

MOCK TEST PAPER - 1
INTERMEDIATE (NEW) COURSE
PAPER – 4: TAXATION
SECTION – A: INCOME TAX LAW
SOLUTIONS

Division A – Multiple Choice Questions

MCQ No.	Sub-part	Most Appropriate Answer	MCQ No.	Most Appropriate Answer
1.	(i)	(d)	2.	(c)
	(ii)	(a)	3.	(c)
	(iii)	(d)	4.	(c)
	(iv)	(a)	5.	(d)
			6.	(b)
			7.	(a)

Division B – Descriptive Questions

1. Computation of total income and tax liability of Mr. Raj for A.Y. 2020-21

Particulars	Rs.	Rs.	Rs.
Income from house property			
Gross annual value ¹ (Rs. 42,000 x 12)		5,04,000	
Less: Municipal taxes paid by Mr. Raj		<u>5,500</u>	
Net annual value		4,98,500	
Less: Deductions under section 24			
(a) 30% of Net Annual Value		1,49,550	
(b) Interest on house borrowing (Rs. 15,00,000 x 10%)		<u>1,50,000</u>	
			1,98,950
Profits and gains of business or profession			
Income from profession			
Fees from professional services		51,36,000	
Less: Expenses allowable as deduction			
- Staff salary, bonus and stipend	25,13,500		
- Other general and administrative expenses	13,00,000		
- Office rent	45,000		
- Motor car maintenance (Rs. 15,000 x 2/3)	10,000		
- Car loan interest – not allowable (since the same has not been paid during the year) [Refer Note 1]	<u>-</u>	<u>38,68,500</u>	
		12,67,500	

¹ Rent receivable has been taken as the gross annual value in the absence of other information

Less: Depreciation u/s 32			
- Motor car Rs.8,00,000 x 30% x 50% x 2/3, being put to use for less than 180 days [Motor car eligible for higher depreciation @30% since it is acquired during the period between 23.8.2019 to 31.03.2020 and for his professional purposes]	80,000		
- Books being annual publications[Rs.20,000 x 40%]	8,000		
- Computer [Refer Note 2]	<u>Nil</u>	<u>88,000</u>	
		11,79,500	
Income from share speculation business	1,00,000		
Less: Loss from commodity speculation business set off against income from share speculation business. Balance loss of Rs.50,000 from commodity speculation business to be carried forward to A.Y. 2021-22	<u>1,00,000</u>	<u>Nil</u>	11,79,500
Income from other sources			
Cash Gift of Rs.1,20,000 i.e., Rs.30,000 x 4, received from his four friends is taxable u/s 56(2)(x), since aggregate amount of cash gift exceeds Rs.50,000 during the previous year 2019-20		1,20,000	
Interest on Saving bank account		<u>15,000</u>	<u>1,35,000</u>
Gross Total Income			15,13,450
Less: Deductions under Chapter VI-A			
Section 80C			
Life insurance premium	25,000		
PPF subscription	<u>1,40,000</u>		
	1,65,000		
Restricted to Rs.1,50,000		1,50,000	
Section 80G			
Contribution to Prime Minister's Drought Relief Fund (50% of Rs.1,10,000) by way of bank draft		55,000	
Section 80GGC			
Donation to registered political party made by way of cheque		3,00,000	
Section 80TTA			
Interest on saving bank account upto Rs.10,000		<u>10,000</u>	<u>5,15,000</u>
Total Income			<u>9,98,450</u>
Tax liability			
@5% on Rs.2,50,000 [Rs. 2,50,000 – Rs. 5,00,000]		12,500	
@20% on Rs.4,98,450 [Rs.5,00,000 –Rs. 9,98,450]		<u>99,690</u>	
			1,12,190
Add: Health and education cess@4%			<u>4,488</u>
Tax liability			<u>1,16,678</u>
Tax liability (Rounded off)			<u>1,16,680</u>

Notes:

- (1) It is assumed that the interest on car loan has also not been paid on or before the due date under section 139(1), hence disallowance under section 43B is attracted, if he is following mercantile basis of accounting. If it is assumed that the payment has been made on or before due date under section 139(1), disallowance under this section would not be attracted and the same [i.e., Rs.1,00,000 x 10% x 3/12x2/3 i.e., Rs.1,667] would be allowed as deduction. If it is assumed that he is following cash basis of accounting, it would, in any case, not be allowed.
- (2) As per second proviso to section 43(1), in computing actual cost, the expenditure for acquisition of asset, for which payment is made to a person in a day exceeds Rs.10,000 has to be ignored, if such payment is made otherwise than by way of A/c payee cheque/ bank draft or ECS. In this case, since computer is purchased by way of crossed cheque, it will not form part of actual cost and no depreciation would be allowed on this cost.
- 2 (i) The following category of individuals will be treated as resident in India only if the period of their stay in India during the relevant previous year is 182 days or more:-
- Indian citizens, who leave India in any previous year, *inter alia*, for purposes of employment outside India, or
 - Indian citizen or person of Indian origin engaged outside India, *inter alia*, in an employment, who comes on a visit to India in any previous year.
- (a) Since Simran is leaving India for the purpose of employment outside India, she will be treated as resident only if the period of her stay during the previous year amounts to 182 days or more. Therefore, Simran should leave India on or before 28th September, 2019, in which case, her stay in India during the previous year would be less than 182 days and she would become non-resident for the purpose of taxability in India. In such a case, only the income which accrues or arises in India or which is deemed to accrue or arise in India or received or deemed to be received in India shall be taxable.
- The income earned by her in New York would not be chargeable to tax in India for A.Y. 2020-21, if she leaves India on or before 28th September, 2019.
- (b) If any part of Simran's salary will be credited directly to her bank account in Delhi then, that part of her salary would be considered as income received in India during the previous year under section 5 and would be chargeable to tax under Income-tax Act, 1961, even if she is a non-resident. Therefore, Simran should receive her entire salary in New York and then remit the required amount to her bank account in Delhi in which case, the salary earned by her in New York would not be subject to tax in India.
- (c) In case Simran visits India after taking up employment outside India, she would be covered in the second exception provided above and she will be treated as resident only if the period of her stay during the relevant previous year amounts to 182 days or more.
- Therefore, when Simran comes India on leave, she should stay in India for less than 182 days during the relevant previous year so that her status remains as a non-resident for the relevant previous year. Moreover, she should not visit India again during the current previous year i.e. P.Y. 2019-20.
- (ii) (a) Section 194-I, which governs the deduction of tax at source on payment of rent, exceeding Rs.2,40,000 p.a., is applicable to all persons except individuals and HUFs, whose turnover/gross receipts do not exceed the monetary limits specified under 44AB(a)/(b). Section 196, however, provides exemption in respect of payments made to Government from application of the provisions of tax deduction at source.
- Therefore, no tax is required to be deducted at source by State Bank of India from rental payments to the Government.

- (b) Section 194J provides for deduction of tax at source @10% on any remuneration or fees or commission, by whatever name called, paid to a director, which is not in the nature of salary in respect of which tax is deductible at source under section 192.

Hence, tax is to be deducted at source under section 194J @10% by ABC Pvt. Ltd. on the commission of Rs.1,75,000 paid to Karan, a part-time director. The tax deductible under section 194J would be Rs.17,500, being 10% of Rs.1,75,000.

- (c) As per the provisions of section 194J, a Hindu Undivided Family is required to deduct tax at source on fees paid for professional services only if the total sales, gross receipts or turnover from the business or profession exceed Rs. 1 crore or Rs. 50 lakhs, as the case may be, in the financial year preceding the current financial year and such payment made for professional services is not exclusively for the personal purpose of any member of Hindu Undivided Family.

Section 194M, provides for deduction of tax at source by a HUF (which is not required to deduct tax at source under section 194J) in respect of fees for professional service if such sum or aggregate of such sum exceeds Rs. 50 lakhs during the financial year.

In the given case, the fees for professional service to Dr. Kashyap is paid on 1.11.2019 for personal purpose, therefore, section 194M would have been applicable if the payment or aggregate of payments exceeded Rs. 50 lakhs in the P.Y.2019-20. However, since the payment does not exceed Rs. 50 lakh in this case, there is no liability to deduct tax at source under section 194M.

- (d) Section 194E provides that the person responsible for paying of any amount to a non-resident sportsman who is not a citizen of India for contribution of articles relating to any game or sport in India in a newspaper has to deduct tax at source @20%. Further, since, John Cena, an American wrestler, is a non-resident, Health and education cess @4% on TDS should also be added.

Therefore, tax to be deducted = Rs. 1,50,0000 x 20.80% = Rs. 31,200.

3. (i) **Computation of income chargeable under the head “Salaries” of Mr. Neeraj for A.Y.2020-21**

Particulars	Rs.
Basic Salary	7,20,000
Dearness allowance	2,88,000
Commission	50,000
Entertainment allowance	7,500
Medical expenses reimbursed by the employer	10,000
Professional tax paid by the employer is a taxable perquisite as per section 17(2)(iv), since it is an obligation of the employee which is paid by the employer	1,500
Health insurance premium of Rs.9,000 paid by the employer is an exempt perquisite [Clause (iii) of proviso to section 17(2)]	Nil
Gift voucher given by employer on Mr. Neeraj's birthday (entire amount is taxable since the perquisite value exceeds Rs.5,000) as per Rule 3(7)(iv) [See Note below]	15,000
Life insurance premium of Mr. Neeraj paid by employer is a taxable perquisite as per section 17(2)(v)	40,000
Laptop provided for use at home is an exempt perquisite as per Rule 3(7)(vii)	Nil
Provision of motor car (engine cubic capacity less than 1.6 litres) owned by employer to employee for both official and personal purposes –perquisite value would be Rs.21,600 [Rs.1,800 ×12] as per Rule 3(2)	21,600

Annual credit card fees paid by employer is a taxable perquisite as per Rule 3(7)(v) since the credit card is not exclusively used for official purposes.	5,000
Gross Salary	11,58,600
Less: Deductions under section 16	
Standard deduction u/s 16(ia)	50,000
Entertainment allowance (deduction under section 16(ii) not allowable since Mr. Neeraj is not a Government employee)	Nil
Professional tax paid allowable as deduction as per section 16(iii)	3,000
Income chargeable under the head "Salaries"	11,05,600

Note: As per Rule 3(7)(iv), the value of any gift or voucher received by the employee or by member of his household on ceremonial occasions or otherwise from the employer shall be determined as the sum equal to the amount of such gift. However, the value of any gift or voucher received by the employee or by member of his household below Rs. 5,000 in aggregate during the previous year would be exempt as per the proviso to Rule 3(7)(iv). In this case, the gift voucher of Rs.15,000 was received by Mr. Neeraj from his employer on the occasion of his birthday.

Since the value of the gift voucher exceeds the limit of Rs.5,000, the entire amount of Rs.15,000 is liable to tax as perquisite.

An alternate view possible is that only the sum in excess of Rs.5,000 is taxable in view of the language of *Circular No.15/2001 dated 12.12.2001*, which states that such gifts upto Rs.5,000 in the aggregate per annum would be exempt, beyond which it would be taxed as a perquisite. As per this view, the value of perquisite would be Rs.10,000.

In such case, the gross salary and net salary would be, Rs. 11,53,600 and Rs.11,00,600, respectively.

(ii)

I	<u>Tax consequences in the hands of Mr. Ramesh</u>
	<p>As per section 50C, the stamp duty value of immovable property, being land or building or both, would be deemed to be the full value of consideration arising on transfer of such property, if the same is higher than actual consideration. However, where the stamp duty value does not exceed 105% of the sale consideration received or accruing as a result of transfer, the consideration so received or accruing shall be deemed to be the full value of the consideration.</p> <p>Accordingly, in this case, capital gains would be computed in the hands of Mr. Ramesh, for A.Y.2020-21, taking the stamp duty value of Rs. 53 lakh of house plot as the full value of consideration arising on transfer of such house plot, since the same exceeds 105% of the actual consideration of Rs. 45 lakh.</p> <p>Note – If it is assumed that Mr. Ramesh is a property dealer, the income would be taxable as his business income under section 43CA</p>
II	<u>Tax consequences in the hands of Mr. Vikas</u>
	<p>In case, immovable property is received for inadequate consideration, the difference between the stamp duty value and actual consideration would be taxable under section 56(2)(x) in the hands of the recipient, if such difference exceeds the higher of Rs. 50,000 or 5% of actual sales consideration.</p> <p>Therefore, in this case, Rs. 8 lakh (Rs. 53 lakh – Rs. 45 lakh) would be taxable in the hands of Mr. Vikas under the head "Income from Other Sources" in A.Y.2020-21 since the difference exceeds Rs.2,25,000, being the higher of Rs.50,000 and 5% of consideration.</p>

At the time of subsequent sale of property by Mr. Vikas to Ms. Babli (on 21.3.2020), short-term capital gains would arise in the hands of Mr. Vikas in A.Y.2020-21, since the property is held by him for less than 24 months.		
Particulars		Rs.
Full value of consideration (Since actual consideration of Rs.55 lakh is higher than stamp duty value of Rs.54 lakh)		55 lakh
Less: Cost of acquisition (Value taken into account for the purpose of section 56(2)(x) ²)		<u>53 lakh</u>
Short-term capital gains		<u>2 lakh</u>

4. (i) **Gross Total Income of Mr. Mustafa for A.Y. 2020-21**

Particulars	Rs.	Rs.
Salaries		
Income from salary	6,50,000	
Less: Loss from house property of Rs.2,60,000, restricted to	<u>2,00,000</u>	4,50,000
Income from house property		
Income from House I	55,000	
Less: Loss from House II (self-occupied)	1,25,000	
Loss from House III	<u>1,90,000</u>	
	(2,60,000)	
Set-off of loss from house property against salary income, restricted to	<u>2,00,000</u>	
Loss to be carried forward to A.Y. 2021-22	<u>(60,000)</u>	
Profits and gains of business or profession		
Profit from cloth business	1,70,000	
Less: Loss from leather business	<u>68,000</u>	
		1,02,000
Capital Gains		
Short term capital loss in equity-oriented funds on which STT is paid Rs.35,000 to be carried forward to A.Y. 2021-22 since such loss can be set-off only against capital gains and not against income under any other head	-	
Income from other sources		
Income from owning and maintenance of race bulls	9,000	
Loss of Rs.7,500 from the activity of owning and maintenance of race horses cannot be set-off against any source other than income from the activity of owning and maintaining race horses. Hence, such loss has to be carried forward to A.Y. 2021-22.	Nil	
Income from crossword puzzles	12,000	

²As per section 49(4), in case where capital gains arises from subsequent sale of property, which was subject to tax under section 56(2)(x), the value taken into account for the purpose of section 56(2)(x) would be deemed to be the cost of acquisition.

Dividend from foreign company	<u>8,500</u>	<u>29,500</u>
Gross Total Income		<u>5,81,500</u>

Losses to be carried forward to A.Y.2021-22:

Particulars	Rs.
Loss from house property [to be carried forward for set-off against income from house property]	60,000
Short-term capital loss in equity oriented funds on which STT was paid [to be carried forward for set-off against capital gains, long-term or short-term]	35,000
Loss from owning and maintaining race horses [to be carried forward for set-off against income from the activity of owning and maintaining race horses]	7,500

Note: Loss from house property can also be set-off to the extent of Rs. 1,02,000 from profits and gains from business or profession and balance i.e., Rs. 98,000 against Income under the head "Salaries".

- (ii) In the given case, Mr. Vijay gifted a sum of Rs.4 lakhs to his brother's wife on 19.06.2019 and simultaneously, his brother gifted a sum of Rs.3 lakhs to Mr. Vijay's wife on 21.07.2019. The gifted amounts were invested as fixed deposits in banks by Mrs. Vijay and his brother's wife. These transfers are in the nature of cross transfers. Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. It was so held by the Apex Court in *CIT vs. Keshavji Morarji* (1967) 66 ITR 142.

Accordingly, the interest income arising to Mrs. Vijay in the form of interest on fixed deposits would be included in the total income of Mr. Vijay and interest income arising in the hands of his brother's wife would be taxable in the hands of Mr. Vijay's brother as per section 64(1), to the extent of amount of cross transfers i.e., Rs.3 lakhs.

This is because both Mr. Vijay and his brother are the indirect transferors of the income to their respective spouses with an intention to reduce their burden of taxation.

However, the interest income earned by his spouse on fixed deposit of Rs.3 lakhs alone would be included in the hands of Mr. Vijay's brother and not the interest income on the entire fixed deposit of Rs.4 lakhs, since the cross transfer is only to the extent of Rs.3 lakhs.

- (iii) **Provisions of Income-tax Act, 1961 relating to quoting of Aadhar Number under section 139AA**

Every person who is eligible to obtain Aadhar Number is required to mandatorily quote Aadhar Number, on or after 1st July, 2017:

- in the application form for allotment of Permanent Account Number (PAN)
- in the return of income

The provisions of section 139AA relating to quoting of Aadhar Number would, however, not apply to an individual who does not possess the Aadhar number or Enrolment ID and is:

- (i) residing in the States of Assam, Jammu & Kashmir and Meghalaya;
- (ii) a non-resident as per Income-tax Act, 1961;
- (iii) of the age of 80 years or more at any time during the previous year;
- (iv) not a citizen of India.

If a person does not have Aadhar Number, he is required to quote Enrolment ID of Aadhar application form issued to him at the time of enrolment in the application form for allotment of PAN or in the return of income furnished by him.

Every person who has been allotted PAN as on 1st July, 2017, and who is eligible to obtain Aadhar Number, shall intimate his Aadhar Number to prescribed authority on or before a date as may be notified by the Central Government.

SECTION B - INDIRECT TAXES (40 MARKS)

SUGGESTED ANSWERS

Division A - Multiple Choice Questions Answer

1. (i) (b)
(ii) (c)
(iii) (b)
(iv) (a)
(v) (c)
2. (c)
3. (d)

Division B - Descriptive Answer

1. Computation of net CGST, SGST and IGST payable in cash by Mr. Charlie during April, 20XX

Particulars	Amount (Rs.)	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 18% (Rs.)
Sales made outside Bhatinda (Rajasthan) – [Being inter-State sale, the same is liable to IGST.]	10,00,000			1,80,000
Sales made in Punjab	8,00,000	<u>72,000</u>	<u>72,000</u>	
Total GST payable		72,000	72,000	1,80,000
ITC available during April 20XX for set off [Refer Working Note Below]		72,500	52,500	1,90,000
Less: Set off of IGST ITC against IGST and SGST tax liability respectively			(10,000) IGST	(1,80,000) IGST
Less: Set off of CGST ITC against CGST tax liability		(72,000) CGST		
Less: Set off of SGST ITC against SGST tax liability			(52,500) SGST	
Net tax liability payable in cash		Nil	9,500	Nil
Net ITC available		500	Nil	Nil

Working Note

ITC available during April, 20XX is computed as under:-

Particulars	Amount (Rs.)	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 18% (Rs.)
Opening balance of ITC		50,000	30,000	1,00,000
Purchases from Rajasthan [Being inter-State purchase, IGST would have been paid on it.]	5,00,000			90,000
Purchases from Punjab	2,50,000	<u>22,500</u>	<u>22,500</u>	
Total input tax credit		72,500	52,500	1,90,000

Note: Since sufficient balance of ITC of CGST is available for paying CGST liability and cross-utilization of ITC of CGST and SGST is not allowed, ITC of IGST has been used to pay SGST (after paying IGST liability) to minimize cash outflow.

2. (a) **Computation of taxable value of supply of machinery**

S. No.	Particulars	Amount (Rs.)
(i)	Price of machinery (exclusive of taxes and discounts)	5,50,000
(ii)	Add: Amount paid by Alisha Ltd. directly to the supplier for a part fitted in the machinery [Note-1]	20,000
(iii)	Add: Installation and testing charges [Note-2]	25,000
(iv)	Less: Discount 2% on machinery price [Rs. 5,50,000 x 2%] [Note-3]	(11,0000)
(v)	Less: Additional 1% discount at year end [Note-4]	<u>Nil</u>
	Value of taxable supply	5,84,000

Notes:

As per section 15 of CGST Act, 2017

1. Any amount that the supplier is liable to pay in relation to a supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods shall be included in the value of supply.
 2. Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of supply.
 3. Since discount is given at the time of supply of machinery and recorded in the invoice, the value of the supply shall not include such discount.
 4. Though the additional discount is established before or at the time of supply, it shall not be excluded from the value of supply as the same is not linked to the relevant invoice and proportionate ITC has not been reversed by Alisha Ltd.
- (b) (i) Services provided to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent, by way of catering is exempt from GST vide exemption notification under GST. Thus, in the given case, services provided by Ashoka Caterers to Richmond Kidz are exempt from GST.
- (ii) Services by way of health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST vide exemption Notification under GST. In this regard, CBIC has clarified that food supplied by the hospital canteen to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare services and is not separately taxable. Thus, it is exempt from GST. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable. In view of the same, GST is exempt on the food supplied by Healthy Foods to the inpatients as advised by doctors/nutritionists while other supplies of food by it to patients (not admitted) or attendants/visitors of the in-patients is taxable.
3. (a) (i) Every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit in a financial year. Since in the given case, the turnover of Apsara Teleservices exceeds the applicable threshold limit [Rs. 20 lakh] on 25th October, it becomes liable to registration on said date.
- Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5th December.

- (ii) Every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit [Rs. 40 lakh in this case] in a financial year. Since in the given case, the turnover of Prink Industries exceeded Rs.40 lakh on 1st September, it becomes liable to registration on said date.

Further, since the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration. Therefore, the effective date of registration is 1st September.

- (b) Interest is payable in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

Thus, the amount of interest payable by Mr. Aman is as under:-

Period of delay = 21st February, 20XX to 15th April, 20XX

= 54 days

Hence, amount of interest = Rs. 36,500 x 18% x 54/365

= Rs. 972

4. (a) Non-performance of a contract is the failure to fulfill the obligations under a contract. It is generally one of the conditions stipulated in any contract for supply of goods/services.

The agreement entered into between the parties stipulates that both the service provider and service recipient abide by the terms and conditions of the contract. In case any of the parties breach the contract for any reason including non-performance of the contract, then such person is liable to pay damages in the form of fines or penalty to the other party.

Tolerating non-performance of a contract in lieu of damages or fines is a supply in terms of section 7 of the CGST Act, 2017 as it is made for a consideration by a person in the course or furtherance of business.

Further, tolerating non-performance of a contract is treated as a supply of service in terms of section 7 read with Schedule II of CGST Act, 2017.

However, in case of supplies to Government, non-performance of contract by the supplier of service for which consideration in the form of fines or liquidated damages is payable is exempt from GST.

- (b) Under GST laws, since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1 (upto a prescribed time limit) in the tables specifically provided for the purposes of amending previously declared details.

The omission or incorrect particulars discovered in the returns filed under section 39 can be rectified in the return to be filed for the month/quarter during which such omission or incorrect particulars are noticed. Any tax payable as a result of such error or omission will be required to be paid along with interest. The rectification of errors/omissions is carried out by entering appropriate particulars in "Amendment Tables" contained in GSTR-1.