eligible for deduction as amount will be utilised for the benefit of a particular community)	-
Donation in cash to National Children Fund (cash donation exceeding ₹ 10,000, not deductible)	-
Gross qualifying amount	24,000
Step 2: Net qualifying amount	
Donation to clean Ganga fund (without any maximum limit)	4,000
Donation to Swachh Bharat Kosh (without any maximum limit)	3,000
Donation to Rajiv Gandhi Foundation (without any maximum limit)	1,000
Donation to the prime minister's drought relief fund (without any maximum limit)	5,000
Donation to the public charitable institutions: Deduction is lower of:	
a. ₹ 11,000 (being amount of donation); or	
b. ₹ 9,900 (being 10% of adjusted gross total income calculated under Note 2)	
₹ 9,900 is, therefore, eligible for net qualifying amount	9,900
Net qualifying amount	22,900
Step 3: Amount deductible: 100% of ₹ 7,000 + 50% of ₹ 15,900	14,950
<u>Note 2: Adjusted gross total income is calculated as under:</u>	
Gross total income	5,72,000
Less : long term capital gains	4,10,000
Less : Short term capital gain under section 111A	20,000
Less : Amount of deduction under section 80C to 80U except section 80G	43,000
Adjusted gross total income	99,000

Q.6. (b) The given statement is wrong as the Explanation of the definition clearly says for the removal of doubts, it is hereby declared that nothing contained in this clause shall apply to,

(A) the functions performed by the Members of Parliament, Members of State Legislative, 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.

Q.6. (c) Rule 1:

These rules coming to force on 10-9-2004 extend to the whole of India; but the provisions relating to the availment and utilisation of credit of Service Tax shall not apply to the State of Jammu and Kashmir.

(d) Computation of service tax liability of Well-Being Hospital for the month of June, 20XX

Particulars	₹ (in lakh)
Services provided by cord blood bank way of preservation of stem cells [Note-2]	-
Hair transplant services [Note – 1(a)]	1,00
Naturopathy treatments [Note – 1(b)]	-
Plastic surgery of restore anatomy of a child affected due to an accident [Note-1(c)]	-
Pranic healing treatments [Note -1(d)]	1,20
Mortuary services [Note 3]	-
Value of taxable services	2.20
Services tax @ 14% [₹ 2,20,00,000 × 14%]	30.8
Add: SBC @ 0.5% (₹ 2,20,00,000 × 0.5%)	1.1
KKC @ 0.5% (₹ 2,20,00,000 × 0.5%)	1.1
Services tax liability (including SBC & KKC)	33

Note:

(1) Health care services provided by inter alia, a clinical establishment in any recognized system of medicines in India is exempt from service tax vide Mega Exemption Notification No. 25/2012 ST dated 20.03.2012.

- (a) Hair transplant services are specially excluded from the health care services, and thus are not eligible for exemption.
- (b) Since naturopathy is recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010, it would be eligible for exemption.
- (c) Health care services does not include inter alia cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma. Hence, plastic surgery to restore anatomy of a child affected due to an accident will be eligible for exemption.
- (d) Since pranic healing treatment is not a recognized system of medicine in terms of section 2(h) of the Clinical Establishment Act, 2010, it would not be eligible for exemption.

7. (a) (i) According to Sec. 80, any person who has sustained loss in any previous year and claims that such loss should be carry forward and set-off, shall furnish a return of loss within the time allowed u/s 139(1). However, this provision does not apply to unabsorbed depreciation u/s 32(2), loss under the head "Income from house property" u/s 71B and loss from specified business u/s 73A.

(ii)

- a) Yes, @ 5%.“Insurance Commission – Sec. 194D”.
 b) Yes, @ 1%.“TDS on contracts – Sec. 194C”.
 c) No, Amount allowed as discount does not warrant tax deduction.
 d) Yes, @ 30% .“Winnings from lottery or crossword puzzle–Sec.194B”.

(iii)

Particulars	X ₹	Mrs. X ₹
Share of profit [exempt under section 10(2A)]	Nil	-
Salary from the firm	24,000	-
Interest on capital [* ₹ 1,20,000 × ₹ 6.6 lakh / ₹ 10 lakh]	40,800	79,200*
Business income	64,800	79,200

Q.7. (b) The statement is wrong as per white paper a dealer is liable for registration only if his annual turnover exceeds 5 lacs (extended to 10Lacs).
 Vat audit is compulsory if the turnover of a dealer exceeds a specified limit mentioned under the Vat Law.

Q.7. (c) India includes Indian Territorial waters which extends upto 12 nauticle miles from the land masses. The next 12 nauticle miles is called contiguous zone the total 24 nauticle miles are called as customs water.

Q.7. (d)

List – Price	=	59,600
Less : Trade discount 20%	=	11,920
Price Include of Vat	=	47,680
Less : Vat $\left(\frac{47,680}{112.5} \times 12.5 \right)$	=	5,298
Price cum duty	=	42,382
Less Excise Duty $\left(\frac{42,382}{107.5} \times 7.5 \right)$	=	2,957
Assessable Value	=	39,425

