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*Solved Ans. Tax\_Ipcc\_Nov.10*

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***C.A. CPT, PCC, IPCC & FINAL***

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(Disclaimer : Questions asked in the exam may have wrong/inadequate information and/or ambiguous language. In that case the answers provided by institute may differ from this Ideal Answers. If you find any errors, please email the same.)

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Roll No.....

Total No. of Questions - 7

Time Allowed - 3 Hours

Total No. of Printed Pages - 11

Maximum Marks -100

**Income Tax \_ Ipcc Nov.10**

Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi medium. If a candidate has not opted for Hindi medium, his answers in Hindi will not be valued.

Question No. **1** is compulsory.

Attempt any **five** questions from the remaining six questions.

Working notes should form part of the answer.

Wherever necessary suitable assumptions may be made by the candidates.

**Qn. 1. (a)** Mr. Sohan submits the following details of his income for the assessment year 2011-12. **[ 5 marks ]**

Income from salary	3,00,000.00
Loss from let out house property	40,000.00
Income from sugar business	50,000.00
Loss from iron ore business b/f (discontinued in 2004 – 05)	1,20,000.00
Short term capital loss	60,000.00
Long term capital gain	40,000.00
Dividend	5,000.00
Income received from lottery winning (Gross)	50,000.00
Winning in card games	6,000.00
Agricultural income	20,000.00
Long term capital gain from shares (STT paid)	10,000.00
Short term capital loss under section 111	10,000.00
Bank interest	5,000.00

Calculate gross total income and losses to be carried forward.

**(b)** Mr. A is a proprietor of Akash Enterprises having 2 units. He transferred on 1.4.2010 his unit 1 by way of slump sale for a total consideration of Rs. 25 Lacs. The expenses incurred for this transfer were Rs. 28,000/-. His Balance Sheet as on 31.3.2010 is asunder: **[ 5 marks ]**

<b>Liabilities</b>	<b>Total Rs.</b>	<b>Assets</b>	<b>Unit 1 Rs.</b>	<b>Unit 2 Rs.</b>	<b>Total Rs.</b>
Own Capital	15,00,000	Building	12,00,000	2,00,000	14,00,000
Revaluation Reserve (for building of unit 1)	3,00,000	Machinery	3,00,000	1,00,000	4,00,000
Bank loan (70% for unit 1)	2,00,000	Debtors	1,00,000	40,000	1,40,000
Trade creditors (25% for unit 1)	1,50,000	Other assets	1,50,000	60,000	2,10,000
<b>TOTAL</b>	<b>21,50,000</b>	<b>TOTAL</b>	<b>17,50,000</b>	<b>4,00,000</b>	<b>21,50,000</b>

Other information :

- Revaluation reserve is created by revising upward the value of the building of unit 1.
- No individual value of any asset is considered in the transfer deed.
- Other assets of unit 1 include patents acquired on 1.7.2008 for Rs. 50,000 on which no depreciation has been charged.

Compute the capital gain for the assessment year 2011-12.

**(c)** Smart & Express Co., is providing taxable information technology software services. The firm furnishes the following information relating to the services rendered, bills raised, amount received pertaining to this service, for the financial year ended on 31<sup>st</sup> March, 2011 as under : **[ 5 marks ]**

	<b>Rs.</b>
(i) Amount received being 10% of the assignment fees on 31 <sup>st</sup> March, 2011 for the upgradation and enhancement of software services to be rendered during the financial year 2011-12.	6,00,000
(ii) Services provided to UNICEF, an International Organisation in Gandhinagar, for analysis, design and programming of latest information technology software.	5,00,000
(iii) Services billed to clients (In one of the bill amounting to Rs. 3,00,000 service tax was not charged due to conflicting nature and in another bill the firm failed to recover the service tax from the client, which was charged separately, due to insolvency of the client, the bill details are as under :  Rs. Being the charges for right to use IT software 8,00,000 Service tax @ 10% 80,000 Education cess @ 2% 1,600 Secondary & Higher education cess @ 1% 800 <u>8,82,400</u>	3,00,00,000
(iv) Amount received for services rendered during current financial year (excluding payment for 2 bills in item (iii) above for which payment received during current financial year)	1,04,78,500

Service tax and education cess have been charged separately in all the bills except wherever mentioned when it is not so charged separately.

Compute the value of total taxable services and service tax payable thereon for the year ended 31-3-2011, assigning reason in brief to the treatment of all items.

**(d)** Mr. Rajesh is a registered dealer and gives the following information. You are required to compute the net tax liability and total sales value under Value Added Tax : **[ 5 marks ]**

Rajesh sells his products to dealers in his State and in other States.

The profit margin is 15% of cost of production and VAT rate is 12.5 % of sales.

- Intra State purchases of raw material Rs. 2,50,000/- (excluding VAT @ 4%)
- Purchases of raw material from an unregistered dealer Rs. 80,000/- (including VAT @ 12.5%)
- High seas purchases of raw material are Rs. 1,85,000/- (excluding custom duty @ 10% of Rs. 18,500)
- Purchases of raw materials from other States (excluding CST @ 2%) Rs 50,000
- Transportation charges, wages and other manufacturing expenses excluding tax Rs. 1,45,000/-
- Interest paid on bank loan Rs. 70,000/-.

**Qn. 2. (a) (i)** Which income of Sikkimese individual is exempted from tax under section 10 (26AAA) ? **[ 4 marks ]**

**(ii)** How will you calculate the period of holding in case of the following assets ? **[ 4 marks ]**

- Shares held in a company in liquidation
- Bonus shares
- Flat in a co-operative society
- Transfer of a security by a depository (i.e., demat account)

**(b)** How can an assessee adjust the excess payment of service tax against his liability of service tax for subsequent periods ? What is the basic condition for it ? **[ 4 marks ]**

**(c)** What record should be maintained under VAT system by a registered dealer ? **[ 4 marks ]**

**Qn. 3. (a)** Dr. Shuba is medical practitioner. Her age is 64 as on 1 Jan 2010. The receipts and payments account of 2010-11 of her is as under : **[ 8 marks ]**

<u>To</u>		<u>By</u>	
Balance B/f :	10,000	Purchase of commercial vehicle before 30 Sep. 2010.	4,00,000
Receipts from sale of Medicine	2,50,000	Drawing	2,50,000
		Deposit in bank for 5 years	1,50,000

Consultation fee	50,000	Surgical instrument purchased	
Visiting fee	2,00,000	before 30 Sep. 2010	50,000
Lecturers	5,000	Installment of loan paid (including interest Rs. 22,333)	1,21,000
Family pension	2,80,000		
Saving bank interest	1,000	Medical insurance premium	32,000
Loan from bank	3,00,000	Installment of housing loan	1,08,000
Share from HUF	50,000	(Principal component Rs. 48,000)	
Agriculture income	1,00,000	Advance tax paid	20,000
Income from lottery	35,000	Purchase of medicine	47,000
(net after deduction of TDS @ 30%)		Payment for medical journal	5,000
		Vehicle expenses	50,000
		Balance C/f:	48,000
<b>Total</b>	<b>12,81,000</b>	<b>Total</b>	<b>12,81,000</b>

Other relevant information is as under :

- She resides in her own house which was constructed in 1998 with a loan from LIC Housing of Rs.10,00,000 out of which 6,00,000 was still due. She got it refinanced from SBI on 01.04.10 at the rate of 10%. One fourth portion of the house is used for clinic purposes.
- She invested in term deposit Rs. 1,50,000 in Bank of Baroda on 01.07.10 for a period of 5 years in the name of her minor daughter at 9% interest p.a.
- She purchased a commercial vehicle on 1 July 2010 at Rs. 4,00,000. A loan of Rs. 3,00,000 was taken to buy the van at 8% interest. One fourth use of vehicle is estimated to be personal.
- She paid medical insurance premium for herself of Rs. 16,000 and for mother Rs. 16,000. Her mother is dependent on her.
- She got her share from HUF 's income of Rs. 50,000.

**(b)** Write a note in brief on provisional payment of service tax. **[ 4 marks ]**

**(c)** State the Variants of VAT. Present them in schematic diagram and explain each one briefly. **[ 4 marks ]**

**Qn 4. (a) (i)** Explain the consequences of not deducting tax and paying to Govt. account under section 201 of the Income Tax Act, 1961. **[ 4 marks ]**

**(ii)** Can a political party claim exemption of its income under Section 13 A of the Income tax Act, 1961 ? **[ 4 marks ]**

**(b)** How will a taxable service be valued when the consideration thereof is not wholly or partly in terms of money ? **[ 4 marks ]**

**(c)** State with reasons in brief whether the following statements are correct or incorrect with reference to the provision of Value Added Tax. **[ 2 x 2 = 4 marks ]**

- It is permitted to issue 'tax invoice' inclusive of VAT i.e. aggregate of sales price & VAT.
- A registered dealer is compulsorily required to get its books of accounts audited under VAT Laws of different states irrespective of limit of turnover.

**Qn. 5. (a)** From the following details find out the salary chargeable to tax for the assessment year 2010-11. **[ 8 M ]**

Mr. X is a regular employee of Rama & Co. in Gurgaon. He was appointed on 01.01.10 in the scale of 20000-1000-30000. He is paid 10% D.A. & Bonus equivalent to one month pay. He contributes 15% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount.

He is provided free housing facility which has been taken on rent by the company at Rs. 10,000 per month. He is also provided with following facilities :

- Facility of laptop costing Rs. 50,000.
- Company reimbursed the medical treatment bill of his brother of Rs. 25,000, who is dependent on him.
- The monthly salary of Rs. 1,000 of a house keeper is reimbursed by the company.
- A gift voucher of Rs. 10,000 on the occasion of his marriage anniversary.
- Conveyance allowance of Rs. 1,000 per month is given by the company towards actual reimbursement.
- He is provided personal accident policy for which premium of Rs. 5,000 is paid by the company.
- He is getting telephone allowance @ Rs. 500 per month.
- Company pays medical insurance premium of his family of Rs. 10,000.

(b) What do you mean by e-filing of returns ? Is there any facility of e-filing of service tax returns ? If yes, then which of the services are eligible for this facility ? [ 4 marks ]

(c) What are the conditions to be fulfilled by the dealer accepting the composition scheme under the Value Added Tax ? [ 4 marks ]

**Qn. 6. (a)** Sai Ltd. has a block of assets carrying 15% rate of depreciation, whose written down value on 01.04.2010 was Rs. 40 lacs. It purchased another asset of the same block on 01.11.2010 for Rs. 14.40 lacs and put to use on the same day. Sai Ltd. was amalgamated with Shirdi Ltd. with effect from 01.01.2011.

You are required to compute the depreciation allowable to Sai Ltd. & Shirdi Ltd. for the previous year ended on 31.03.2011 assuming the assets transferred to Shirdi Ltd. at Rs. 60 lacs. [ 8 marks ]

(b) State with reasons in brief whether the following statements are correct or incorrect with reference to the provisions of Service Tax. [ 2 x 2 = 4 marks ]

- (i) The scope of taxable service shall include any service provided or to be provided to business entity, by any other business entity, in relation to advice, consultancy or assistance in any branch of law including service provided by way of appearance before any court, tribunal or authority.
- (ii) Service tax provisions are not applicable in Jammu and Kashmir because State Government concurrence was not obtained in respect of Finance Act, 1944.

(c) Mention the purchases which are not eligible for input tax credit (any **eight** items) under Value Added Tax. [4 M]

**Qn. 7. (a)** Answer any **two** sub-parts out of **three** sub-parts of the question. [ 2 x 4 = 8 Marks ]

(i) Mr. Shah, an Accounts Manager, has retired from JK Ltd. on 15.1.2011 after rendering services for 30 years 7 months. His salary is Rs. 25,000/- p.m. upto 30.9.2010 and Rs. 27,000 thereafter. He also gets Rs. 2,000/- p.m. as dearness allowance (55% of it is a part of salary for computing retirement benefits). He is not covered by the Payments of Gratuity Act, 1972. He has received Rs. 8 Lacs as gratuity from the employer company.

(ii) State under which heads the following incomes are taxable :

- (i) Rental income in case of dealer in property
- (ii) Dividend on shares in case of a dealer in shares
- (iii) Salary by a partner from his partnership firm
- (iv) Rental income of machinery
- (v) Winnings from lotteries by a person having the same as business activity
- (vi) Salaries payable to a Member of Parliament
- (vii) Receipts without consideration
- (viii) In case of retirement, interest on employee's contribution if provident fund is unrecognized.

(iii) Explain briefly the applicability of Section 22 for chargeability of income tax for:

- (i) House property situated in foreign country and
- (ii) House property with disputed ownership.

(b) Shashwat Hotels Pvt. Ltd has given the following information for F.Y. 2010-11. You are required to compute the taxable services under Service Tax Act and the tax thereon for FY 2010-11 without assigning any reason for the treatment. [ 4 marks ]

- (i) Reception room and vehicle parking space were let out for a film shooting for 3 months. The charges received for this Rs. 5 Lacs.
- (ii) The conference hall was let out to a Gujarati Samaj Trust for a week for a music competition for Rs. 50,000/-
- (iii) The hotel was booked by a customer for 3 days for a marriage function. The room booking charges were received in advance (excluding service tax) in the same year of Rs. 50,000/-. The electricity charges separately billed Rs. 20,000/-, hire charges including catering charges for 3 days billed of Rs.3,25,000/- after deducting the advance.
- (iv) During the year, the conference hall was let out to MNO Ltd. The charges received were as under :  
Hall rent Rs. 4 Lacs, computer & projector systems charges Rs. 25,000/-, electricity charges Rs. 30,000/-. Hall rent includes charges for snacks and cold drinks Rs. 50,000/-
- (v) The hotel garden was let out to a political party for 2 days for a meeting. The charges received Rs. 25,000/-  
The hotel charges 10% service charges which are later distributes as tips to employees.

The above charges are excluding service tax. All the charges have been received in FY 2010-11.

The hotel has already been registered under Service Tax Act in F.Y. 2009-10.

(c) Compute the VAT amount payable by Mr. Shyam, who purchased goods from a manufacturer on payment of Rs.4,16,000 (including VAT) and earned 20% profit on purchase price. VAT rate on both purchases and sales is 4%. [ 4 marks ]

## ANSWER

**Qn 1 (a)** Computation of Gross Total Income of Mr. Sohan for the Assessment year 2011-12

Particulars	Details	Amount
<b>Income from salary</b>	300000	
Less : Loss from let out house property	<u>40000</u>	260000
<b><u>Profit and Gains of Business or Profession</u></b>		
Income from sugar Business	50000	
Less : B/f loss from iron ore business	<u>50000</u>	NIL
<b><u>Capital Gain</u></b>		
Long term capital gain	40000	
Less : Short term capital loss	<u>40000</u>	NIL
Long term capital gain from shares on which STT is paid exempt u/s 10(38)		--
<b><u>Income from other sources</u></b>		
Dividend [Assumed that it is exempt u/s 10 (34)]		--
Income from lottery winning		50000
Winning in card games		6000
Bank interest		<u>5000</u>
Gross Total Income		<u>321000</u>

Note (1) : B/f business loss can only be set off from current year business income and inter head set off is not possible.

Note (2) : For set off of b/f business loss continuance of business is not necessary.

Note (3) : Agriculture income is exempt u/s 10(1), however it shall be considered only for rate purposes.

### **Losses to be carry forward**

	Amount
(1) B/f business loss of iron ore business to the extent not set off during current p.y.	70000
(2) Short term capital loss	20000
(3) Short term capital loss u/s 111	<u>10000</u>
	<u>100000</u>

<b>Ans. 1 (b)</b> Capital gain on transferee of unit 1 by way of slump sale u/s 50 B	<b>Amount</b>
Sale proceeds	2500000
Less : Expenses of transfer	<u>28000</u>
Net consideration proceeds	2472000
Less : Cost of acquisition or improvement ( <b>See Note 1</b> )	<u>1250625</u>
Capital Gain	<u>1221375</u>

### **Note 1**

Cost of acquisition or improvement = Net worth of the undertaking

### **Net worth of the undertaking**

#### **(a) Aggregate value of total assets**

##### **Depreciable Assets**

Building excluding revaluation reserve	900000	
Machinery	300000	
Patents [ <b>Note 2</b> ]	<u>28125</u>	1228125

##### **Other Assets**

Debtors	100000	
Other assets except patent	<u>100000</u>	<u>200000</u>
		<u>1428125</u>

#### **(b) Value of Liabilities**

Bank loan (200000 x 70%)	=	140000	
Trade creditors (150000 x 25%)	=	<u>37500</u>	<u>177500</u>
			<u>177500</u>
Net worth (a – b)	=		Rs. 1250625

**Note 2:** Since patent have been acquired 1.7.2008 therefore depreciation @25% p.a. will be charged for two years on wdv basis. Therefore book values as on 31.3.2010 = 50000 x .75 x .75 = Rs. 28,125



**Ans. 1 (c) Ans.**
**Computation of Taxable Service**

Particulars	Amount in Rs.
i) Amount Received being 10% of assignment fee on 31 <sup>st</sup> march 2010 for software services (Note-1)	6,00,000
ii) Services provided to UNICEF (Note-2)	--
iii) a) Services billed to clients and amount received in which the service tax was collected refer point (iv)	
100 1,04,78,500 x ----- (Note-3) 110.3	95,00,000
b) Two bill in which service tax was not collected they are Rs.3,00,000 of Rs.8,00,000 Therefore it will be assumed that it is collected including tax	
100 11,00,000 x ----- (Note-3) 110.3	9,97,280
<b>Taxable value of Service</b>	<b>1,10,97,280</b>
∴ Service Tax chargeable	
Service tax @ 10% of 1,10,97,280 =	11,09,728
Education cess @ 2% of 11,09,728 =	22,195
Secondary & Higher @ 1% of 11,09,728 =	11,097
∴ Tax Liability = 11,43,020 /-	11,43,020

Note – 1: Since Service tax is chargeable on cash basis, hence advance is taxable although service in respect of that yet to be provided.

Note – 2: Service provided to approved international organization if exempt, hence service tax is not chargeable for service provided to UNICEF.

Note – 3: Any amount recovered is deemed to be inclusive of service tax, whether service tax is charged in the bills or not, hence for payment of service tax the tax element is excluded.

Note – 4: Amount billed to the client is not taxable, since payment for the same is not received during the year.

**Ans. 1 (d)**
**Computation of total sales value**

Particulars	Amount
Intra State Purchases	2,50,000
Purchase of raw material from an unregistered dealer	80,000
High seas purchases of raw material	2,03,500
Purchase of raw material from other state	51,000
Transportation charges, wages and other manufacturing expenses	1,45,000
Interest on bank loan	70,000
Cost of production	7,99,500
(+) Margin @ 15%	1,19,925
Sales	9,19,425

**Computation of VAT Liability**

Input tax credit	10,000
(2,50,000 x 4%)	
Output tax	1,19,425
(7,99,500 x 12.5%)	-----
Net VAT payable	<u>1,09,425</u>

Note – 1: Input tax credit of raw material purchased is not available and hence it is included in the cost of production

Note - 2 : It is assumed that the tax credit of customs duty is not available and hence it is included in the cost of production.

Note -3:- CST paid on interstate purchase is not available for input tax credit.

**Ans. 2 (a)(i) Income of Sikkimese see 10 (26 AAA) :-**

Following income of an individual; being a sikkimese is exempt –

- (i) From any source in the state of sikkim; or
- (ii) by way of dividend or interest on securities.

**Note :** The exemption is not available to a sikkimese women who, on or after 1/4/2008, marries an individual who is not a sikkimese.

**Ans. 2 (a) (ii) Period of Holding Sec 2(42 A) :-**

- 1) Shares held in a company in liquidation :- Period of holding will be taken from the date of acquisition of shares to the date on which the company goes into liquidation :-
- 2) Bonus Shares :- The period of holding shall be taken from the date of allotment of shares till the date preceding the date of transfer of shares.
- 3) Flat in a co-operative society :- The period of holding shall be taken from the date of allotment of the flat from the society to the date preceding the date of transfer of the flat.
- 4) Transfer of a security by a depository :- Period of holding shall be calculated on FIFO basis. For deciding FIFO technique the date of entry in 'Demat Account' is significant and the date of purchase of security is irrelevant.

**Ans. 2 (b)** Where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month/quarter, the assessee may adjust such excess amount paid by him against his Service tax liability for the succeeding month/quarter, subject to the following conditions -

- (a) excess amount paid is on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification,
- (b) excess amount paid by an assessee having Centralised Registration, on account of delayed receipt of details of payments towards taxable services may be adjusted *without monetary limit*,
- (c) in cases other than specified in (b) above, the excess amount paid may be adjusted with a monetary limit of Rs. 1 lakh for a relevant month/quarter,
- (d) the details and reasons for such adjustment shall be intimated to jurisdictional Superintendent of Central Excise within a period of 15 days from the date of such adjustment.

**Ans. 2 (c) Records to be maintained :** Every dealer liable to pay tax under the VAT-law should maintain the following records-

- (a) Value and Quantity of Purchases;
- (b) Value and Quantity of Goods manufactured;
- (c) Value and Quantity of Sales;
- (d) Value and Quantity of goods disposed of otherwise than by way of sale;
- (e) Value and Quantity of Inventory/Stock;
- (f) Separate record of any exempt sale;
- (g) Copies of all invoices, credit and debit notes, etc. issued, in serial number;
- (h) All purchase invoices, copies of customs entries, receipts evidencing payment of customs duty or tax, and credit and debit notes received, filed in a chronological order either by date of receipt or under each supplier's name;
- (i) Details of the amount of tax charged on each sale or purchase;
- (j) VAT Account and total of the output tax and the input tax in each period and a net total of the tax payable or the excess carried forward, as the case may be, at the end of each month;
- (k) details of each supply of goods from the business premises, unless such details are available at the time of supply in invoices issued at, or before, that time.

**Ans. 3 (a)**

**Computation of Gross Total Income**

Income under head PGBP

<u>Gross Receipts</u>	
Receipts from sale of Medicine	250000
Consultation fee	50000
Visiting fee	200000
Lectures	5000
Total (a)	505000
<u>Payments</u>	
Purchase of medicine	47000
Payment of medical journal	5000



Vehicle expenses : $(50000 \times \frac{3}{4})$	37500
<u>Depreciation</u>	
Vehicles $(400000 \times \frac{3}{4} \times \frac{15}{100})$	45000
Surgical equipment $(50000 \times \frac{15}{100})$	7500
Interest (on vehicle's loan) $\left\{ 3000000 \times \frac{8}{100} \times \frac{9}{12} \times \frac{3}{4} \right\}$	13500
Interest on $\frac{1}{4}^{\text{th}}$ part of the house used for clinic purpose $(22333 \times \frac{1}{4})$	5583
Total (b)	<u>161083</u>
Income under the head PGBP (a – b) <b>A</b>	<u>343917</u>

Income from house property

NAV as per Sec 23(2)(a)	NIL
Intt. on loan $(22,333 \times \frac{3}{4})$	<u>(16750)</u>
Income from Self occupied Portion <b>B</b>	<u>(16750)</u>

Income from other sources

Family Pension Received	2,80,000	
Less : Deduction u/s 57(iia) maximum limit	<u>15,000</u>	265000
Lottery (Gross) $35000 \times \frac{100}{70}$		50000
Saving bank interest		1000
Share from HUF		Exempt
Agriculture income		Exempt
I/O/S	<b>C</b>	<u>316000</u>
Gross total income <b>(A + B + C)</b>		643167
<u>Deduction</u>		
U/S 80 C for Bank deposit more than 5 years	150000	
Housing loan principal repayment	<u>98667</u>	
Total	248667 but subject to	100000
U/s 80 D		
Medical insurance premium for her own life	(15000)	
" " for parents life being senior citizen	( 5000)	20000
Total Income		<u>523167</u>
	Or	523170

Note 1 : Interest on LIC housing loan is allowed upto Rs. 30,000 if the house property is self occupied

**Ans. 3 (b) Provisional payment of tax**

**Applicability**

In case the assessee is unable to correctly estimate, at the time of deposit, actual amount of service tax for any month or quarter.

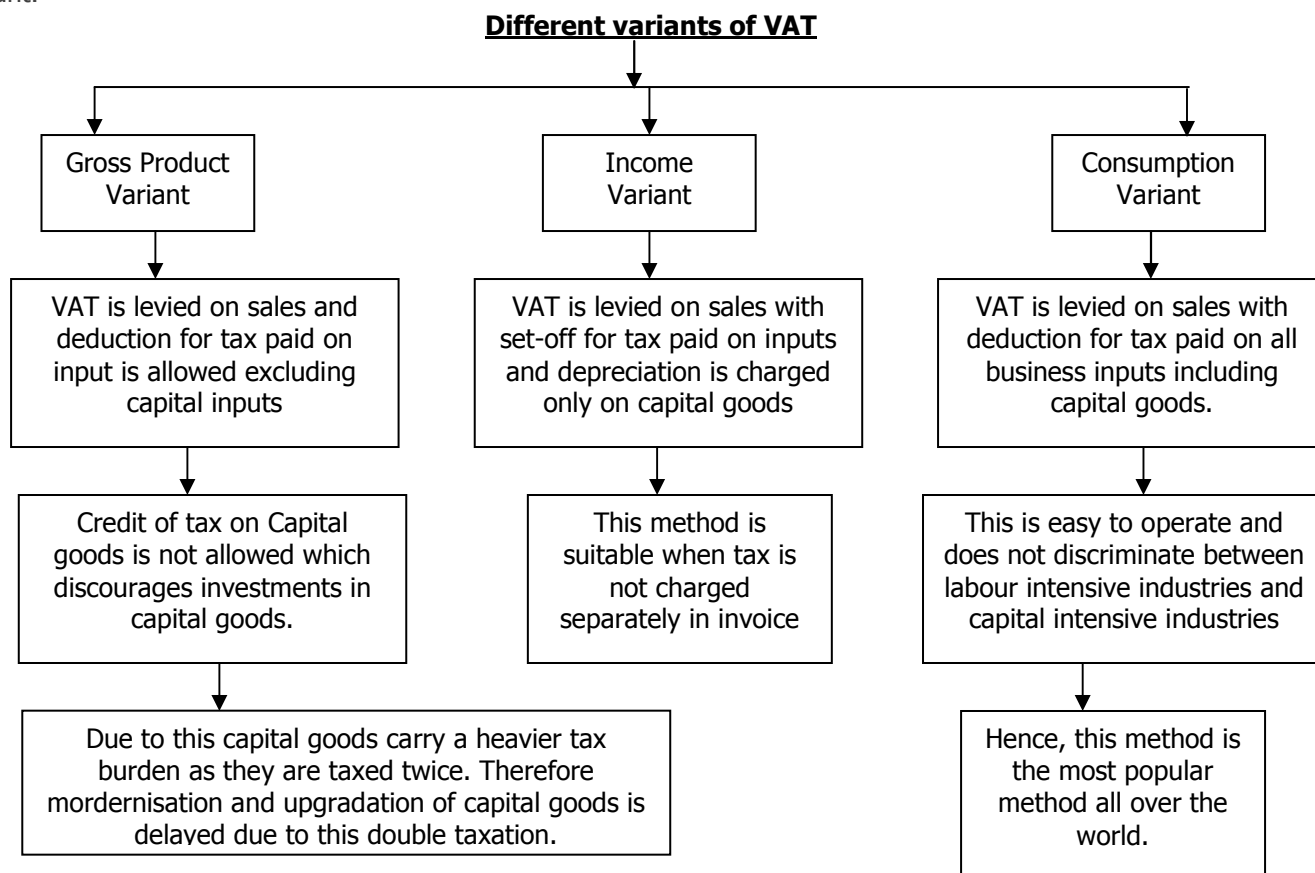
**Procedure**

He may make a written request to Assistant /Deputy Commissioner of Central Excise for making payment of service tax on provisional basis. Assessee need to state the reason why he is unable to decided his tax liability correctly.

On receipt of such a request, the concerned officer may allow payment of service tax on provisional basis on such value of taxable services as may be specified by him.

In case assessee makes provisional payment of service tax he shall furnish return in Form - 3A.

**Ans. 3 (c)** There are 3 variants of VAT - (i) Gross product variant, (ii) Income variant, and (iii) Consumption variant.



**Ans. 4 (a) (i) Consequences of failure to deduct tax at source or pay such tax deducted to the credit of the Central Government [Section 201]**

(1) The following persons shall be deemed to be an assessee in default, if they do not deduct the whole or any part of the tax or after deducting, fail to pay the tax -

- (i) any person including the principal officer of a Company, who is required to deduct any sum in accordance with the provisions of the Act, and
- (ii) an employer paying tax on non-monetary perquisites u/s 192(1A).

(2) However, no penalty shall be charged under section 221 from such person, principal officer or company unless the Assessing Officer is satisfied that such failure to deduct or pay the tax deducted, was without good and sufficient reasons.

(3) Such person, principal officer or company shall also be liable to pay simple interest at 1% per month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid.

(4) Such interest should be paid before furnishing the statement in accordance with section 200(3).

(5) Where the tax has not been paid after it is deducted, the amount of the tax together with the amount of simple interest thereon shall be a charge upon all the assets of the person or the company, as the case may be.

**Ans. 4 (a) (ii)** Yes, Under Section 13 A the following incomes derived by a political party are exempt in computing its total income :-

- (i) Income which is chargeable under head 'Income from House Property; or
- (ii) Income chargeable under the head 'Income from other sources;
- (iii) Any income by way of capital gains;
- (iv) Any income by way of voluntary contribution from any person.

The above exemption is available when the following conditions are satisfied :--

- (i) maintenance of such books of accounts and other documents as will enable the Assessing Officer to compute the income there from;
- (ii) a record of name and address of persons contributing in excess of Rs. 20,000;
- (iii) accounts are audited by a Chartered Accountant ;
- (iv) the treasurer of such political party or any person authorised by the political party in this behalf must submit a report under Section 29C(3) of the Representation of People Act, 1951 for the relevant financial year.

**Ans. 4 (b) Determination of Value when consideration is wholly or partly not in money:** Where the consideration received is not wholly or partly consisting of money, the value shall be determined by the service provider in the following manner:-

(a) the value of such taxable service shall be equivalent to the gross amount charged by the service provider to provide similar service to any other person in the ordinary course of trade and the gross amount charged is the sole consideration;

(b) where the value cannot be determined in accordance with clause (a), the service provider shall determine the equivalent money value of such consideration which shall, in no case, be less than the cost of provision of such taxable service.

**Ans. 4 (c) (i)** The statement is incorrect, as per the VAT-laws of the respective states, a VAT-invoice should contain the rate and amount of tax charged in respect of taxable goods separately in the invoice hence it is not open to the dealer to issue 'tax invoice' inclusive of VAT i.e. aggregate of sales price & VAT.

However In case of small dealers or in case the sale is to an end consumer (i.e. in cases where VAT invoices are not required to be issued), the invoice may not contain details of tax (i.e. rate and amount of tax).

**Ans. 4 (c) (ii)** The Statement is incorrect. Most of the State VAT laws in India provide for audit of accounts of a registered dealer, if his turnover exceeds an amount specified in the law itself. Hence every registered dealer is not compulsorily required to get its books of accounts audited under VAT Laws of different states irrespective of limit of turnover.

**Ans. 5 (a) Computation of Income from salary for Mr. X**

Basic pay (W.N. 1)	243000
DA (10% of basic)	24300
Bonus (basic salary / 12 months)	20250
Employer's contribution towards RPF (in excess of 12%) (267300 x 3/15)	53460
Facility of laptop	NIL
Salary of house keeper (Rs. 1000 per month x 12 months)	12,000
Gift by company in excess of Rs. 5,000	5,000
Conveyance allowance	Exempt
Personal accident policy	Exempt
Telephone allowance	6000
Reimbursement of medical facility (25,000 – 15,000)	10000
Medical insurance premium	10000
Rent free accommodation (W.N. 2)	40,388
	<u>424398</u>

**Working Note : -**

(1) Salary for 1 – 1 – 10 – 31/12/11 => Rs. 20,000 pm.

1 – 1 – 11 - 31/12/12 => Rs. 21,000 p.m.

Salary for the period 1 Apr. 10 - 31 march 11

= (20,000 x 9 months) + (21,000 x 3 months)

= Rs. 2,43,000/-

(2) Rent Free Accommodation

(i) 15% of Salary [See point (iii)] = 2,69,250 x 15%

= 40388/-

(ii) Rent paid by the Employer = 10,000 x 12 = 1,20,000 /-

∴ 40,388/- whichever lower subjected to Sec. 17(2)(i) Rule 3(1)

(iii) Salary for the purpose of RFA

Basic = 2,43,000

Bonus = 20,250

Telephone allowance = 6,000

Total = 2,69,250

**Ans. 5 (b) E-filing of service tax returns :** E-filing is a facility for electronic filing of service tax returns by the assessee from his office, residence or any other place of choice, through the internet, by using a computer. It is a facilitation, simplification and modernization initiative by the Department. It is an alternative to the manual filing of return. This facility is available to all service providers.

**Facility of e-filing of service tax return :** For this purpose, the assessee has to obtain a user name and password from the Department.

**Eligibility of services for e-filing :** In the Act there is no specific provision about list of services which are eligible for e-filing, therefore all types of services can be covered under e-filing. But in case of an assessee, who has paid service tax of Rs. 10 lakhs or above in preceding financial year or has already paid service tax of Rs. 10 lakhs in current financial year, he has to mandatorily file his return *electronically*.

**Ans. 5 (c)** Every registered dealer who is liable to pay tax under the concerned State-VAT law and whose turnover didn't exceed Rs. 50 lakhs in the last financial year is eligible to opt for the composition scheme.

However, the dealer opting for composition scheme has to fulfill the following condition:-

- (a) He cannot make sells of goods in the course of inter-state trade or commerce (i.e. "dealers effecting inter-state sales only"); and
- (b) He cannot make sells of goods in the course of import into or export out of the territory of India (i.e. "importers" and "exporters"); and
- (c) He cannot transfer the goods outside the State otherwise than by way of sale or for execution of works contract (i.e. "branch transfers viz. Consignor, etc." or "works contractors")
- (d) He cannot make inter-State purchases; and
- (e) He cannot issue vatable invoices.

**Ans. 6 (a)** As there is amalgamation of companies during the previous year, the depreciation on the assets acquired before the date of amalgamation shall be apportioned in the ratio of days of use by the amalgamating company & amalgamated company, as follows :

WDV upto the date of succession	54.40 lacs
(40 lacs + 14.40 lacs)	
Total Depreciation had there been no amalgamation = [ 40 lacs x 15% + 14.40 x 15% x 50%]	
	= Rs. 7.08 lacs

**Depreciation allowable to each of the company:**

Sai Ltd. (Period = 1.4.2010 – 1.1. 2011; 275 days)

275		-----		
				= Rs. 5.33 lacs
= 7.08 lacs x				
365				

Shirdi Ltd.	90		-----	
				= Rs. 1.75 lacs
= 7.08 lacs x				
365				

**Ans. 6 (b) (i)** The statement is incorrect. Scope of taxable service shall include service provided or to be provided to a business entity, by any other business entity, in relation to advice, consultancy or assistance in any branch of law, in any manner. However, any service provided by way of appearance before any court, tribunal or authority shall not amount to taxable service.

Thus, the legal consultancy services shall not be liable to service tax in the following cases:-

- (a) where such service is provided by way of appearance before any court, tribunal or authority;
- (b) where the service provider and/or service recipient is an individual.)

**Ans. 6 (b) (ii)** The statement is **correct**. The Finance Act, 1994 came into force from 1.7.1994. By section 64(1), the Act extends to the whole of India except the state of Jammu and Kashmir, and by section 64(3), the levy applies to "taxable services provided". Thus, services provided in the State of Jammu and Kashmir are not liable to service tax.

As per Article 370 of the Constitution, any Act of Parliament applies to Jammu & Kashmir only with concurrence of State Government. Since, no such concurrence has been obtained in respect of Finance Act, 1994, service tax provisions are not applicable in Jammu and Kashmir.

**Ans. 6 (c) Input tax credit is not allowed in the following circumstances:**

- (i) Purchases from unregistered dealers;
- (ii) Imported goods;
- (iii) Inter state purchases

- (iv) Purchases from registered dealer who opt for composition scheme;
- (v) Purchase of goods as may be notified by the State Government;
- (vi) Purchase of goods where the purchase invoice is not available;
- (vii) Purchase of goods where invoice does not show the amount of tax separately;
- (viii) Purchase of goods, which are utilized in exempted goods;
- (ix) Purchase of goods for personal use or for gifts

**Ans. 7 (a) (i)** As Mr. Shah is not covered by the payments of Gratuity Act, 1972. The least of the following is exempt:

- (a) Rs.3,50,000
- (b) Gratuity Actually received
- (c)  $\frac{1}{2} \times \text{Last 10 months Average Salary} \times \text{Completed years of service rendered by employee}$

Where :

$$\text{Last 10 months Avg. Salary} = \frac{[25,000 \times 7] + [27,000 \times 3] + [1100 \times 10]}{10}$$

$$= \text{Rs. 26,700 /-}$$

Completed years of service = 30 year 7 months i.e. = 30 years

Hence exemption :

- (a) Rs. 3,50,000
- (b) Rs. 8,00,000 (Actual gratuity received)
- (c)  $\frac{1}{2} \times 26,700 \times 30 = 4,00,500$

Hence exemption in respect of gratuity = Rs.3,50,000 (Being least of above)

**Ans. 7 (a) (ii)**

- (i) Income from house Property
- (ii) Income from other sources
- (iii) Profits & Gains of Business or profession
- (iv) Profits & Gains of Business or profession or Income from other sources
- (v) Income from other sources
- (vi) Income from other sources
- (vii) Income from other sources
- (viii) Income from other sources

**Ans. 7 (a) (iii)** House property situated in foreign country

Any income from house property situated in foreign country is an income which accrues or arises outside India. It is not taxable in the hands of a person who is resident but not ordinarily resident and shall be taxable in hands of person who is resident and ordinarily resident if it is received in India.

(ii) House property with disputed ownership

U/s 27 of Income Tax Act, 1961 in case of Holder of importable estate the holder of importable estate is deemed to be owner of all properties comprised in the estate, therefore in the present case the holder of the disputed house property will be deemed as owner of that property & annual value of the above property will be chargeable in his hands u/s 22.

**Ans. 7 (b)**

**Calculation of Taxable Service**

Particulars	Amount in Rs.
i) Reception room & vehicle parking space were let out for a film shooting	5,00,000
ii) The conference hall was let out to a Gujwari Samaj Trust for a week for music competition	50,000
iii) Hotel was booked + hire charges + Electricity Charges (50,000 + 3,25,000+20,000)	
= 3,95,000	

Less: Abatement @40% = 1,58,000	2,37,000
iv) Service rendered to MNO Ltd. (4,00,000 + 25,000 + 30,000 - 50,000)	4,05,000
v) The hotel garden was let out	<u>25,000</u>
	12,17,000
Add : Service charges @ 10%	<u>1,21,700</u>
	<u>13,38,700</u>

Tax liability = 13,38,700 x 10.3%

= Rs.1,37,886/-

**Ans. 7 (c)**

Raw material (Purchase price) = 4,16,000 x  $\frac{100}{104}$   
 = 4,00,000  
 Selling price = Purchase price + 20% profit on purchase price  
 = 4,00,000 + (20% of 4,00,000)  
 = 4,80,000

Computation of VAT Payable

Input VAT credit

4  
 4,16,000 x  $\frac{4}{104}$  = 16,000 (A)

Output VAT 4,80,000 x 4 = 19,200 (B)

Net VAT payable (A-B) = 3,200