

The Suggested Answers for Paper – 5: Taxation are based on the provisions applicable for A.Y.2007-08, which is the assessment year relevant for November, 2007 examination, for the Income-tax portion (Questions 1 to 5). The Suggested Answers for Service tax and VAT (Questions 6 to 8) are based on the provisions as amended by the Finance Act, 2006 and notifications/circulars issued upto 30.04.2007, which are relevant for November, 2007 examination.

PAPER – 5 : TAXATION

Answer all questions

Question 1

Answer any five out of the following six sub-divisions, with reference to the provisions of the Income-tax Act, 1961 for the assessment year 2007-08:

- (a) X Ltd. follows mercantile system of accounting. After negotiations with the bank, interest of Rs.4 lakhs (including interest of Rs.1.2 lakhs pertaining to year ended 31.03.2007) has been converted into loan. Can the interest of Rs.1.2 lakhs so capitalized be claimed as business expenditure?
- (b) Can a Primary Co-operative Agricultural and Rural Development Bank claim deduction under section 80P in respect of income derived from the business of banking?
- (c) The total income of a University without giving effect to exemption under section 10(23C) is Rs. 46 lacs. Its total income, however, is nil. Should the University file its return of income?
- (d) Discuss with brief reasons, whether true or false:
 - (i) It is a condition precedent to write off in the books of account, the amount due from debtor to claim deduction for bad debt.
 - (ii) Tax on fringe benefits provided for employment is payable by all employers.
 - (iii) Failure to deduct tax at source in accordance with the provisions of Chapter XVII-B, inter alia, from the amounts payable to a resident as rent or royalty, will result in disallowance while computing the business income. (5 x 2 =10 Marks)

Answer

- (a) Explanation 3D to section 43B provides that if any interest payable by the assessee is converted into a loan, the interest so converted and not "actually paid" shall not be deemed as actual payment, and hence would not be allowed as deduction. Therefore, the interest of Rs.1.2 lakhs converted into loan cannot be claimed as business expenditure.
- (b) Sub-section (4) to section 80P provides that from the assessment year 2007-08, the provisions of section 80P shall not apply to any co-operative bank, other than, inter alia, a primary co-operative agricultural and rural development bank (PCARB). Thus, a PCARB is entitled to claim deduction under section 80P in respect of income derived

from the business of banking.

- (c) Section 139(4C) enjoins that, a university referred to in section 10(23C), should file the return of income if its total income without giving effect to the exemption under section 10, exceeds the basic exemption limit. The provisions of the Act will apply as if it were a return required to be furnished under section 139(1). In the given case, since the total income of the University before giving effect to the exemption exceeds the basic exemption limit, it has to file its return of income.
- (d) (i) True: It is mandatory to write off the amount due from a debtor as not receivable, in order to claim the same as bad debt under section 36(1)(vii).
- (ii) False: Tax on fringe benefits provided for employment is payable by every employer other than the following:
- an individual;
 - a Hindu undivided family;
 - any person entitled to claim exemption under section 10(23C) or is registered under section 12AA;
 - a registered political party.
- (iii) True: Section 40(a)(ia) provides that failure to deduct tax at source from rent or royalty payable to a resident, in accordance with the provisions of Chapter XVII-B, will result in disallowance of such expenditure. Such expenditure is allowable only in the year in which tax is deducted and remitted to the credit of Central Government.

Question 2

Ramdin working as Manager (Sales) with Frozen Foods Ltd., provides the following information for the year ended 31.03.07:

- | | |
|--|---------------------|
| – Basic Salary | Rs. 15,000 p.m. |
| – DA (50% of it is meant for retirement benefits) | Rs. 12,000 p.m. |
| – Commission as a percentage of turnover of the Company | 0.5 % |
| – Turnover of the Company | Rs. 50 lacs |
| – Bonus | Rs. 50,000 |
| – Gratuity | Rs. 30,000 |
| – Own Contribution to R.P.F. | Rs. 30,000 |
| – Employer's contribution to R.P.F. | 20% of basic salary |
| – Interest credited in the R.P.F. account @ 15% p.a.. | Rs. 15,000 |
| – Gold Ring worth Rs.10,000 was given by employer on his 25 th wedding anniversary. | |
| – Music System purchased on 02.04.06 by the company for Rs. 85,000 and was given to him for personal use. | |
| – Two old heavy goods vehicles owned by him were leased to a transport company against the fixed charges of Rs.6,500 p.m. Books of account are not maintained. | |

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- Received interest of Rs.5,860 on bank FDRs, dividend of Rs. 1,260 from shares of Indian Companies and interest of Rs. 7,540 from the debentures of Indian Companies.
- Made payment by cheques of Rs.15,370 towards premium of Life Insurance policies and Rs.12,500 for Mediclaim Insurance policy.
- Invested in 6 years NSC Rs.30,000 and in FDR of SBI for 7 years Rs. 50,000.
- Donations of Rs.11,000 to an institution approved u/s 80G and of Rs.5,100 to Prime Minister's National Relief Fund were given during the year.

Compute the total income and tax payable thereon for the A.Y. 2007-08. (20 Marks)

Answer

Computation of Total Income for the Assessment year 2007-08

Particulars	Rs.	Rs.
Income from Salaries		
Basic Salary (15,000 x 12)		1,80,000
DA (12,000 x12)		1,44,000
Commission on Turnover (0.5% of Rs. 50 lacs)		25,000
Bonus		50,000
Gratuity (Note 1)		30,000
Employer's contribution to RPF		
Actual contribution [20% of Rs. 1,80,000]	36,000	
Less: Exempt (Note 2)	33,240	2,760
Interest credited in RPF account @ 15% p.a.	15,000	
Less: Exempt @ 9.5% p.a.	9,500	5,500
Gift of gold ring worth Rs.10,000 on 25 th wedding anniversary by employer is a fringe benefit liable to tax in the hands of the employer.		Nil
Perquisite value of music system given for personal use (being 10% of actual cost) i.e. 10% of Rs. 85,000		8,500
		4,45,760
Profits and Gains of Business or Profession		
Lease of 2 trucks on contract basis against fixed charges of Rs. 6,500 p.m. In this case, presumptive tax provisions of section 44AE will apply i.e. Rs. 3,500 p.m. for each of the two trucks (3,500x 2 x12). He cannot claim lower profits and gains since he has not maintained books of account.		84,000
Income from Other Sources		
Interest on bank FDRs	5,860	

Interest from debentures	7,540	
Dividend on shares [Exempt under section 10(34)]	Nil	13,400
Gross total Income		<u>5,43,160</u>
Less: Deductions under Chapter VI-A		
Section 80C		
LIC	15,370	
NSC	30,000	
FDR of SBI for 7 years	50,000	
Employee's contribution to R.P.F.	30,000	
	<u>Total</u>	<u>1,25,370</u>
Limited to	1,00,000	
Section 80D Mediclaim Insurance (amount actually paid or Rs. 10,000, whichever is less)	10,000	
Section 80G (Note 3)	10,600	1,20,600
Total Income		<u>4,22,560</u>
Tax on total income		
Income-tax		76,768
Add: Education Cess @ 2%		1535
Total Tax Payable		<u>78,303</u>
Tax Payable (rounded off)		78,300

Notes:

- Gratuity received during service is fully taxable.
- Employer's contribution in the R.P.F. is exempt up to 12% of the salary i.e. 12% of (Basic Salary + DA for retirement benefits + Commission based on turnover)
 - = 12% of (Rs. 1,80,000+ (50% of Rs.1,44,000)+ Rs. 25,000)
 - = 12% of 2,77,000
 - = Rs. 33,240
- Deduction under section 80G is computed as under:

	Rs.
Donation to PM National Relief Fund (100%)	5,100
Donation to institution approved under section 80G (50% of Rs. 11,000) (amount contributed Rs. 11,000 or 10% of Adjusted Gross Total Income i.e. Rs. 43,316, whichever is lower)	5,500
Total deduction	<u>10,600</u>

Adjusted Gross Total Income = Gross Total Income – Deductions under section 80C and 80D
 = Rs.5,43,160 – Rs.1,10,000
 = Rs.4,33,160.

Question 3

- (a) Vivitha Bio-medicals Ltd. is engaged in the business of manufacture of bio-medical items. The following expenses were incurred in respect of activities connected with scientific research:

Year ended	Item	Amount (Rs.)
31.03.2004	Land	10,00,000
(Incurred after 1.9.2003)	Building	25,00,000
31.03.2005	Plant and machinery	5,00,000
31.03.2006	Raw materials	2,20,000
31.03.2007	Raw materials and salaries	1,80,000

The business was commenced on 01-09-2006.

In view of availability of better model of plant and machinery, the existing plant and machinery were sold for Rs. 8,00,000 on 1.03.2007.

Discuss the implications of the above for the assessment year 2007-08 along with brief computation of deduction permissible under section 35 assuming that necessary conditions have been fulfilled. You are informed that the assessee's line of business is eligible for claiming deduction under Section 35 at 150% on eligible items. (7 Marks)

- (b) Mrs. Malini Hari shifted her industrial undertaking located in corporation limits of Faridabad, to a Special Economic Zone (SEZ) on 1.12.2006:

The following particulars are available:		Rs.
(a)	Land: Purchased on 20.01.2002	4,26,000
	Sold for	22,00,000
(b)	Building [Construction completed on 14.03.2004]	
	WDV of building as on 01.04.2006	8,20,000
	Sold for	11,39,000
(c)	WDV of cars as on 01.04.2006	7,40,000
	Sold for	6,00,000
(d)	Expenses on shifting the undertaking	1,15,000
(e)	Assets acquired for the undertaking in the SEZ (on or before 25.06.2007):	
(i)	Land	3,00,000
(ii)	Building	5,00,000

(iii)	Computers	1,00,000
(iv)	Car	4,20,000
(v)	Machinery (Second hand)	2,00,000
(vi)	Furniture	50,000

There is no intention of investing in any other asset in this undertaking.

Compute the exemption available under section 54GA for the assessment year 2007-08.

Cost inflation indices are:

Financial year	Index	
2001-02	426	
2006-07	519	(8 Marks)

Answer

- (a) 1. As per section 35, where a company engaged in manufacture of bio-medical items incurs any expenditure on scientific research during the current year, it is eligible for claiming weighted deduction of a sum equal to 150% of the eligible expenditure.

The eligible expenditure and quantum of deduction will be:

- (a) Current year capital or revenue expenditure incurred for scientific research (weighted deduction @ 150%).
- (b) Any expenditure incurred during earlier 3 years immediately preceding the date of commencement of business on payment of salary or purchase of materials, or capital expenditure incurred other than expenditure on acquisition of land (actual expenditure qualifies for deduction).

The deduction available under section 35 for scientific research will, therefore, be:

	Particulars	Rs.
(a)	Land	Nil
(b)	Building	25,00,000
(c)	Revenue expenses of last 3 years	2,20,000
(d)	Capital expenditure of last 3 years: Plant and machinery	5,00,000
(e)	Current year revenue expenditure Rs. 1,80,000 (150% of Rs. 1,80,000)	2,70,000
	Deduction under section 35	<u>34,90,000</u>

2. Section 41(3) provides that where a capital asset used for scientific research is sold, without having been used for other purposes, the lower of sale proceeds or the total amount of deduction earlier allowed under section 35 will be considered as income from business of the previous year in which the sale took place.

Therefore, business profit under section 41(3) should be lower of the following:

- (1) Sale proceeds i.e. Rs. 8,00,000
- (2) Total amount of deduction earlier allowed under section 35 i.e. Rs. 5,00,000

Rs. 5,00,000 will be deemed to be business profits under section 41(3).

3. The difference between sale proceeds and business income under section 41(3) will be treated as short-term capital gain.

Sale proceeds of plant and machinery	8,00,000
Less: Business Income as per section 41(3)	<u>5,00,000</u>
Short-term capital gain	<u>3,00,000</u>

- (b) Where an assessee shifts an existing undertaking from an urban area to a SEZ and incurs expenses for shifting and acquires new assets for the undertaking in the SEZ, section 54GA comes into play.

The capital gain, short-term or long-term, arising from transfer of land, building, plant and machinery in the existing undertaking would be exempt under section 54GA if the assessee, within a period of one year before or three years after the date on which the transfer took place,

- (i) acquires plant and machinery for use in the undertaking in the SEZ;
- (ii) acquires land or building or constructs building for the business of the undertaking in the SEZ;
- (iii) incurs expenses on shifting of the undertaking.

Computation of capital gain:

(a) Land:	
Sale price	22,00,000
Less: Indexed cost of acquisition $4,26,000 \times 519/426$	<u>5,19,000</u>
Long-term capital gain	<u>16,81,000</u>
(b) Building:	
Sale value	11,39,000
Less: Opening WDV	<u>8,20,000</u>
Short-term capital gain under section 50	<u>3,19,000</u>
(c) Plant:	
Car	
Sale value	6,00,000
Less: Opening WDV	<u>7,40,000</u>
Short term capital loss under section 50	(-)1,40,000

Net short term capital gain (Rs. 3,19,000 – Rs.1,40,000)	1,79,000
Total capital gain (LTCG+STCG)	
i.e. Rs. 16,81,000+ Rs.1,79,000	18,60,000

Exemption under section 54GA is available in respect of the following assets acquired and expenses incurred:

	Rs.
Land	3,00,000
Building	5,00,000
Plant:	
Computers	1,00,000
Car	4,20,000
Machinery	2,00,000
Expenses of shifting	1,15,000
Total Exemption	16,35,000

Note:

1. The total exemption available under section 54GA is the lower of capital gains of Rs. 18,60,000 or the amount of investment which is Rs.16,35,000. Hence, the amount of exemption available under section 54GA is Rs. 16,35,000.
2. Furniture purchased is not eligible for exemption under section 54GA.
3. There is no restriction regarding purchase of second hand machinery.
4. Computers and car would constitute Plant.

Question 4 (First Alternative)

- (a) Mr. Thomas inherited a house in Jaipur under will of his father in May, 2002. The house was purchased by his father in January, 1980 for Rs. 2,50,000. He invested an amount of Rs. 7,00,000 in construction of one more floor in this house in June, 2004. The house was sold by him in November, 2006 for Rs. 37,50,000. The valuation adopted by the registration authorities for charge of stamp duty was Rs. 47,25,000 which was not contested by the buyer, but as per assessee's request, the Assessing officer made a reference to Valuation officer. The value determined by the Valuation officer was Rs. 47,50,000. Brokerage @ 1% of sale consideration was paid by Mr. Thomas to Mr. Sunil. The market value of house as on 01.04.1981 was Rs. 2,70,000.

You are required to compute the amount of capital gain chargeable to tax for A.Y. 2007-08 with the help of given information and by taking CII for the F.Y. 2006-07 as 519 and for F.Y. 2004-05 as 480. (9 Marks)

- (b) Mr. Ghose has four minor children consisting 2 daughters and 2 sons. The annual income of 2 daughters was Rs. 7,500 and Rs. 5,000 and of sons was Rs. 5,500 and Rs. 1,250 respectively. The daughter who was having income of Rs. 5,000 was suffering from

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a disability specified under section 80U. Work out the amount of income earned by minor children to be clubbed in the hands of Mr. Ghose. (5 Marks)

Answer

(a) Computation of Long term Capital Gain for A.Y. 2007-08

Sale consideration as per section 50C of the Act		47,25,000
(Note-1)		
Less: Expenses incurred on transfer being brokerage		
@ 1% of sale consideration of Rs. 37.50 lacs		<u>37,500</u>
		46,87,500
Less: Indexed cost of acquisition (Note-2)		
$\frac{2,70,000 \times 519}{447}$	= 3,13,490	
Indexed cost of improvement		
$\frac{7,00,000 \times 519}{480}$	= <u>7,56,875</u>	<u>10,70,365</u>
Long term capital gain		<u>36,17,135</u>

Notes:

1. As per section 50C, where the consideration received or accruing as a result of transfer of a capital asset, being land or building or both, is less than the valuation by the stamp valuation authority, such value adopted or assessed by the stamp valuation authority shall be deemed to be the full value of consideration. Where a reference is made to the valuation officer, and the value ascertained by the valuation officer exceeds the value adopted by the stamp valuation authority, the value adopted by the stamp valuation authority shall be taken as the full value of consideration.

Sale consideration Rs. 37,50,000

Valuation made by registration authority for stamp duty Rs. 47,25,000

Valuation made by the valuation officer on a reference Rs. 47,50,000

Applying the provisions of section 50C to the present case, Rs. 47,25,000, being, the value adopted by the registration authority for stamp duty, shall be taken as the sale consideration for the purpose of charge of capital gain.

2. The house was inherited by Mr. Thomas under the will of his father and therefore the cost incurred by the previous owner shall be taken as the cost. Value as on 01.04.81 accordingly shall be adopted as the cost of acquisition of the house property. However, indexation benefit will be given from the year in which Mr. Thomas first held the asset i.e. P.Y.2002-03.

(b) Income earned by minor children to be clubbed with the income of Mr. Ghose	
(i)	Income of two daughters (7,500 + Nil) 7,500
	Less: Income exempt u/s 10(32) 1,500
	Total (A) <u>6,000</u>
(ii)	Income of two sons (5,500 + 1,250) <u>6,750</u>
	Less: Income exempt u/s 10(32) (1,500 + 1,250) 2,750
	Total (B) <u>4,000</u>
	Total Income to be clubbed as per section 64(1A) (A+B) 10,000

The income of daughter suffering from disability specified under section 80U is not to be clubbed with the income of Mr. Ghose.

Question 4 (Second Alternative)

(a) Mr. B.A. Patel, a non-resident, operates an Aircraft between London to Ahmedabad. For the Financial year ended on 31st March, 2007, he received the amounts as under:

- (i) For carrying passengers from Ahmedabad Rs. 50 lacs.
- (ii) For carrying passengers from London Rs. 75 lacs received in India.
- (iii) For carrying of goods from Ahmedabad Rs. 25 lacs.

The total expenditure incurred by Mr. B.A. Patel for the purposes of the business for the financial year 2006-07 was Rs. 1.4 crores.

Compute the income of Mr. B.A. Patel under the head "Profits and Gains from business or profession" for the financial year ended on 31st March 2007 relevant to assessment year 2007-08. (8 Marks)

(b) Comment on the allowability of the following claims made by the assessee:

- (i) Mr. Achal, a hotelier, claimed expenditure on replacement of Linen and carpets in his hotel as revenue expenditure. (2 Marks)
- (ii) Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account for the Financial year ended on 31st March, 2007 audited under section 44AB. Her total income for the assessment year 2007-08 is Rs. 1,35,000. She wants to furnish her return of income for assessment year 2007-08 through a tax return preparer. (4 Marks)

Answer

(a) Under section 44BBA, in case of an assessee, being a non-resident, engaged in the business of operation of aircraft, a sum equal to 5% of the aggregate of the following amounts shall be deemed to be his business income:

- (a) the amount paid or payable, whether in or out of India, to the assessee on account

of carriage of passengers, goods etc. from any place in India; and

- (b) the amount received or deemed to be received in India by the assessee on account of carriage of passengers, goods etc. from any place outside India.

Hence, the income of Mr. B.A. Patel chargeable to tax in India under the head "Profits and Gains of business or profession" is determined as under:

Particulars	Rs.
(i) For carrying passengers from Ahmedabad	50,00,000
(ii) For carrying passengers from London, amount received in India	75,00,000
(iii) For carrying goods from Ahmedabad	25,00,000
Total	1,50,00,000

Hence, income from business computed on presumptive basis as per section 44BBA is Rs. 7,50,000, being 5% of Rs.1,50,00,000.

Note: No deduction is allowable in respect of any expenditure incurred for the purpose of the business.

- (b) (i) The expenditure on replacement of linen and carpets in a hotel are in the nature of expenses incurred for the business and are allowable as revenue expenses under section 37(1).
- (ii) Section 139B provides a scheme for submission of return of income for any assessment year through a tax return preparer. However, it is not applicable to persons whose books of account are required to be audited under section 44AB. Therefore, Mrs. Hetal cannot furnish her return of income for A.Y.2007-08 through a tax return preparer.

Question 5

Answer any four of the following five sub-divisions with regard to the provisions of the Income-tax Act, 1961:

- (a) Enumerate eight transactions for which quoting of Permanent Account Number is mandatory.
- (b) Briefly discuss the provisions relating to payment of advance tax on income arising from capital gains and casual income.
- (c) How is exemption granted by section 10(10CC) in respect of income-tax paid by employer?
- (d) Discuss in brief the provisions relating to set off and carry forward of losses in speculation business.
- (e) Briefly explain the provisions of section 197 in respect of obtaining certificate for deduction of tax at a lower rate. (4 x 4 = 16 Marks)

Answer

- (a) Quoting of PAN is mandatory in the case of following transactions:
- (1) In all returns to, or correspondence with, any income tax authority,
 - (2) Sale or purchase of any immovable property valued at Rs. 5 lakhs or more.
 - (3) A time deposit exceeding Rs. 50,000 with a banking company.
 - (4) A contract for sale or purchase of securities exceeding value of Rs. 1,00,000.
 - (5) Cash payment in excess of Rs. 25,000 in connection with travel to any foreign country at any one time.
 - (6) Bill payments to hotels and restaurants exceeding Rs. 25,000 at any one time.
 - (7) Cash deposit aggregating Rs. 50,000/- or more with a banking company during any one day.
 - (8) Making an application to any bank or banking institution or company or any institution for issue of a credit card.

Note: The above list is illustrative and not exhaustive. Entire list may be seen in Chapter 10 of "Taxation" study material.

- (b) The proviso to section 234C contains the provisions for payment of advance tax in case of capital gains and casual income.

Advance tax is payable by an assessee on his/its total income, which includes capital gains and casual income like income from lotteries, crossword puzzles, etc.

Since it is not possible for the assessee to estimate his capital gains, or income from lotteries etc. it has been provided that if any such income arises after the due date for any installment, then, the entire amount of the tax payable (after considering tax deducted at source) on such capital gains or casual income should be paid in the remaining installments of advance tax, which are due.

Where no such installment is due, the entire tax should be paid by 31st March of the relevant financial year.

No interest liability on late payment would arise if the entire tax liability is so paid.

- (c) Section 10(10CC) provides for exemption in the hands of an employee, being an individual deriving income by way of perquisites, not provided by way of monetary payment within the meaning of section 17(2). This applies where the tax on such income is actually paid by the employer at the option of the employer, on behalf of such employee notwithstanding anything contained in section 200 of the Companies Act, 1956.

This provision will provide relief to the employee if the employer is willing to bear the tax burden in respect of non-monetary perquisites provided by it to the employee as otherwise the tax so paid by the employer would have been treated as income of the employee.

- (d) (i) The loss of a speculation business of any assessment year is allowed to be set off

only against the profits and gains of another speculation business in the same assessment year.

- (ii) The speculation loss not set-off in the same assessment year, is allowed to be carried forward to subsequent years and set-off only against income of any speculation business.
- (iii) The loss in speculation business can be carried forward only for a maximum period of 4 years from the end of the relevant assessment year in respect of which the loss was computed.
- (iv) Loss from the activity of trading in derivatives, however, is not to be treated as speculative loss.
- (v) According to the Explanation to section 73, where any part of the business of a company consists in the purchase and sale of shares of other companies such company shall be deemed to be carrying on a speculation business to the extent to which the business consists of the purchase and sale of such shares.

However, this Explanation does not apply to-

- (a) a company whose gross total income consists mainly of income which is chargeable under the heads "Income from house property", "Capital gains" and "Income from other sources"; and
 - (b) a company the principal business of which is the business of banking or money lending.
- (e) Section 197 applies where, in the case of any income of any person or sum payable to any person, income-tax is required to be deducted at the time of credit or payment, as the case may be, at the rates in force as per the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA and 195 of the Act.

The assessee can make an application to the Assessing Officer for deduction of tax at a lower rate or for non-deduction of tax.

If the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at lower rates or no deduction of income-tax, as the case may be, he may give to the assessee a certificate to this effect.

The person responsible for paying the income shall deduct income-tax at such lower rates or deduct no tax as specified in the certificate until such certificate is cancelled by the Assessing Officer.

Question 6

Answer any five out of the following:

- (a) Where a service provider maintains books of accounts on mercantile basis relating to taxable services provided by him, will service tax be payable on accrual basis?
- (b) Which are the documents to be submitted along with service tax return?
- (c) What are the due dates for filing of service tax returns?

- (d) Is a service provider allowed to pay service tax on a provisional basis?
 (e) Does the VAT system bring certainty to a great extent?
 (f) Can VAT be said to be non-beneficial as compared to single stage-last point system?
 (5 x 2 = 10 Marks)

Answer

- (a) Service tax is not payable on accrual basis and the method of accounting is not relevant. Service tax is payable to the Government only when any payment is received-whether in advance or after the bill is raised-from the client or service receiver for the taxable services provided.
- (b) Along with service tax (ST-3) return, the following documents should be attached:
- (i) copies of TR-6 challans which indicate the payment of service tax for the months/quarter covered in the half-yearly return.
 - (ii) memorandum in Form ST-3A giving full details of the difference between the amount of provisional amount of tax deposited and the actual amount payable for each month. This memorandum (Form ST-3A) is to be attached only when the assessee opts for provisional payment of service tax.
- (c) The service tax return (in Form ST-3) should be filed on half yearly basis by the 25th of the month following the particular half-year. The due dates on this basis are tabulated as under:

Half year	Due date
1 st April to 30 th September	25 th October
1 st October to 31 st March	25 th April

In case the due date of the filing of return i.e. either 25th October or 25th April falls on a public holiday, the assessee can file the return on the immediately succeeding working day.

- (d) In case the assessee is unable to correctly estimate, at the time of the deposit, the actual amount of service tax for any month or quarter, he may make a written request to Assistant/Deputy Commissioner of Central Excise for making payment of service tax on provisional basis. The concerned officer may allow payment of service tax on provisional basis on such value of taxable service as may be specified by him.
- (e) The VAT is a system based simply on transactions. Thus there is no need to go through complicated definitions like sales, sales price, turnover of purchases and turnover of sales. The tax is also broad-based and applicable to all sales in business leaving little room for different interpretations. Thus, this system brings certainty to a great extent.
- (f) VAT system has many advantages like no tax evasion, transparency, certainty, reduction in cascading effect of taxes etc. However, since the VAT is imposed or paid at various stages and not at last stage, it increases the working capital requirements and the interest burden on the same. In this way, it may be considered to be non-beneficial as

compared to the single stage-last point taxation system though to a certain extent, this rigour can be brought down through input credits on purchases.

Question 7

- (a) J.C. Professionals, a partnership firm, gives the following particulars relating to the services provided to various clients by them for the half-year ended on 30.09.06:
- (i) Total bills raised for Rs. 8,75,000 out of which bill for Rs. 75,000 was raised on an approved International Organisation and payments of bills for Rs. 1,00,000 were not received till 30.09.06.
 - (ii) Amount of Rs. 50,000 was received as an advance from XYZ Ltd. on 25.09.06 to whom the services were to be provided in October, 06.

You are required to work out the:

- (a) taxable value of services
 - (b) amount of service tax payable. (3 Marks)
- (b) Compute the invoice value to be charged and amount of tax payable under VAT by a dealer who had purchased goods for Rs. 1,20,000 and after adding for expenses of Rs. 10,000 and of profit Rs. 15,000 had sold out the same.

The rate of VAT on purchases and sales is 12.5%. (3 Marks)

Answer

- (a) Computation of taxable value of services provided by the J.C. Professionals for the half year ending on 30.09.2006:

Particulars	Rs.	Rs.
Total bills raised		8,75,000
Less: Bill raised on an approved International Organisation (note 1)	75,000	
Less: Bills for which payments have not been realized (note 2)	1,00,000	1,75,000
		7,00,000
Add: Advance received for the services to be provided in October '07 (note 3)		50,000
Taxable value of services		7,50,000

Computation of service tax payable

Taxable value of services	7,50,000
Service tax @ 12%	90,000
Add: Education cess @ 2%	1,800
Total Service tax payable	91,800

Notes:

1. Services provided to approved International Organisation are exempt from the service tax vide Notification No. 16/2002 ST dated 02.08.2002.
2. Service tax is payable only on the value of taxable services received [Rule 6(1) of Service Tax Rules, 1994].
3. Service tax is payable on advance received for taxable services [Section 67 of the Finance Act, 1994].

(b) Computation of Invoice Value

Particulars	Rs.	Rs.
Cost of goods purchased		1,20,000
Add: Expenses	10,000	
Profit margin	15,000	25,000
Product Sale Value		1,45,000
Add: VAT @ 12.5%		18,125
Invoice Value		1,63,125
Computation of amount of tax payable under VAT		
VAT charged on sales		18,125
Less: Input credit of VAT paid on purchases @ 12.5% on 1,20,000		15,000
Tax Payable under VAT		3,125

Note: It has been assumed that the purchase price of Rs. 1,20,000 is exclusive of VAT.

Question 8

Answer any three of the following:

- (a) Who is liable to pay service tax in relation to services provided by a goods transport agency?
- (b) What are the due dates for payment of service tax?
- (c) Briefly explain the invoice method of computing tax liability under the VAT system. What are its other names?
- (d) What are the different variants of VAT and how is deduction available for tax paid on inputs including capital inputs?
(3 x 3 = 9 Marks)

Answer

- (a) In relation to taxable service provided by a goods transport agency, where the consignor or consignee of goods is-
 - (a) any factory registered under or governed by the Factories Act, 1948,
 - (b) any company formed or registered under the Companies Act, 1956,

- (c) any corporation established by or under any law,
- (d) any society registered under Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India,
- (e) any co-operative society established by or under any law,
- (f) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 or the rules made thereunder, or
- (g) any body corporate established, or a partnership firm registered, by or under any law.

the person liable for paying service tax is any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage.

- (b) Rules 6(1) of the Service Tax Rules, 1994 provides that service tax on the value of taxable services received:
 - (i) by an individual or a proprietary firm or a partnership firm during any quarter is payable by the 5th of the month immediately following the said quarter; and
 - (ii) in other cases (company and HUF) during any calendar month is payable by the 5th of the month immediately following the said calendar month.

However, the month of March is an exception to this general rule. The service tax on the value of taxable services received during the month of March, or the quarter ending in March, as the case may be, shall be paid to the credit of the Central Government by the 31st day of March of the calendar year. For the month of March, there is no distinction amongst the assesseees.

- (c) Invoice method is the most common and popular method for computing the tax liability under 'VAT' system. Under this method, tax is imposed at each stage of sales on the entire sale value and the tax paid at the earlier stage is allowed as set-off. In other words, out of tax so calculated, tax paid at the earlier stage i.e., at the stage of purchases is set-off, and at every stage the differential tax is being paid. The most important aspect of this method is that at each stage, tax is to be charged separately in the invoice. This method is very popular in western countries. In India also, under the VAT law as introduced in several States and Central Excise Law, this method is followed. This method is also called the 'Tax Credit Method' or 'Voucher Method'.
- (d) There are three variants of VAT viz, gross product variant, income variant and consumption variant.

Gross Product Variant: Under this variant, deduction is allowed for tax paid on all inputs excluding capital inputs.

Income Variant: Under this variant, tax paid on non-capital inputs and depreciation on capital inputs is allowed.

Consumption variant: Under this variant, deduction is allowed for tax paid on all business inputs including capital inputs.