

CA - IPCC November 2012

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Ans. 1(a)

Computation of total income

Particulars	Rs.
Income from salary (Arrears of salary)	40,000
Income from house property	
Gross or Net Rent Received	2,40,000
Less: u/s 24(a) Standard deduction @ of 30% of NAV	<u>72,000</u>
	1,68,000
 Profits and Gains of Business or Profession	
u/s 44AD (Rs.24,37,500 × 8%)	1,95,000
 Less: b/ f loss from father's business u/s 78 Rs. 1,97,500 but set off is restricted to Rs. 1,95,000. Balance of Rs.2,500 shall be c/ f.	<u>1,95,000</u>
	Nil
Capital Gains (Assuming Sec. 10(38) not available)	
Sales Consideration (Bonus Share)	2,20,000
POH 1-1-2009 to Sept. 2011 = Long term	
 Less: Indexed cost of Acq.	<u>Nil</u>
	2,20,000
Income from other sources (rent from vacant site)	<u>1,12,000</u>
Gross total income	5,40,000
Less: Deduction under chapter VI-A	
1. Sec. 80G Prime Minister's National Relief Fund (30,000 × 100%)	30,000
2. Charitable Trust [40,000 or 32,000] _{lower} × 50%	<u>16,000</u>
	<u>46,000</u>
Total income	<u>4,94,000</u>
Tax	
LT CG on Bonus share [20% of 2,20,000 or As per proviso to Sec. 112	22,000
10% of 2,20,000] _{lower}	
Balance normal income Rs.2,74,000	<u>9,400</u>
Income tax	31,400
ADD : Education Cess @ 3%	<u>942</u>
Total Tax liability	<u>32,342</u>

Working note :

1. Section 80G

Adjusted Gross Total Income = 5,40,000 – 2,20,000 = 3,20,000

Qualifying limit = 10% of 3,20,000 = 32,000

2. Bad debt recovered by son is not taxable as section 41(4) does not cover such case.
3. Son can take benefit of set off of business loss incurred by his father u/s 78(2).
4. Unabsorbed depreciation of father cannot be carried forward by the son.
5. Bonus shares are assumed as listed shares.
6. Assume that relief u/s 89 on arrear of salary is not available being year of arrear in not given.

Ans.1(b) Computation of total service tax payable by Mr. Ghosh for the Month of January 2012.

S.No.	Particulars	Value of Taxable service amount in ₹
1.	Amount received in full and final settlement of bill raised on Amco Ltd.	7,00,000 (WN1)
2.	Advance received from Atul Ltd.	3,00,000 (WN2)
3.	Service Provided to friend free of cost	— (WN3)
4.	Amount received for represented in income tax Appellate Tribunal	1,00,000 (WN4)
5.	Amount received for service rendered as a part time lecturer in a local college.	— (WN5)
		11,00,000

Value of Total Taxable Service

Total service Tax Payable = ₹ 11,00,000 × 10.3 / 110.3 = ₹ 1,02,720

WN-1 As per Point of Taxation Rules, 2011, the point of taxation is date of issue of invoice or the date of receipt of payment of the service, whichever is earlier. Since, here, the invoice had been raised first in order, hence, the service tax was payable with reference to the date of invoice. Accordingly, the service provider shall be liable to pay a service tax on ₹ 7,20,000, as indicated in the bill.

Rule 6(3) of the Service Tax Rules, 1994 provides that where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract, the assessee may take the credit of such excess service tax paid by him, if the assessee has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; or has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued.

If, in this case, it is assumed that the settlement referred in above question relates to re-negotiation due to deficient provision of service, or any terms contained in a contract, then, the service provider shall be eligible for credit of the excess service tax paid by him, which has been computed below :

The excess service tax, of which credit can be availed by the service provider, relating to the amount adjusted against the bill = ₹ 7,20,000 – ₹ 7,00,000 = ₹ 20,000 (inclusive of service tax). Accordingly, the service tax credit under Rule 6(3) of Service Tax Rules = $20,000 \times 10.30 \div 110.30 = ₹ 1,867.63$

However, if the settlement of bill is due to any other reasons e.g. bad debts, discount, etc., then, the benefit of Rule 6(3) shall not be available and the service tax shall continue on ₹ 7,20,000.

Note : *In case of Taxable service under Chartered Accountant service the option to pay service tax on received basis is allowed.*

WN-2 Advance received is liable to service tax. The service tax is payable as per the point of taxation, which is "date of receipt or date of invoice, whichever is earlier."

WN-3 Value of free coaching rendered – Free coaching is not liable to service tax.

Wn-4 Representational services (i.e. representing the client before any statutory authority in the course of proceedings initiated under any law for the time being in force, by way of issue of notice-Notification No. 32/2011-ST, dated 25-4-2011, w.e.f. 1-5-2011.

WN-5 Teaching activity, if a chartered accountant engages himself in teaching, such service is not rendered in professional capacity, and, therefore, would not be covered under the service tax.

Ans.1(c) (A) Computation of total input tax credit Available to Varadan and Co. for the year ended on 31.3.2012.

Particular	Amount (₹)
(1) Purchase of Raw Material with in state (₹ 11,25,000 × 12.5 / 112.5)	1,25,000
(2) Purchase of capital goods VAT paid (₹ 5,50,000 × 10 / 110 = 50,000) (Assuming inclusive of VAT)	25,000
VAT For FY 11-12, 50% of 50,000	1,50,000
Total Vat credit available	1,50,000

(B) Computation of VAT Payable By Varadan & Co. for FY 11-12

Particular	Amount (₹)
(1) Sale of taxable goods with in state (₹ 40,24,000 × 4 / 104)	1,54,769
(2) Sale of goods with in state exempted from VAT	—
Total Vat Payable	1,54,769

(C) Computation of Net Vat Payable by Vardan & Co. for FY 11-12.

Total Vat Payable	1,54,769
Less- Total Vat credit available	1,50,000
Net Vat Payable	4769

Ans. 2(a) Computation of total income of Mr. and Mrs. B

	Mr. B	Mrs. B
Income from B's profession	45,000	----
Income from Salary(as fashion designer)	----	76,000
Bank interest to minor son D Clubbed u/s 64(1A) Less :Exemption u/s 10(32) [10,000 – 1,500]	----	8,500
Income of minor daughter P's from sports (Not clubbed)	----	----
Lottery income to minor son D Clubbed u/s 64(1A)	----	1,95,000
Total income	45,000	2,79,500

Note : No clubbing of Minor P's Income being income earned from personal skill or talent.

Ans.2(b) Computation of service tax liability for FY 11-12 of D & Co.

	₹
Total service Provided	13,00,000
Less : Small scale exemption limit available (WN-1)	10,00,000
Value of taxable service	3,00,000
Service Tax Payable ₹ 3,00,000 × 10 %	30,000
Education cess @ 2% on ₹ 30,000	600
Higher Education cess @ 1% on ₹ 30,000	300
Total service payable	30,900

- WN-1** (1) Eligible small service providers : This exemption applies to a “small service provider”. Small service provider means a service provider the “**aggregate value**” of taxable services rendered by whom from one or more premises, does not exceed ₹ 10 lakhs in the preceding financial year.
- (2) Quantum of exemption : A small service provider is entitled to 100% exemption from service tax during the current financial year. Exemption shall be operative only for “**aggregate value**” not exceeding ₹ 10 lakh in any financial year. If “**aggregate value**” in any financial year exceeds ₹ 10 lakhs then such exceeds over ₹ 10 lakhs shall be chargeable to service tax.

Ans.2(c) SUBTRACTION METHOD :

- (a)** In this method sales tax is levied at every stage of sale only on the amount of value addition made at that stage.
- (b)** The value addition for the levy of VAT, is computed by deducting purchases (i.e. purchases price) from the sales (i.e. sale price). In other words, Value Added = Sales-Purchases.
- (c)** Since, in this method, tax is literally computed by applying tax rate to value added as computed in the manner given above, there is no need for any tax credit because the purchases which have already suffered tax, are not considered for taxation again.
- (d) Formula for computation of tax liability :** This method is generally followed when tax is not charged separately in the invoice i.e. the sales invoice shows sale inclusive of tax. In such cases the VAT liability is computed as follows :

$$\text{Vat liability at each stage} = \frac{\text{Rate of VAT}}{100 + \text{Rate of VAT}} = \text{Taxable turnover (i.e. value added at each stage)}$$

(e) The subtraction method of computing VAT is normally applied where :

- (i)** the tax is not charged separately and
- (ii)** the same rate of tax is attracted on all, including consumable and services, added at all the stage of production/distribution.

Ans. 3(a) Computation of Capital Gains for PY 2005-06 / AY 2006-07

1. Sales Consideration [FMV on 1.6.2001 As per Sec. 45(2)]	45,00,000
POH: u/s 2(42A) 1960 to 31 May 2001 = Long term	
Less: Indexed Cost of Acquisition u/s 49(1) (8,00,000 × 426 / 100) (Cost to the previous owner)	<u>34,08,000</u>
Long Term Capital Gain	10,92,000
Less: Exemption u/s 54F (45,00,000 × 10,92,000 / 45,00,000)	10,92,000
Less: Exemption u/s 54F (construction of new house)	<u>Nil</u>
Taxable Long Term Capital Gain	<u>Nil</u>
2. Income from business or Profession (50 lakh – 45 lakh)	5,00,000

Taxable income for PY 2005-06 PGBP = Rs.5,00,000 & LTCG = Rs. Nil

Note : As per sec 45(2) (Chapter Capital gains), the capital gains shall be applicable when the capital asset is converted into stock in trade.

However, it shall be taxable in the year in which such asset is sold in the business.

Computation of Capital Gains for PY 2011-12 / AY 2012-13

	Rs.
Sales Consideration u/s 50 C (Stamp Duty Valuation)	85,50,000
POH : 2005 to June 2011 = Long Term	
Less: Indexed Cost of Acquisition (45,00,000 × 785) / 497	71,07,646
Less: Indexed Cost of Improvement (5,00,000 × 785) / 519	7,56,262
Less: Cost of transfer (1% of 63,50,000)	<u>63,500</u>
Long Term Capital Gain	<u>6,22,592</u>

Taxable income for PY 2011-12 LTCG = Rs.6,22,592 & tax is Rs. 91,174 As per sec. 112

Ans.3(b) (i) FALSE : For an assessee who provides more than one taxable service, filing of a single return is sufficient. However, the details in each of the columns of the form ST-3 have to be furnished separately for each of the taxable service rendered by him. Thus, instead of showing a lump sum figure for all the services together, service-wise details should be provided in the return.

(ii) TRUE : in relation to any taxable service provided to be provided by any person from a county other than India and received by any person in India, the person liable to pay service tax is the recipient of such service.

(iii) TRUE : Even if no service has been provided during a half year and no service tax is payable ; the assessee has to file a Nil return within the prescribed time limit.

(iv) FALSE : An assessee can submit a revised return, in Form ST -3, in triplicate to correct a mistake or omission, within a period of 90 days from the date of submission of the original return.

Ans.3(c) ELIGIBLE PURCHASES FOR AVAILING INPUT TAX CREDIT : The VAT paid on only those goods can be claimed as input-tax credit, which are purchased for one or more of the following purposes -

1. For sale/resale within the State;
2. For sale outside the state to other parts of India in the course of inter-State trade or commerce (i.e. for inter-state sale);

3. To be used as -
 - (a) Containers or packing materials;
 - (b) Raw materials; or
 - (c) Consumable stores, required for manufacturer of taxable goods or in the packing of such manufactured goods, which are intended for sale in the State or in the course of inter-State trade or commerce.
4. For being used in the execution of a works contract;
5. To be used as capital goods required for the purpose of manufacture or resale of taxable goods;
6. To be used as
 - (a) Raw materials;
 - (b) Capital goods,;
 - (c) Consumable stores and
 - (d) Packing materials/containers, for manufacturing/packing of the export goods ("export goods" are the goods intended to be sold in the course of export out of the territory of India);
7. For making other zero-rated sales. Zero- rates sales are the sales of those goods, which are chargeable to VAT at 0% rate of tax. The concept of zero-rated sales is discussed later.

Ans. 4(a) Calculation of Profits and Gains of Business or Profession

Net profit As per P & L account	93,950
Add: Capital repairs (Extension of Building)	1,00,000
Add: Interest paid without TDS (Disallowed u/s 40(a))	50,000
Add: Penalty for contravention of CST	24,000
Less: weighted deduction on donation for approved Scientific research u/s 35(2AA) [1,00,000 @ of 200% = 2,00,000 – 1,00,000 = 1,00,000]	1,00,000
Less: I.T. refund	8,100
Less: Interest on company deposit (Taxable under the head I / O / S)	<u>6,400</u>
Profits and Gains of Business or Profession	<u>1,53,450</u>

Ans.4(b) Computation of taxable services for the year ended 31-03-2012 of Pranave Private Ltd.

S.No.	Particular of Service billed & received	Amount (₹)
1.	Service rendered to United Nations Organisation in Dec.11	Exempted (WN1)
2.	Service rendered in Dec.11 other than service rendered to UNO (₹ 5,00,000 – ₹ 2,00,000)	3,00,000
3.	Service rendered in January 12 (includes ₹ 1,50,000 for the Services rendered within the Indian territorial waters)	4,00,000 (WN2)
4.	Service rendered to RBI in February 12	Exempted (WN3)
5.	Service rendered February 12 other than service rendered to RBI (₹ 5,00,000 – ₹ 1,75,000)	3,25,000
6.	Advance received for service in the State of Jammu & Kashmir	Exempted (WN4)
7.	Advance received in March 12 for service rendered other than in State of Jammu & Kashmir	3,40,000 (WN5)

Value of Total Taxable Service **13,65,000**

WN-1 Services provided to United Nations or an International Organisation are exempted from the levy of service tax.

WN-2 Service tax extended to territorial waters of India : Since 'India' includes territorial waters of India, the services provided in the territorial waters of India (i.e. upto 12 nautical miles from the land mass of India) are also liable to service tax.

WN-3 All taxable services provided or to be provided to any person, by the RBI or All taxable services provided or to be provided by any person, to the RBI are exempted from the service tax.

WN-4 Service tax is not levied if the services are provided in the state of Jammu and Kahmir. Advance received is liable to service tax. The service tax is payable as per the point of taxation, which is "date of receipt or date of invoice, whichever is earlier.

Ans.4(c) Conditions to be fulfilled by the dealer accepting the composition scheme :

- (a) **Option :** The composition scheme is, generally, optional for the dealers. The dealers having turnover higher than threshold exemption limit of ₹ 5 lakhs (or increased limit of ₹ 10 lakhs) but not exceeding ₹ 50 lakhs can opt for composition scheme.
- (b) **Intimation :** A dealer, intending to avail such composition scheme, will have to exercise the option in writing for a year or a part of the year in which he gets himself registered. The option so exercised shall be intimated to the commissioner having jurisdiction over him.
- (c) **No need to maintain statutory records :** If a dealer avails of the composition scheme, he need not maintain any statutory records as required under the VAT-law. He will be required to maintain only the records of purchase, sales and inventory. A dealer not availing of the composition scheme shall have to maintain all statutory records and registers as required under the Act.
- (d) **No inter-state purchases :** The dealer opting for composition scheme should not have any stock of goods which were brought from outside the state on the day he exercise his option to pay tax under composition scheme. Further, once the option for composition scheme is exercised, the dealer shall not use any goods brought from outside the state.
- (e) **No input credit on existing stock :** The dealer will not be allowed to claim input tax credit on the inventory available on the date on which he opts for composition scheme. If any such credit is lying in his credit, the same may be required to be reversed.

Ans.. 5(a)

Long Term Capital Gain on sale of share	2,05,000		
Less: short term capital loss on sale of property	55,000		
Less: loss from House Property (15,000 + 30,000)	45,000		
Less: loss from profession	<u>1,05,000</u>	<u>2,05,000</u>	Nil
Casual Income			
Winning from lottery	1,00,000		
Income from card game	55,000		
Loss from horse races (Not eligible for set off)	<u>Nil</u>		
Gross total income			1,55,000
Less: Deduction u/s 80C to 80U			<u>Nil</u>
Total income			<u>1,55,000</u>

- Note :**
1. Share of loss / profit from firm is exempt u/s 10(2A)
 2. Deductions under chapter VI-A are not available from lottery winnings / card games i.e. casual income.

Ans.5(b) (A) Interest on delayed payment of Service Tax

As per Section 75 of the Finance Act, 1994 pay interest on delayed payment of Service tax @18% p.a. w.e.f. 1-4-2011 [@15% p.a. for a service provider whose value of taxable service in a financial year does not exceed ₹ 60 lakhs during any financial year covered by the Show Cause Notice or during the previous year w.e.f. 1-4-2011]. Interest payments are mandatory in nature and the same can not be waived.

Interest on delayed payment presented in a tabular form for easy understanding:

Service provider taxable turnover during a financial year/previous year	Period	Interest per annum
Irrespective of the taxable turnover	Up to 31-3-2011	13%
> ₹ 60 lakh	w.e.f. 1-4-2011	18%
< ₹ 60 lakh	w.e.f. 1-4-2011	15%

If the assessee deposits the Service Tax by cheque, the date of presentation of cheque to the bank shall be considered as date on which Service Tax has been paid subject to realization of that cheque.

Interest is payable for the period from the first day after the due date till the date of payment of any defaulted service Tax amount.

(B) Penalty for non-payment or delayed payment of service tax (Section 76 of the Finance Act, 1994) w.e.f. 8-4-2011 :

Any person, liable to pay service tax in accordance with the provisions of section 68 or the rules made under this Chapter, who fails to pay such tax, shall pay, in addition to such tax and the interest on that tax amount in accordance with the provisions of section 76 penalty (w.e.f. 8-4-2011) is as follows :

₹ 100 for every day of delay (OR) @ 1% of the tax per month

Whichever is higher.

Overall penalty should not exceed 50% of the service tax payable.

Such penalty shall be payable starting from the first day after the due date till the date of actual payment of outstanding amount of service tax.

Ans.5(c) INPUT TAX CREDIT (ITC) - CONCEPT AND SCOPE OF :

Input tax credit : Input tax credit means setting-off tax paid by a registered dealer against the amount of output tax payable by him.

Need : Under VAT system, the tax is imposed only on the amount of value addition made by a dealer. The value addition is difference between the value of the output/sales and the value of input / purchases. Hence, the tax paid on inputs ('input tax') by a dealer is set-off against the tax payable by him on his sale ('output tax'). Thus, he is required to pay the difference only in cash.

Ans. 6(a)

- (i) Bonus share is deemed dividend under section 2(22) (b) in the hands of preference shareholder only. However, it is tax free in the hands of share holders and as company is liable to pay tax on it as CDT u/s 115 - O.
- (ii) Such loan is deemed dividend in the hand of shareholder u/s 2(22) (e). He is liable to tax thereon under the head income from other sources.
- (iii) Medical allowance Fully chargeable to tax under the salary head.
- (iv) 60,000 is taxable under the head income from other sources u/s 56(2)(vii).
- (v) Income u/ s 2(24)(x) under the head PGBP.
- (vi) Perquisites under section 28 under the head PGBP.
- (vii) Taxable as income (It is application of income). However, deduction is allowed u/ s 80G if trust is approved.
- (viii) Employer's contribution & interest is taxable as salary. Employee's contribution is not taxable. However, interest on employee's contribution is taxable as Income From Other Sources.

Ans.6(b) SERVICE TAX PAYABLE ON ADVANCE RECEIVED :

Service tax is payable as soon as any advance is received as :

- (i) the taxable service includes "service to be provided", and
- (ii) the payments received before, during, or after the provision of taxable service, form part of the gross amount charged for the taxable services.

When advance payment is received for a service which a non-taxable at the time of receipt of payment but becomes taxable during the course of provision of service, such payments would have to be apportioned appropriately between the two periods and that part of service provided on or after the service becomes taxable service, is only liable for service tax.

When payment is received in advance for services to be provided but subsequently the services are not actually provided, then in such cases service tax paid is liable to be refunded.

Ans.6(c)(1) Compulsory Registration :

If an assessee, though required to do so, fails to obtain registration under the VAT Act, he may be compulsory registered by the Commissioner, with the following results-

- (a) the Commissioner may assess the tax due from him on the basis of evidence available with him;
- (b) the assessee shall have to pay such amount of tax forthwith;
- (c) he will be liable to penalty for such default ; and
- (d) he will not be eligible to set-off input credit related to period prior to compulsory registration.

(2) Voluntary registration :

A dealer for whom it is not obligatory to obtain registration may also obtain registration if the Commissioner is satisfied that the business of the applicant requires registration. The Commissioner may also impose any terms or conditions that the thinks fit.

Ans. 7(a)(i)

- | | |
|------------------------------|------------------------------------|
| (i) Interest = no TDS | (ii) Advertisement = TDS on 58,000 |
| (iii) Rent = TDS on 1,80,000 | (iv) Brokerage = TDS on 6,000 |

Ans. 7(a)(ii)

In case of individual assessee :

- (a) By the individual himself or
- (b) Where the individual is absent from India, then by the individual himself or by any other person duly authorized by him.
- (c) If he is mentally incapacitated, by his guardian.
- (d) If for any other reason the individual is not able to sign, then by any person duly authorized by him.

Note : In case of (b) & (d) above, the person signing the return should have as **valid power of attorney** from the individual to do so which should be attached with the return of income.

Ans. 7(a)(iii)

Capital gain on conversion of capital asset into stock-in-trade [Sec 45(2)]

- (1) The conversion of capital asset into stock-in-trade is treated as a 'transfer' within the meaning of section 2(47) provided such conversion is **on or after 01/04/1984**.
- (2) **Year of transfer :** The year of transfer shall be the previous year in which such conversion takes place.
- (3) **Year of chargeability :** The year of taxability shall be the previous year in which such converted asset is sold or otherwise transferred.
- (4) Full value of consideration shall be the **fair market value of the asset**, as on the date of such conversion.
- (5) The difference between the consideration received on actual sale of such asset and its market value on the date of conversion shall be the **profit or loss from business**.

Note : Indexation of cost of acquisition and improvement, if required, will be done till the previous year in which such conversion took place.

Ans.7(b) SERVICE TAX COLLECTED FROM THE RECIPIENT OF SERVICE MUST BE PAID TO THE CENTRAL GOVERNMENT [SECTION 73A] :

Every person, who is liable to pay service tax and has collected any amount in excess of the service tax assessed or determined and paid on any taxable service from the recipient of taxable service in any manner as representing service tax, must pay the amount so collected immediately to the credit of the Central Government. This provision ensures that the service provider does not collect excess amount from the recipient of the service in the name of service tax.

Further, where any person who has collected any amount, which is not required to be collected, from any another person, in any manner as representing service tax, such person should also immediately pay the amount so collected to the credit of the Central Government.

INTEREST ON AMOUNT COLLECTED IN EXCESS [SECTION 73B] :

Where an amount has been collected, in excess of the tax assessed to determined and paid, for any taxable service from the recipient of such service, the person who is liable to pay such amount shall, in addition to the amount, be liable to pay interest. The interest shall also be payable by the person who has collected any amount, which is not required to be collected as service tax.

The interest shall be payable at the rate of 13% per annum for the first day of the month succeeding the month in which the amount should have been paid till the date of payment of such amount.

Ans.7(c) System of cross checking :

Since VAT emphasizes upon self-assessment, therefore, there arises a need of cross-checking the contents of the returns submitted by a dealer with his other records and the information submitted by him to other authorities under other laws. Accordingly ,

- (a) dealers may be asked to submit a list of sales / purchases (containing the name of purchasing/ selling dealers) made by them above a certain amount ;
- (b) a computerized system of cross-checking is being worked, which will involve comparing the VAT-returns / documents submitted to the VAT-authorities with the returns / documents submitted to the other State-level authorities as well as the Central Excise, Customs, Service Tax and Income-tax authorities of the Central Government. This shall be possible only on the basis of coordination between the tax authorities of State Government and that of Central Government.

Need : The aforesaid system of cross-checking will act as a deterrent for tax-evaders and will also lead to significant growth of tax revenue. Since there will be early identification of tax-evasion, the habitual offenders will fear adopting tax evasion practices and, therefore, there will be equal competition amongst the traders / dealers.