

**PAPER – 4 : TAXATION**  
**SECTION A : INCOME TAX**

Question No.1 is compulsory.

Candidates are also required to attempt any **three** questions from the rest.

Working notes should form part of the respective answers.

All questions pertaining to income-tax relate to assessment year 2019-20, unless stated otherwise in the questions.

**Question 1**

Ms. Kanchan, a resident individual aged 61 years, provides the following information for the financial year 2018-19:

- (i) She is partner in SAR & Associates and received the following amounts from the firm :

Share of profit from the firm	₹ 31,100
Interest on capital@ 15% p.a.	₹ 2,85,000
Rent for an office	₹ 1,44,000
Salary as working partner (fully allowed in the hands of the firm)	₹ 1,20,000

- (ii) She worked as a sales manager in her friend's show-room for 2 months at a salary of ₹ 30,000 per month.

- (iii) She started her own boutique on 01-08-2018. The net profit as per Profit & Loss account for the period of initial 8 months is ₹ 3,50,000. The following items are debited to Profit and Loss account:

Advance Income-tax paid	₹ 90,000
Personal drawings	₹ 80,000

The following items are credited to Profit and Loss Account :

Interest on savings bank account with PNB	₹ 27,000
Interest on savings account with post office	₹ 11,000
Interest on Fixed Deposits with Canara Bank	₹ 25,000

- (iv) She owned a house property which was sold in June, 2018 for ₹ 80 Lakh. This property was purchased for ₹ 31.5 Lakh in January 2003. She received ₹ 90,000 by way of arrear rent in respect of the said property in March, 2019.

The Suggested Answers for Paper 4A: Income-tax are based on the provisions of Income-tax Law as amended by the Finance Act, 2018, which is relevant for November, 2019 Examination. The relevant assessment year is A.Y.2019-20.
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(v) She made the following investments:

Life insurance premium on a policy in the name of her husband ₹ 87,000. (The policy was taken on 01-07-2012 and the sum assured being ₹ 8,00,000).

Health insurance premium on a policy covering her mother aged 83. She is not dependant on Ms. Kanchan. Premium paid by cheque ₹ 54,000.

Cost inflation indices for different years are as under :

Financial Year :                      2002-03    2003-04    2018-19

Cost inflation index :                      105            109            280

Compute the total income and the tax liability of Ms. Kanchan for the Assessment Year 2019-20. **(14 Marks)**

**Answer**

**Computation of Total Income of Ms. Kanchan for the A.Y.2019-20**

Particulars	₹	₹	₹
<b>Salaries</b>			
Salary = ₹ 30,000 x 2 months		60,000	
Less: Standard deduction u/s 16 [Actual salary or ₹ 40,000, whichever is less]		<u>40,000</u>	
<b>Net Salary</b>			20,000
<b>Income from house property</b>			
Annual value (rent of office has been taken as annual value, due to absence of information relating to expected rent in the question)		1,44,000	
Less: Deduction under section 24(a)			
30% of Annual Value		<u>43,200</u>	
		1,00,800	
Arrears of rent received chargeable to tax under section 25A (even if Ms. Kanchan is no longer the owner of the property)	90,000		
Less: Deduction@30%	<u>27,000</u>	<u>63,000</u>	
			1,63,800
<b>Profits and gains of business or profession</b>			
<b>Income received from the firm in which she is partner:</b>			
Share of profit from firm ₹31,100 [Exempt under section 10(2A)]	-		

Interest on capital [₹ 2,85,000 x 12%/15%] [Since interest calculated@12% on capital is the maximum permissible deduction in the hands of the firm computed u/s 40(b), only interest to such extent is taxable in the hands of the partner <sup>2</sup> ]	2,28,000		
Salary as working partner (taxable in her hands, since the same is fully allowed in the hands of the firm)	<u>1,20,000</u>	3,48,000	
<b>Income received from her proprietary boutique business:</b>			
Net profit as per profit and loss account	3,50,000		
<b>Add: Expenses/Payments debited to profit and loss account but not allowed</b>			
Advance income-tax paid disallowed under section 40(a)(ii)	90,000		
Personal drawings (since personal expenses are not allowed under section 37)	<u>80,000</u>		
	5,20,000		
<b>Less: Income chargeable under the head "Income from Other Sources" but credited to profit and loss account</b>			
Interest on savings bank account with PNB	27,000		
Interest on savings account with post office	11,000		
Interest on FDs with Canara Bank	<u>25,000</u>	<u>4,57,000</u>	8,05,000
<b>Capital Gains</b>			
Sale consideration	80,00,000		
Less: Indexed cost of acquisition [₹ 31,50,000 x 280/105] <sup>3</sup>	<u>84,00,000</u>		
<b>Long-term capital loss to be carried forward to A.Y.2020-21 for set-off against long-term capital gains, if any, arising in that year</b>	<u>(4,00,000)</u>		
<b>Income from Other Sources</b>			
Interest on savings bank account with PNB		27,000	
Interest on savings account with post office	11,000		
Less: Exempt under section 10(15)	<u>3,500</u>	7,500	
Interest on fixed deposits with Canara Bank		<u>25,000</u>	<u>59,500</u>
<b>Gross Total Income</b>			<b>10,48,300</b>

<sup>2</sup> It is presumed that the same is authorised by the partnership deed

<sup>3</sup> The house property is a long-term capital asset, as it is held for more than 24 months.

<b>Less: Deduction under Chapter VI-A</b>			
<b>Section 80C</b>			
Life Insurance premium in the name of her husband [₹ 87,000, restricted to ₹ 80,000, being 10% of sum assured of ₹ 8 lakh, since the same is in respect of a policy taken after 31.3.2012]		80,000	
<b>Section 80D</b>			
Health insurance premium for her mother ₹ 54,000, being a senior citizen restricted to ₹ 50,000 (the same is allowable even though her mother is not dependent on her)		50,000	
<b>Section 80TTB</b>			
Since Ms. Kanchan is a resident individual aged 61 years, interest on savings deposits as well as fixed deposits would qualify for deduction. However, the total of ₹ 59,500 would be subject to a maximum of ₹ 50,000		50,000	
			<u>1,80,000</u>
<b>Total Income</b>			<b><u>8,68,300</u></b>

**Computation of tax liability of Ms. Kanchan for A.Y. 2019-20**

Particulars	₹
<b>Tax on total income of ₹ 8,68,300</b>	
Upto ₹ 3,00,000 (Since Ms. Kanchan is a resident individual of the age of 61 years)	Nil
₹ 3,00,001 – ₹ 5,00,000 [i.e., ₹ 2,00,000@5%]	10,000
₹ 5,00,001 – ₹ 8,68,300 [i.e., ₹ 3,68,300@20%]	<u>73,660</u>
	83,660
Add: Health and Education cess@4%	<u>3,346</u>
<b>Tax Liability</b>	<b><u>87,006</u></b>
Tax Liability (rounded off)	87,010
Less: Advance income-tax paid	<u>90,000</u>
<b>Tax refundable</b>	<b><u>(2,990)</u></b>

**Question 2**

Miss Bansuri, a Chinese National, got married to Mr. Keshav of India in Beijing on 3<sup>rd</sup> February, 2018 and came to India for the first time on 14-02-2018. She left for China on 11-08-2018. She returned to India again on 20-02-2019.

She received the following gifts from her relatives and friends during 01-04-2018 to 31-03-2019 in India:

- From parents of husband	₹ 71,000
- From married sister of husband	₹ 21,000
- From two very close friends of her husband, ₹1,41,000 and ₹1,21,000	₹ 2,62,000

- (a) Determine her residential status and compute the total income chargeable to tax along with the amount of tax payable on such income for the Assessment Year 2019-20.
- (b) Will your answer change if she had returned to India again on 20-01-2019 instead of 20-02-2019? **(7 Marks)**

**Answer**

- (a) **Determination of residential status and computation of total income and tax liability of Miss Bansuri (if she returned to India on 20.2.2019)**

Particulars	₹
Under section 6(1), an individual is said to be resident in India in any previous year, if he/she satisfies any one of the following conditions: (i) He/she has been in India during the previous year for a total period of 182 days or more, or (ii) He/she has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more and has been in India for at least 60 days in the previous year. If an individual satisfies any one of the conditions mentioned above, he/she is a resident. If both the above conditions are not satisfied, the individual is a non-resident. Therefore, the residential status of Miss Bansuri, a Chinese National, for A.Y. 2019-20 has to be determined on the basis of her stay in India during the previous year relevant to A.Y. 2019-20 i.e. P.Y. 2018-19 and in the preceding four years. Her stay in India during the previous year 2018-19 and in the preceding four years are as under:	
<b><u>P.Y. 2018-19</u></b>	
01.04.2018 to 11.08.2018	- 133 days
20.02.2019 to 31.03.2019	- 40 days
<b>Total</b>	<b><u>173 days</u></b>
<b>Four preceding previous years</b>	
P.Y. 2017-18 [14.2.2018 to 31.3.2018]	- 46 days
P.Y. 2016-17 [1.4.2016 to 31.3.2017]	- Nil

P.Y.2015-16 [1.4.2015 to 31.3.2016]	-	Nil
P.Y.2014-15 [1.4.2014 to 31.3.2015]	-	Nil
<b>Total</b>		<b><u>46 days</u></b>
The total stay of Miss Bansuri during the previous year in India was less than 182 days and during the four years preceding this year was for 46 days.		
Therefore, due to non-fulfillment of any of the two conditions for a resident, she would be treated as non-resident for the Assessment Year 2019-20.		
Accordingly, her total income and tax liability would be computed in the following manner:		
<b>Computation of total income and tax liability of Miss Bansuri for the A.Y. 2019-20</b>		
<b>Income from other sources</b>		
<b>Gifts received from non-relatives</b> is chargeable to tax as per section 56(2) (x) if the aggregate value of such gifts exceeds ₹ 50,000.		
- ₹ 71,000 received from parents of husband would be exempt, since parents of husband fall within the definition of 'relatives' and gifts from a relative are not chargeable to tax.		Nil
- ₹ 21,000 received from married sister-in-law is exempt, since sister of husband falls within the definition of relative and gifts from a relative are not chargeable to tax.		Nil
- Gift received from two friends of her husband ₹ 1,41,000 and ₹ 1,21,000 aggregating to ₹ 2,62,000 is taxable under section 56(2)(x) since the aggregate of ₹ 2,62,000 exceeds ₹ 50,000.		<u>2,62,000</u>
<b>Total Income</b>		<b><u>2,62,000</u></b>
Tax on total income of ₹ 2,62,000 [5% of ₹ 12,000 in excess of ₹ 2,50,000, being the basic exemption limit]		600
Add: Health and Education cess@4%		<u>24</u>
<b>Total tax payable</b>		<b><u>624</u></b>
<b>Total tax payable (rounded off)</b>		<b>620</b>

- (b) **Determination of residential status and computation of total income and tax liability of Miss Bansuri (if she returned to India on 20.1.2019)**

Particulars	₹
Yes, the answer would change, if she had returned to India again on 20.1.2019 instead of 20.2.2019.	
In such case, her stay in India during the previous year 2018-19 would be:	

01.04.2018 to 11.08.2018	-	133 days	
20.01.2019 to 31.03.2019	-	<u>71 days</u>	
<b>Total</b>		<b><u>204 days</u></b>	
<p>Since she satisfies the condition of stay in India for more than 182 days during the previous year 2018-19, she would become resident in India. She would be a resident but not ordinarily resident in India for A.Y. 2019-20, since her stay in India in the preceding seven years is less than 730 days (it is only 46 days)<sup>4</sup>.</p> <p>Her total income would remain same i.e., ₹ 2,62,000 even in case she become resident but not ordinarily resident, however, her tax liability would be determined in the following manner:</p> <p><b>Tax liability:</b></p> <p>Tax on total income of ₹ 2,62,000 [5% of ₹ 12,000 in excess of ₹ 2,50,000, being the basic exemption limit]</p> <p>Less: Rebate under section 87A (since she is a resident individual and her total income does not exceed ₹ 3,50,000, she would be eligible for a rebate of lower of ₹ 2,500 and tax payable i.e., ₹ 600).</p> <p><b>Total tax payable</b></p>			
			600
			<u>600</u>
			<u><b>Nil</b></u>

**Question 3**

Mr. Swaraj has provided the following particulars for the year ended 31-03-2019:

- He retired on 31-12-2018 at the age of 58, after putting in 25 years and 9 months of service, from a private company at Delhi.
- He was paid a salary of ₹ 25,000 p.m. and house rent allowance of ₹ 6,000 p.m. He paid rent of ₹ 6,500 p.m., during his tenure of service.
- On retirement, he was paid a gratuity of ₹ 3,50,000. He was covered by the payment of Gratuity Act, 1972. He had not received any other gratuity at any point of time earlier, other than this gratuity.
- He had accumulated leave of 15 days per annum during the period of his service; this was encashed by him at the time of his retirement. A sum of ₹ 3,15,000 was received by him in this regard. Employer allowed 30 days leave per annum.
- The company presented him with a gift voucher of ₹ 5,000 on his retirement. His colleagues also gifted him a mobile phone worth ₹ 50,000 from their own contribution.

You are requested to compute his income from salary for the assessment year 2019-20. **(7 Marks)**

<sup>4</sup> In the alternative, an individual can be treated as not ordinarily resident if she is non-resident in any 9 out of 10 preceding assessment years. In this case, Miss Bansuri is a non-resident in all 10 preceding assessment years. She was in India for only 46 days in A.Y. 2018-19 and never visited India earlier.

**Answer****Computation of income under the head “Salaries” of Mr. Swaraj for the A.Y.2019-20**

Particulars	₹	₹
Basic Salary = ₹ 25,000 x 9 months		2,25,000
House Rent Allowance = ₹ 6,000 x 9 months	54,000	
Less: Least of the following exempt under section 10(13A)	<u>36,000</u>	18,000
(i) House rent allowance actually received = ₹ 6,000 x 9 = ₹ 54,000		
(ii) Rent paid (-) 10% of salary for the relevant period [₹ 58,500 (i.e., ₹ 6,500 x 9) (-) ₹ 22,500 (10% of salary i.e., 10% of ₹ 2,25,000 (Basic Salary))] = ₹ 36,000		
(iii) 50% of salary for the relevant period [50% of ₹ 2,25,000 (Basic salary)] ₹ 1,12,500		
Gratuity	3,50,000	
Less: Least of the following exempt under section 10(10)(ii)	<u>3,50,000</u>	Nil
(i) Actual Gratuity received ₹ 3,50,000		
(ii) 15 days salary for every year of completed service [15/26 x ₹ 25,000 x 26] = ₹ 3,75,000		
(iii) Notified limit = ₹ 20,00,00		
Leave encashment	3,15,000	
Less: Least of the following exempt under section 10(10AA)	<u>2,50,000</u>	65,000
(i) ₹ 3,00,000		
(ii) Leave salary actually received ₹ 3,15,000		
(iii) ₹ 2,50,000, being 10 months' salary x ₹ 25,000		
(iv) Cash equivalent of leave standing at the credit of the employee based on the average salary of last 10 months' (max. 30 days per year of service) for every year of actual service rendered for the employer from whose service he has retired 375/30 x ₹ 25,000 = ₹ 3,12,500 [Leave Due = Leave allowed – Leave taken] = 750 (30 days per year x 25 years) – 375 days (15 days x 25) = 375 days]		
Gift Voucher [As per Rule 3(7)(iv), the value of any gift or voucher or token in lieu of gift received by the employee or by member of		Exempt



his household not exceeding ₹ 5,000 in aggregate during the previous year is exempt].		
Mobile Phone received as gift from colleagues (Neither taxable under the head "Salaries" nor "Income from other sources", since taxability provisions under section 56(2)(x) are not attracted in respect of mobile phone received from colleagues, as mobile phone is not included in the definition of "property" thereunder)		<u>Nil</u>
Gross Salary		3,08,000
Less: Standard deduction u/s 16 [Actual salary or ₹ 40,000, whichever is less]		<u>40,000</u>
<b>Net Salary</b>		<b><u>2,68,000</u></b>

**Question 4**

- (a) M/s ABC and Co., a partnership firm, started its textile business on 01-04-2018. During the previous year 2018-19, it appoints the following persons :

<b>Date of appointment</b>	<b>No. of Employees</b>	<b>Designation</b>	<b>Emoluments (in ₹ per person/ month)</b>
01-04-2018	25	Accounting and office staff	22,000
01-05-2018	25	Technical staff	25,200
01-08-2018	100	Supervisors	28,000
01-09-2018	200	Helpers	22,000
<b>Total</b>	<b>350</b>		

Determine the amount of deduction available, if any, for the assessment year 2019-20, if turnover of ABC and Co. for the previous year 2018-19 is ₹ 4 crore and tax audit under section 44AB is applicable and all the employees participates in the recognised provident fund.

What would be your answer if the business of M/s ABC and Co. was of manufacture of leather products instead of textile ?

(Assume that all the requirements under the relevant section, relating to the aforesaid deduction, have been fulfilled.) **(4 Marks)**

- (b) Ms. Netra, a resident individual aged 32 years, furnishes you with the following information for the year ended on 31-03-2019:

<b>Particulars</b>	<b>Amount (₹)</b>
Income from business of handloom trading	2,65,000
Long term capital gain on sale of jewellery	1,55,000

Long term capital loss on sale of shares listed in recognised stock exchange (STT paid both at the time of sale and purchase of shares)	1,25,000
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Ms. Netra also has a brought forward loss of ₹ 4,500 from handloom business related to assessment year 2010-11 and a brought forward loss from house property amounting to ₹ 2,20,000 related to the assessment year 2018-19.

You are required to compute the total income of Ms. Netra for the assessment year 2019-20 and the amount of loss, if any, to be carried forward. **(3 Marks)**

### Answer

#### (a) I. Where ABC and Co. has started textile business on 1.4.2018

M/s. ABC and Co., a partnership firm, would be eligible for deduction u/s 80JJAA in respect of additional employees employed by it during the P.Y.2018-19, since it is subject to tax audit under section 44AB.

However, only employees employed on 1.4.2018 will qualify as “additional employees” since employees employed on 1.5.2018 and 1.8.2018 draw monthly emoluments exceeding ₹ 25,000. Also, employees employed on 1.9.2018 have been employed for only 212 days (i.e., less than 240 days) in the P.Y.2018-19. Hence, they would not be included in the meaning of “additional employees”.

Deduction u/s 80JJAA = 30% x ₹ 66,00,000, being additional employee cost in respect of employees employed on 1.4.2018 (25 employees x ₹ 22,000 p.m. x 12 months) = ₹ 19,80,000

#### II. Where ABC and Co. has started manufacture of leather products on 1.4.2018

In this case the firm has started manufacture of leather products, new employees employed for 150 days in the year would qualify as “additional employees” for the purpose of section 80JJAA.

Therefore, employees employed on 1.9.2018 (for 212 days during the P.Y. 2018-19) would also qualify as additional employees.

<u>Additional Employee Cost</u>	₹
Employees employed on 1.4.2018 (25 employees x ₹ 22,000 p.m. x 12 months)	66,00,000
Employees employed on 1.9.2018 (200 employees x ₹ 22,000 p.m. x 7 months)	<u>3,08,00,000</u>
	<u>3,74,00,000</u>
Deduction u/s 80JJAA: 30% of ₹ 3,74,00,000 = ₹ 1,12,20,000	

**Note:** The benefit of employment for minimum period of 150 days instead of 240 days during the year to qualify as “additional employee” for the purpose of section 80JJAA is available in respect of assessees engaged in apparel business, leather products and footwear products.

The question (first part) mentions that M/s. ABC and Co., partnership firm, started its textile business. Accordingly, the above solution has been worked out by considering that the firm is engaged only in the manufacture of raw fabric and not in the manufacture of finished apparel. Hence, 200 employees employed on 1.9.2018 (i.e., for less than 240 days) would not qualify as additional employees for the purpose of deduction under section 80JJAA.

Alternatively, if it is assumed that the firm manufactures the finished apparel, the employee cost of 200 employees employed on 1.9.2018 (i.e., for less than 240 days) has also to be included in the additional employees cost for the purpose of deduction under section 80JJAA. In such a case, in both scenarios I & II, i.e., whether ABC and Co. has started manufacture of apparel or manufacture of leather products, the deduction under section 80JJAA would be ₹ 1,12,20,000.

**(b) Computation of total income of Ms. Netra for A.Y.2019-20**

Particulars	₹
<b>Profits and gains of business or profession</b>	
Income from business of handloom trading	2,65,000
[By virtue of section 72(3), brought forward loss of ₹ 4,500 from handloom business for A.Y.2010-11 cannot be set-off against this income, since the eight year period immediately succeeding the assessment year relevant to the previous year in which the loss was incurred for carry forward and set-off of business loss has expired with A.Y.2018-19]	
<b>Capital Gains</b>	
Long-term capital gains on sale of jewellery	1,55,000
Less: Long-term capital loss on sale of listed shares on which STT was paid both at the time of purchase and sale	<u>1,25,000</u>
{Since long-term capital gains on sale of such shares is taxable under section 112A, the long-term capital loss arising therefrom can be set-off <sup>5</sup> against long-term capital gains on sale of jewellery [Section 70(3)]}	30,000
<b>Total Income</b>	<b><u>2,95,000</u></b>
<b><u>Loss to be carried forward to A.Y.2020-21</u></b>	
<b>Loss from house property ₹ 2,20,000 related to A.Y.2018-19</b>	

<sup>5</sup> CBDT clarification dated 4.2.2018

As per section 71B, brought forward loss of ₹ 2,20,000 from house property related to A.Y.2018-19 has to be carried forward to A.Y.2020-21, since there is no income chargeable under this head in the A.Y.2019-20. Such loss can be carried forward for a maximum of 8 assessment years for set-off only against income from house property.	2,20,000
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**Question 5**

(a) Answer any **one** of the following two sub-parts:

- (i) Mr. Mani, a resident individual, sold a plot of land on 20<sup>th</sup> March, 2019. Long term capital gain on such sale amounted to ₹ 5,00,000. Since he had no other income during the previous year 2018-19, he did not pay any advance tax instalment.

You are required to calculate the amount of advance tax payable by Mr. Mani, if any.

Base your answer on the relevant provisions relating to the payment of advance tax on income from capital gain and advise Mr. Mani suitably, so that the liability on late payment does not arise.

**(4 Marks)**

**OR**

- (ii) Examine the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the financial year 2018-19 :

(A) An insurance company paid ₹ 45,000 as insurance commission to its agent Mr. Abjjeet.

(B) Gupta and Co. (firm), engaged in wholesale business, assigned a contract for construction of its godown building to Mr. Ravi. The firm paid an aggregate of ₹ 10,00,000 to Mr. Ravi during the year.

(C) Y and Co. engaged in real estate business, conducted a lucky dip and gave a Maruti Car worth ₹ 5,00,000 to the prize winner.

(D) An advertisement company paid ₹ 5,00,000 to a cricketer, Mr. Peter from England, for working in an advertisement film.

**(4 Marks)**

- (b) Explain with brief reasons, whether the return of income can be revised under section 139(5) of the Income-tax Act, 1961 in the following cases:

(i) Defective or incomplete return filed under section 139(9).

(ii) Return already revised once under section 139(5).

(iii) Return of loss filed under section 139(3).

**(3 Marks)**

**Answer**

(a) (i)

**Computation of advance tax payable by Mr. Mani**

Particulars	₹
The total income of ₹ 5 lakh comprises only of long-term capital gains on sale of plot on 20.3.2019. Therefore, the basic exemption limit of ₹ 2,50,000 can be fully exhausted against long-term capital gains, since Mr. Mani is a resident individual. The balance capital gains of ₹ 2,50,000 is taxable@20%.	
Tax @20% on long-term capital gain of ₹ 2,50,000 (i.e., ₹ 5,00,000 less unexhausted basic exemption limit of ₹ 2,50,000)	50,000
Add: Health and education cess@4%	<u>2,000</u>
<b>Total tax liability</b>	<b><u>52,000</u></b>
Since Mr. Mani sold the plot of land on 20.3.2019, the long-term capital gain on transfer of such land arises only after due date of fourth instalment, i.e., after 15.3.2019. Accordingly, he is required to pay whole of the tax of ₹ 52,000 on such long-term capital gain on or before 31.3.2019. Accordingly, if he pays ₹ 52,000 on or before 31.3.2019, interest under section 234C for deferment of advance tax would not be attracted. Also, interest under section 234B for default in payment of advance tax would not be attracted.	

(ii) (A) **Insurance Commission**

The insurance company is required to deduct tax at source @5% under section 194D on ₹ 45,000, being the amount of insurance commission payable to Mr. Abhijeet, since such amount exceeds the threshold limit of ₹ 15,000.

Therefore, the amount of tax to be deducted at source:

$$= ₹ 45,000 \times 5\% = ₹ 2,250$$

(B) **Contract for construction of godown building**

Gupta and Co. (firm) is required deduct tax at source @1% under section 194C, on the amount of ₹ 10,00,000 payable for contract for construction of godown building to an individual, Mr. Ravi, since the aggregate amount of payment during the financial year 2018-19 exceeds ₹1,00,000.

Therefore, the amount of tax to be deducted at source:

$$= ₹ 10,00,000 \times 1\% = ₹ 10,000$$

**(C) Winning of Maruti car in Lucky dip**

Y and Co., before giving the Maruti Car to the prize winner, is required to ensure that tax of ₹ 1,50,000 (i.e., ₹ 5,00,000 x 30%) has been paid in respect of the winnings, since the winnings are wholly in kind.

**(D) Payment to non-resident sportsman**

The advertisement company is required to deduct tax at source @ 20% *plus* health and education cess@4% under section 194E, on the payment made to Mr. Peter from England, being a non-resident sportsman for advertisement

Therefore, the amount of tax to be deducted at source = ₹ 5,00,000 x 20.8%  
= ₹ 1,04,000

**(b) (i) Defective or incomplete return filed under section 139(9)**

The defective return has to be rectified within the period of 15 days from the date of intimation received from the Assessing Officer or such further extended period. Where a defective return is rectified within 15 days or such further extended period, then, such return would be a valid return.

Thereafter, if the assessee discovers any omission or wrong statement in such a return, he can furnish a revised return under section 139(5), within the prescribed time i.e. within the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

However, if the defect is not rectified within the said time, it would be an invalid return, in which case, it cannot be revised.

**(ii) Return already revised once under section 139(5)**

A return revised earlier can be revised again as the first revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. within the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

**(iii) Return of loss filed under section 139(3)**

A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).

**PAPER – 4 : TAXATION**  
**SECTION B: INDIRECT TAXES**

Question No. 6 is compulsory.

Attempt any **three** questions from the rest.

*“Working notes should form part of the respective answers.”*

*“Wherever necessary, suitable assumptions may be made by the candidates, and disclosed by way of note.”*

*“All questions should be answered on the basis of the position of GST law as amended upto 30<sup>th</sup> April, 2019.”*

**Question 6**

Alfa Institute of Management (AIM), a private college, is registered under GST in the State of Punjab.

AIM provides the following particulars for the month of April, 2019 :

Sl. No.	Particulars	Amount (₹)
i.	Tuition fee received from students pursuing management courses recognised by Punjab University, established by an Act of State Legislature	18,00,000
ii.	Tuition fee received from students pursuing under-graduate courses recognised by Stan University, London under Dual Degree programmes	8,50,000
iii.	Fee received from students of competitive exam training academy run by a Department of AIM	5,40,000
iv.	Mess fees received from students (Mess is run by AIM on its own)	3,20,000
v.	Amount paid to Local Municipal Corporation for premises taken on rent for conducting coaching classes for competitive exams	50,000
vi.	Legal services availed from Top Care & Co., a Partnership firm of advocates, for the competitive exam training academy (Intra-state transaction)	20,000

**Note:**

Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively for both outward and inward supplies.

All the amounts given above are exclusive of taxes, wherever applicable.

All the conditions necessary for availing the ITC have been fulfilled, wherever applicable.

No opening balance of ITC under any head of tax.

From the information given above, you are required to calculate the Value of taxable supply and net GST liability (CGST, SGST or IGST as the case may be) to be paid in cash, if any, by AIM for the month of April, 2019. **(8 Marks)**

**Answer**

**Computation of value of taxable supply and net GST liability to be paid in cash  
by AIM for April, 2019**

Particulars		Amount (₹)
Tuition fee received from students pursuing recognized management courses [Note-1]		Nil
Tuition fee received from students pursuing under-graduate courses recognized by Foreign University [Note-2]		8,50,000
Fee received from students of Competitive Exam Training Academy [Note-3]		5,40,000
Mess fees received from students [Note-4]		Nil
<b>Total value of taxable supply</b>		<b>13,90,000</b>
Particulars	CGST (₹)	SGST (₹)
GST liability under forward charge @ 9% [Note-5]	1,25,100	1,25,100
<i>Services on which tax is payable under reverse charge:</i>		
Rent paid to Local Municipal Corporation [Note-6]	4,500	4,500
Legal services received from Top Care & Co., a partnership firm of advocates <sup>1</sup> [Note-7]	<u>1,800</u>	<u>1,800</u>
GST liability under reverse charge payable in cash [A] [Note-8]	<u>6,300</u>	<u>6,300</u>
Output tax payable against which ITC can be set off	1,25,100	1,25,100
Less: ITC of renting immovable property and legal services	<u>6,300</u>	<u>6,300</u>
Output tax payable after set off of ITC [B]	1,18,800	1,18,800
<b>Net GST liability payable in cash [A] + [B]</b>	<b>1,25,100</b>	<b>1,25,100</b>

**Notes:-**

- Services provided by an educational institution to its students are exempt. Further, educational institution means *inter alia* an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by an Indian law.

<sup>1</sup> It has been assumed that the aggregate turnover of AIM in the preceding financial year exceeds ₹ 20 lakh.



Therefore, tuition fee received by Punjab University, being an educational institution, is exempt, since it provides qualification recognised by Indian law.

2. Tuition fee received by Stan University is taxable since Stan University is not an educational institution as qualification provided by it is not recognised by Indian law.
3. Fee received from students of competitive exam training academy is taxable as Department of AIM is not an educational institution since competitive exam training does not lead to grant of a recognized qualification.
4. Catering services provided by educational institutions to its students are exempt. It has been assumed that the mess fees has been charged from the students pursuing the qualification recognised by law.
5. Since all the services provided are intra-State, CGST and SGST @ 9% is charged
6. GST is payable under reverse charge in case of renting of immovable property services supplied by a local authority to a registered person.
7. GST is payable under reverse charge in case of legal services supplied by a firm of advocates to a business entity
8. The amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.

#### Question 7

- (a) *Dina Ltd., a registered supplier from Maharashtra, is engaged in the manufacturing of Passenger auto. The company provides the following details of purchases made/services availed by it during the month of March, 2019:*

Sl. No.	Particulars	GST Paid (₹)
i.	Purchase of iron which is used as a raw material [Goods were received in two instalments, first one in March, 2019 and the second instalment was received in April, 2019]	2,50,000
ii.	Purchase of accessories which were delivered directly to the dealers of the company. Only invoice was received by Dina Ltd.	90,000
iii.	Purchase of Bus (seating capacity 15) for the transportation of employees from their residence to company and back	1,97,000
iv.	Input tax on general insurance taken on a car used by Executives of the company for official purposes	5,200
v.	Payment made to M/s Tasty Caterers for providing daily breakfast & lunch to the employees of the company, as a voluntary staff welfare measure	54,700

You are required to determine the eligible Input tax credit available to M/s Dina Ltd. for the month of March, 2019, by giving brief explanations for treatment of various items. Subject to the information given above, all the other conditions necessary for availing input tax credit have been fulfilled. **(5 Marks)**

- (b) M/s Pranav Associates, a Partnership firm, provided recovery agent service to Newtron Credits Ltd., a NBFC and a registered supplier, on 15th January, 2019. Invoice for the same was issued on 7<sup>th</sup> February, 2019 and the payment was made on 18<sup>th</sup> April, 2019 by Newtron Credits Ltd. Bank account of company was debited on 20<sup>th</sup> April, 2019. Determine the following:
- (i) Person liable to pay GST                      (ii) Time of supply of service. **(4 Marks)**

**Answer**

- (a) **Computation of input tax credit (ITC) available with Dina Ltd. for the month of March 2019**

Particulars	ITC (₹)
Purchase of iron used as a raw material [Note-1]	Nil
Purchase of accessories delivered directly to the dealers of the company <sup>2</sup> [Note-2]	90,000
Bus for the transportation of employees [Note-3]	1,97,000
General insurance taken on car used by executives of the company for official purpose [Note-4]	Nil
Payment made to caterer for providing breakfast and lunch to the employees of company [Note-5]	Nil

**Notes:-**

- When inputs are received in instalments, ITC can be availed only on the receipt of last instalment. Hence, since last instalment is received in April 2019, ITC cannot be availed in March 2019.
- Goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. Thus, ITC is available to the registered person, on whose order/direction the goods are delivered to a third person.

<sup>2</sup> It has been presumed in the above answer that the goods have been delivered to the dealers of the company on the direction of Dina Ltd. (registered person).

3. ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.
4. ITC on motor vehicles for transportation of persons with seating capacity  $\leq$  13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. Further, ITC is not allowed on services of general insurance relating to such ineligible motor vehicles.

Since, the car is not used for any of the eligible purposes, ITC thereon is blocked and thus, ITC on general insurance taken on such car is also blocked.

5. ITC on outdoor catering is blocked except (i) in the case of sub-contracting, i.e. when such service is used by the taxpayer who is in the same line of business (ii) when such service is provided by the employer to its employees under a statutory obligation.

Since the company is not an outdoor caterer and it is providing such services to its employees as a voluntary staff welfare measure, ITC on such outdoor catering services is blocked.

- (b) (i) Tax on services supplied by a recovery agent to, *inter alia*, a non- banking financial company is payable under reverse charge by such non-banking financial company.

Therefore, in the given case, person liable to pay GST is the NBFC - Newton Credits Ltd.

- (ii) The time of supply of service on which GST is payable on reverse charge basis is earlier of the following:-
- a) Date of payment as entered in the books of account of the recipient (18<sup>th</sup> April, 2019) or the date on which the payment is debited in his bank account (20<sup>th</sup> April, 2019), whichever is earlier;
  - b) Date immediately following 60 days since issue of invoice by the supplier, i.e. 9<sup>th</sup> April, 2019.

Thus, time of supply of service is 9<sup>th</sup> April, 2019.

#### Question 8

- (a) Kartik & Co., a registered supplier under GST, provides the following information regarding various tax invoices issued by it during the month of March, 2019 :

- (i) Value of supply charged in an invoice was ₹ 2,50,000 against the actual taxable value of ₹ 2,30,000.
- (ii) Tax charged in an invoice was ₹ 32,000 against the actual tax liability of ₹ 68,000 due to wrong HSN code being chosen while issuing invoice.

- (iii) Value charged in an invoice was ₹ 3,20,000 as against the actual value of ₹ 4,20,000 due to wrong quantity considered while billing.

Kartik & Co. asks you to answer the following :

- (1) Who shall issue a Debit/Credit Note under CGST Act, 2017 ?
  - (2) Whether Debit Note or Credit Note has to be issued in each of the above circumstances and, if so, quantify the amount for which it is to be issued.
  - (3) What is the maximum time-limit available for declaring the credit note in the GST Return ? **(5 Marks)**
- (b) Examine, with reason, whether registration is required under CGST Act, 2017 in the following independent cases:
- (i) Aadhav Computers of Gujarat is providing Computer Maintenance Service. Aggregate turnover of Aadhav Computers is ₹ 15 Lakh which comprises both inter-state and intra-state supply.
  - (ii) Soft Wings of West Bengal, exclusively trading in garments, supplies its taxable goods to various States in India. Aggregate turnover of Wild Wings is ₹ 35 Lakh.

**(4 Marks)**

**Answer**

- (a) (1) The debit/credit note shall be issued by the registered person who has supplied the goods and/or services, i.e. Kartik & Co.
- (2) Yes debit/credit note need to be issued in each of the circumstances as under:
- (i) A credit note is required to be issued as the taxable value in invoice exceeds the actual taxable value. The credit note should be issued for the excess value of supply charged in the invoice, i.e. ₹ 20,000.
  - (ii) A debit note is required to be issued as the tax charged in the invoice is less than the actual tax payable. The debit note should be issued for the amount of tax which is charged less, i.e. ₹ 36,000.
  - (iii) A debit note is required to be issued as the value of supply charged in the invoice is less than the actual value. The debit note should be issued for the amount of value which is charged less, i.e. ₹ 1,00,000.
- (3) The details of the credit note cannot be declared later than the return for the month of September following the end of the financial year in which such supply was made or the date of furnishing of the relevant annual return, whichever is earlier.
- (b) (i) Registration is compulsory for suppliers engaged in inter-State supply. However, threshold exemption of ₹ 20 lakh [₹ 10 lakh in case of Specified Special Category States] is available in case of inter-State supply of taxable services.

Therefore, Aadhav Computers (aggregate turnover ₹ 15 lakh) is not required to obtain registration as it is engaged in inter-State supply of taxable services and thus, is eligible for threshold exemption of ₹ 20 lakh applicable for Gujarat.

- (ii) The threshold limit for registration in the State of West Bengal for the persons engaged exclusively in supply of goods, is ₹ 40 lakh. However, registration is compulsory if the supplier is engaged inter-State supply of goods. The threshold exemption of ₹ 20 lakh/ ₹ 10 lakh is not available in case of inter-State supply of taxable goods.

Thus, Soft Wings is required to obtain registration.

*Note: In the above question, "Wild" Wings be read as "Soft" Wings.*

### Question 9

- (a) *M/s United Electronics, a registered dealer, is supplying all types of electronic appliances in the State of Karnataka. Their aggregate turnover in the financial year 2018-19 by way of supply of appliances was ₹ 120 Lakh.*

*The firm also expects to provide repair and maintenance service of such appliances from the financial year 2019-20.*

*With reference to the latest amendments made in the CGST Act, 2017, examine:*

- (i) *Whether the firm can opt for the composition scheme for the financial year 2019-20, as the turnover may include supply of both goods and services?*
- (ii) *If yes, up to what amount, the supply of service can be provided ?* **(5 Marks)**
- (b) *Mr. Alok, a registered supplier of taxable goods, filed GSTR 3B for the month of January, 2019 on 15<sup>th</sup> April, 2019. The prescribed due date to file the said GSTR 3B was 20<sup>th</sup> February, 2019. The amount of net GST payable on supplies made by him for the said month worked out to be ₹ 36,500 which was paid on the same date of filing the return. Briefly explain the related provisions and compute the amount of interest payable under the CGST Act, 2017 by Mr. Alok.* **(4 Marks)**

### Answer

- (a) (i) The registered persons, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore, may opt to pay tax under composition levy.

The scheme can be availed by an intra-State supplier of goods and supplier of restaurant service.

However, the composition scheme permits supply of marginal services (other than restaurant services) for a specified value along with the supply of goods and restaurant service, as the case may be.

Thus, M/s United Electronics can opt for composition scheme for the financial year 2019-20 as its aggregate turnover is less than ₹ 1.5 crore in the preceding financial year and it is not engaged in inter-State outward supplies.

- (ii) The registered person opting for composition scheme can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher, in the current financial year.

Thus, M/s United Electronics can supply repair and maintenance services up to a value of ₹12 lakh [10% of ₹120 lakh or ₹5 lakh, whichever is higher] in the current financial year 2019-20.

- (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. Alok is as under:-

Period of delay = 21<sup>st</sup> February, 2019 to 15<sup>th</sup> April, 2019

= 54 days

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

= ₹ 972

#### Question 10

- (a) Discuss about the exemption available to the services provided by an Old Age Home under the CGST Act, 2017.

OR

Documents based on which ITC is taken should contain at least certain details. What are they ? **(4 Marks)**

- (b) Discuss about the late fee levied for delay in filing :

(i) Final Return

(ii) Annual Return

**(5 Marks)**

#### Answer

- (a) The services provided by an old age home to its residents are exempt if the following conditions are fulfilled:

- (i) the old age home is run by Central Government, State Government or an entity registered under section 12AA of the Income-tax Act, 1961.
- (ii) The consideration charged is upto ₹ 25,000 per month per member.
- (iii) The consideration charged is inclusive of charges for boarding, lodging and maintenance.
- (iv) The residents of the old age home are aged 60 years or more.

- (a) **Alternative**

The documents based on which ITC is taken should contain at least the following details:

- (i) Amount of tax charged
- (ii) Description of goods or services
- (iii) Total value of supply of goods and/or services
- (iv) GSTIN of the supplier and recipient
- (v) Place of supply in case of inter-State supply

*Note: Any four points may be mentioned out of the above mentioned five points.*

- (b) (i)** The late fee levied for delay in filing final return is:
- (a) ₹ 100 for every day during which such failure continues or
  - (b) ₹ 5,000
- whichever is lower.
- (ii)** The late fee levied for delay in filing annual return is:
- (a) ₹100 for every day during which such failure continues, or
  - (b) 0.25% of the turnover of the registered person in the State/Union Territory
- whichever is lower.