

CA / CMA - INTER

MAY / JUNE & NOV / DEC 2024 EXAMS

AS AMENDED BY FINANCE ACT 2023

COMPILER

DIRECT TAX

**QUESTION
& ANSWERS**



CA BHANWAR BORANA



for CA/CMA Intermediate

DIRECT TAXATION

(for MAY/JUNE & NOV/DEC 2024 EXAMS)

Amended by Finance Act, 2023

As per New Syllabus of ICAI

CA Bhanwar Borana



Direct Taxation

By CA Bhanwar Borana

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Contents

Chapter 1	Basic Concepts	1
Chapter 2	Residence and Scope of Total Income	12
Chapter 3	Income from Salary	29
Chapter 4	Income from House Property	62
Chapter 5	Profit & Gain from Business or Profession (PGBP)	84
Chapter 6	Capital Gain	118
Chapter 7	Income from Other Sources	136
Chapter 8	Income of Other Persons Included in Assessee's Total Income	143
Chapter 9	Aggregation of Income, Set-Off and Carry Forward of Losses	156
Chapter 10	Deductions from Gross Total Income	183
Chapter 11	Advance Tax, Tax Deduction at Source and Introduction to Tax Collection at Source	208
Chapter 12	Provisions for Filing return of Income and Self Assessment	226
Chapter 13	Income Tax Liability Computation and Optimisation [Total Income & Tax liability]	232

Basic Concepts

Question 1

Mr. X has a total income of ₹ 12,00,000 for P.Y.2023-24, comprising of income from house property and interest on fixed deposits. Compute his tax liability for A.Y.2024-25 assuming his age is—

- (a) 45 years
(b) 63 years
(c) 82 years

Assume that Mr. X exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A). [Ignore 115BAC] [SM Q.]

Answer 1

(a) Computation of Tax liability of Mr. X (age 45 years)

Tax liability:

First ₹ 2,50,000	- Nil	
Next ₹ 2,50,001 – ₹ 5,00,000	- @5% of ₹ 2,50,000	= ₹ 12,500
Next ₹ 5,00,001 – ₹ 10,00,000	- @20% of ₹ 5,00,000	= ₹ 1,00,000
Balance i.e., ₹ 12,00,000 minus ₹10,00,000	- @30% of ₹ 2,00,000	= ₹ 60,000
		= ₹ 1,72,500
Add: Health and Education cess@4%		= ₹ 6,900
		= ₹ 1,79,400

(b) Computation of Tax liability of Mr. X (age 63 years)

Tax liability:

First ₹ 3,00,000	- Nil	
Next ₹ 3,00,001 – ₹ 5,00,000	- @5% of ₹ 2,00,000	= ₹ 10,000
Next ₹ 5,00,001 – ₹ 10,00,000	- @20% of ₹ 5,00,000	= ₹ 1,00,000
Balance i.e., ₹ 12,00,000 minus ₹10,00,000 - @30% of ₹ 2,00,000		= ₹ 60,000
		= ₹ 1,70,000
Add: Health and Education cess@4%		= ₹ 6,800
		= ₹ 1,76,800

(c) Computation of Tax liability of Mr. X (age 82 years)

Tax liability:

First ₹ 5,00,000	- Nil	
Next ₹ 5,00,001 – ₹ 10,00,000	- @ 20% of ₹ 5,00,000	= ₹ 1,00,000
Balance i.e., (₹12,00,000 - ₹10,00,000) - @ 30% of ₹ 2,00,000		= ₹ 60,000
		= ₹ 1,60,000
Add: Health and Education cess@4%		= ₹ 6,400
		= ₹ 1,66,400

Question 2

Compute the tax liability of Mr. A (aged 42), having total income of ₹ 51 lakhs for the Assessment Year 2024-25. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. A exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A). [SM Q.]

Answer 2

Computation of tax liability of Mr. A for the A.Y. 2024-25

(A) Tax payable including surcharge on total income of		₹ 51,00,000
₹ 2,50,000 – ₹ 5,00,000 @5%	₹ 12,500	
₹ 5,00,001 – ₹ 10,00,000 @20%	₹ 1,00,000	
₹ 10,00,001 – ₹ 51,00,000 @30%	₹ 12,30,000	
Total	₹ 13,42,500	
Add: Surcharge @ 10%	₹ 1,34,250	₹ 14,76,750
 (B) Above amount is restricted to		
Tax on ₹ 50 lakhs + (NTI - 50 lakhs)		
₹ 13,12,500 + ₹ 1,00,000		₹ 14,12,500
(C) Tax payable: lower of (A) and (B)		₹ 14,12,500
Add: Health and education cess @4%		₹ 56,500
Tax liability		₹ 14,69,000
(D) Marginal Relief (A – B)		₹ 64,250

Question 3

Compute the tax liability of Mr. B (aged 51), having total income of ₹ 1,01,00,000 for the Assessment Year 2024-25. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. [SM Q.]

Answer 3

Computation of tax liability of Mr. B for the A.Y. 2024-25 as per default taxation regime u/s 115BAC

(A) Tax payable including surcharge on total income of ₹ 1,01,00,000		
₹ 3,00,000 – ₹ 6,00,000@5%		₹ 15,000
₹ 6,00,001 – ₹ 9,00,000@10%		₹ 30,000
₹ 9,00,001 – ₹ 12,00,000@15%		₹ 45,000
₹ 12,00,001 – ₹ 15,00,000@20%		₹ 60,000
₹ 15,00,001 – ₹ 1,01,00,000@30%		₹ 25,80,000
Total		₹ 27,30,000
Add: Surcharge@15%		₹ 4,09,500
Tax liability without marginal relief		₹ 31,39,500
(B) Above amount is restricted to		
Tax on 1 crore + (NTI - 1Cr)		
(27,00,000 + 10% surcharge) + 1,00,000		₹ 30,70,000
(C) Tax payable: lower of (A) & (B)		₹ 30,70,000
Add: Health and education cess @4%		₹ 1,22,800
Tax liability		₹ 31,92,800
(D) Marginal relief (A-B)		₹ 69,500

Question 4

Mr. Raghav aged 26 years and a resident in India, has a total income of ₹ 4,40,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for A.Y. 2024-25. Assume assessee exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A). [Ignore 115BAC] **[SM Q.]**

Answer 4**Computation of tax liability of Mr. Raghav for A.Y. 2024-25**

Particulars	₹
Tax on total income of ₹ 4,40,000	
Tax @ 5% of ₹ 1,90,000 (₹ 4,40,000 – ₹ 2,50,000)	9,500
Less: Rebate u/s 87A (Lower of tax payable or ₹ 12,500)	9,500
Tax Liability	Nil

Question 5

Mr. Dinesh aged 35 years and a resident in India, has a total income of ₹ 4,80,000, comprising of long-term capital gains taxable u/s 112. Compute his tax liability for A.Y. 2024-25. Assume assessee exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A). [Ignore 115BAC] **[SM Q.]**

Answer 5**Computation of tax liability of Mr. Dinesh for A.Y. 2024-25**

Particulars	₹
Tax on total income of ₹ 4,80,000	
Tax @ 20% of ₹ 2,30,000 (₹ 4,80,000 – ₹ 2,50,000, being unexhausted basic exemption limit)	46,000
Less: Rebate u/s 87A (Lower of ₹ 46,000 or ₹ 12,500)	12,500
	33,500
Add: Health and education cess @ 4%	1,340
Tax Liability	34,840

Question 6

Who is an "Assessee"?

[SM Q.]**Answer 6**

As per section 2(7), assessee means a person by whom any tax or any other sum of money is payable under the Income-tax Act, 1961.

In addition, the term includes –

- Every person in respect of whom any proceeding under the Act has been taken for the assessment of –
 - his income; or
 - the income of any other person in respect of which he is assessable; or
 - the loss sustained by him or by such other person; or
 - the amount of refund due to him or to such other person.
- Every person who is deemed to be an assessee under any provision of the Act;
- Every person who is deemed to be an assessee in default under any provision of the Act.

Question 7

What are the two schools of Hindu law and where are they prevalent? Explain. Also, mention the difference between the two schools of Hindu Law. [SM Q.]

Answer 7

The two schools of Hindu law are Dayabaga school, prevalent in West Bengal and Assam, and Mitakshara school, prevalent in rest of India. Under the Dayabaga school of Hindu Law, nobody acquires the right, share in the property by birth as long as the head of family is living. Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property. Hence, the father and his brothers would be the coparceners of the HUF.

Under the Mitakshara school of Hindu Law, one acquires the right to the family property by his birth and not by succession irrespective of the fact that his elders are living. Thus, every child born in the family acquires a right/share in the family property.

Question 8

The Jain HUF in Assam comprises of Mr. Suresh Jain, his wife Mrs. Sapna Jain, his son Mr. Sarthak Jain, his daughter-in-law Mrs. Preeti Jain, his daughter Miss Seema Jain and his unmarried brother Mr. Pritam Jain. Which of the members of the HUF are eligible for coparcenary rights? [SM Q.]

Answer 8

Dayabaga school of Hindu law is prevalent in Assam. In Dayabaga school of Hindu law, nobody acquires the right, share in the property by birth as long as the head of family is living. Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property.

Hence, Mr. Suresh Jain and his brother, Mr. Pritam Jain would be the coparceners of the Jain HUF and are eligible for coparcenary rights.

Question 9

What is the difference between an Association of Persons and Body of Individuals? [SM Q.]

Answer 9

In order to constitute an Association of Persons (AOP), persons must join for a common purpose or action and their object must be to produce income; it is not enough that the persons receive the income jointly.

Body of Individuals denotes the status of persons like executors or trustees who merely receive the income jointly and who may be assessable in like manner and to the same extent as the beneficiaries individually. Thus, coexecutors or co-trustees are assessable as a BOI as their title and interest are indivisible.

The difference between an AOP and BOI is that in case of a BOI, only individuals can be the members, whereas in case of AOP, any person can be its member i.e. entities like company, firm etc. can be the member of AOP but not of BOI.

In case of an AOP, members voluntarily come together with a common will for a common intention or purpose, whereas in case of BOI, such common will may or may not be present.

Question 10

State any four instances where the income of the previous year is assessable in the previous year itself instead of the assessment year. [SM Q.]

Answer 10

The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. However, in a few cases, the income is taxed in the previous year in

which it is earned. These exceptions have been made to protect the interests of revenue. The exceptions are as follows:

- (i) Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof. 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf, whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.
- (ii) Where it appears to the Assessing Officer that any individual may leave India during the current assessment year or shortly after its expiry and he has no present intention of returning to India, the total income of such individual for the period from the expiry of the respective previous year up to the probable date of his departure from India is chargeable to tax in that assessment year.
- (iii) If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that the AOP/BOI is likely to be dissolved in the same year or in the next year, he can make assessment of the income up to the date of dissolution as income of the relevant assessment year.
- (iv) During the current assessment year, if it appears to the Assessing Officer that a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets to avoid payment of any liability under this Act, the total income of such person for the period from the expiry of the previous year to the date, when the Assessing Officer commences proceedings under this section is chargeable to tax in that assessment year.
- (v) Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that assessment year.

Question 11

Mr. Agarwal, aged 40 years and a resident in India, has a total income of ₹ 6,50,00,000, comprising long term capital gain taxable under section 112 of ₹ 55,00,000, short term capital gain taxable u/s 111A of ₹ 65,00,000 and other income of ₹ 5,30,00,000. Compute his tax liability for A.Y.2024-25 under the default tax regime and optional tax regime as per the normal provisions of the Act assuming that the total income and its components are the same in both tax regimes. [SM Q.]

Answer 11

Computation of tax liability of Mr. Agarwal for the A.Y.2024-25 as per default tax regime u/s 115BAC

Particulars		₹
Tax on total income of ₹ 6,50,00,000		
Tax@20% on LTCG of ₹ 55,00,000		11,00,000
Tax@15% STCG 111A of ₹ 65,00,000		9,75,000
Tax on other income of ₹ 6,30,00,000		
₹ 3,00,000 – ₹ 6,00,000@5%	₹ 15,000	
₹ 6,00,001 – ₹ 9,00,000@10%	₹ 30,000	
₹ 9,00,001 – ₹ 12,00,000@15%	₹ 45,000	
₹ 12,00,001 – ₹ 15,00,000@20%	₹ 60,000	
₹ 15,00,001 – ₹ 5,30,00,000 @30%	₹ 1,54,50,000	1,56,00,000

Chapter 1: Basic Concepts

Particulars		₹
		1,76,75,000
Add: Surcharge @15% on ₹ 20,75,000	3,11,250	
@25% on ₹ 1,56,00,000	39,00,000	42,11,250
Add: Health and education cess @4%		2,18,86,250
		8,75,450
Tax Liability		2,27,61,700

Computation of tax liability of Mr. Agarwal for the A.Y.2024-25 as per Normal Provisions

Particulars		₹
Tax on total income of ₹ 6,50,00,000		
Tax@20% on LTCG of ₹ 55,00,000		11,00,000
Tax@15% STCG 111A of ₹ 65,00,000		9,75,000
Tax on other income of ₹ 3,30,00,000		
₹ 2,50,000 – ₹ 5,00,000 @5%	12,500	
₹ 5,00,000 – ₹ 10,00,000 @20%	1,00,000	
₹ 10,00,000 – ₹ 5,30,00,000 @30%	1,56,00,000	1,57,12,500
		1,77,87,500
Add: Surcharge @15% on ₹ 20,75,000	3,11,250	
@37% on ₹ 1,57,12,500	58,13,625	61,24,875
Add: Health and education cess @4%		2,39,12,375
		9,56,495
Tax Liability		2,48,68,870

Question 12

Mr. Sharma aged 62 years and a resident in India, has a total income of ₹ 2,30,00,000, comprising long term capital gain taxable u/s 112 of ₹ 52,00,000, short term capital gain taxable u/s 111A of ₹ 64,00,000 and other income of ₹ 1,14,00,000. Compute his tax liability for A.Y.2024-25. Assume he exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A). [Ignore 115BAC]

[SM Q.]

Answer 12

Computation of tax liability of Mr. Sharma for the A.Y.2024-25

Particulars		₹
Tax on total income of ₹ 2,30,00,000		
Tax @ 20% of ₹ 52,00,000		10,40,000
Tax @ 15% of ₹ 64,00,000		9,60,000
Tax on other income of ₹ 1,14,00,000		
₹ 3,00,000 – ₹ 5,00,000 @5%	10,000	
₹ 5,00,000 – ₹ 10,00,000 @20%	1,00,000	
₹ 10,00,000 – ₹ 1,14,00,000 @30%	31,20,000	32,30,000

Particulars	₹
	52,30,000
Add: Surcharge @15%	7,84,500
	60,14,500
Add: Health and education cess @4%	2,40,580
Tax Liability	62,55,080

Question 13

Mr. B grows sugarcane and uses the same for the purpose of manufacturing sugar in his factory. 30% of sugarcane produce is sold for ₹ 10 lacs, and the cost of cultivation of such sugarcane is ₹ 5 lacs. The cost of cultivation of the balance sugarcane (70%) is ₹ 14 lacs and the market value of the same is ₹ 22 lacs. After incurring ₹ 1.5 lacs in the manufacturing process on the balance sugarcane, the sugar was sold for ₹ 25 lacs. Compute B's business income and agricultural income. [SM Q.]

Answer 13**Computation of Business Income and Agriculture Income of Mr. B**

Particulars	Business Income	Agricultural Income	
	(₹)	(₹)	(₹)
<u>Sale of Sugar</u>			
<u>Business income</u>			
Sale Proceeds of sugar	25,00,000		
Less: Market value of sugarcane (70%)	22,00,000		
Less: Manufacturing exp.	<u>1,50,000</u>		
	PGBP		
	<u>1,50,000</u>		
<u>Agricultural income</u>			
Market value of sugarcane (70%)		22,00,000	
Less: Cost of cultivation		<u>14,00,000</u>	
			8,00,000
<u>Sale of sugarcane</u>			
<u>Agricultural Income</u>			
Sale proceeds of sugarcane (30%)		10,00,000	
Less: Cost of cultivation		<u>5,00,000</u>	<u>5,00,000</u>
Agriculture Income			<u>13,00,000</u>

Question 14

Explain with brief reasons, whether the following income can be regarded as agricultural income, as per the provisions of the Income-tax Act, 1961:

- Rent received for letting out agricultural land for a movie shooting.
- Income from sale of seedlings in a nursery adjacent to the agricultural lands owned by an assessee.

[SM Q.]

Answer 14**(i) Rent received for letting out agricultural land for a movie shooting:**

As per section 2(1A), "agricultural income" means, inter alia,

- any rent or revenue derived from land
- which is situated in India and is used for agricultural purposes.

In the present case, rent is being derived from letting out of agricultural land for a movie shoot, which is not an agricultural purpose and hence, it does not constitute agricultural income.

(ii) Income from sale of seedlings in a nursery:

As per Explanation 3 to section 2(1A), income derived from saplings or seedlings grown in a nursery is deemed to be agricultural income, whether or not the basic operations were carried out on land.

Therefore, the amount received from sale of seedlings in a nursery adjacent to the agricultural lands owned by the assessee constitutes agricultural income.

Question 15

Mr. Raja, a resident Indian, earns income of ₹ 10 lakhs from sale of coffee grown and cured in India during the A.Y. 2024-25. His friend, Mr. Shyam, a resident Indian, earns income of ₹ 20 lakhs from sale of coffee grown, cured, roasted and grounded by him in India during the A.Y. 2024-25. What would be the business income chargeable to tax in India of Mr. Raja and Mr. Shyam?

[SM Q.]**Answer 15**

In case of income derived from the sale of coffee grown and cured by the seller in India, 25% income on such sale is taxable as business income. In case of income derived from the sale of coffee grown, cured, roasted and grounded by the seller in India, 40% income on such sale is taxable as business income.

Business income of Mr. Raja = 25% of ₹ 10 lakhs = ₹ 2.5 lakhs

Business income of Mr. Shyam = 40% of ₹ 20 lakhs = ₹ 8 lakhs

Question 16

Mr. X, a resident, has provided the following particulars of his income for the P.Y. 2023-24.

- Income from salary (computed) - ₹ 4,80,000
- Income from house property (computed) - ₹ 2,50,000
- Agricultural income from a land in Jaipur - ₹ 4,80,000
- Expenses incurred for earning agricultural income - ₹ 1,70,000

Compute his tax liability for A.Y. 2024-25 assuming his age is -

- 45 years
- 70 years

Answer 16**(a) Computation of tax liability (age 45 years)**

Computation of total income of Mr. X for the A.Y. 2024-25 under default tax regime under section 115BAC

For the purpose of partial integration of taxes, Mr. X has satisfied both the conditions i.e.

1. Net agricultural income exceeds ₹ 5,000 p.a., and
2. Non-agricultural income exceeds the basic exemption limit of ₹ 3,00,000.

His tax liability is computed in the following manner:

Particulars	₹	₹
Income from salary		4,80,000
Income from house property		2,50,000
Net agricultural income [₹ 4,80,000 – ₹ 1,70,000]	3,10,000	
Less: Exempt under section 10(1)	(3,10,000)	-
Gross Total Income		7,30,000
Less: Deductions under Chapter VI-A		-
Total Income		<u>7,30,000</u>

Step 1 : ₹ 7,30,000 + ₹ 3,10,000 = ₹ 10,40,000

Tax on ₹ 10,40,000 = ₹ 66,000

(i.e., 5% of ₹ 3,00,000 plus 10% of ₹ 3,00,000 plus 15% of ₹ 1,40,000)

Step 2 : ₹ 3,10,000 + ₹ 3,00,000 = ₹ 6,10,000

Tax on ₹ 6,10,000 = ₹ 16,000

(i.e. 5% of ₹ 3,00,000 plus 10% of ₹ 10,000)

Step 3 : ₹ 66,000 – ₹ 16,000 = ₹ 50,000

Step 4 & 5 : Total tax payable = ₹ 50,000

= ₹ 50,000 + 4% of ₹ 50,000 = ₹ 52,000.

Computation of total income of Mr. X for the A.Y. 2024-25 under normal provisions of the Act

Step 1 : ₹ 7,30,000 + ₹ 3,10,000 = ₹ 10,40,000

Tax on ₹ 10,40,000 = ₹ 1,24,500

(i.e., 5% of ₹ 2,50,000 plus 20% of ₹ 5,00,000 plus 30% of ₹ 40,000)

Step 2 : ₹ 3,10,000 + ₹ 2,50,000 = ₹ 5,60,000

Tax on ₹ 5,60,000 = ₹ 24,500

(i.e. 5% of ₹ 2,50,000 plus 20% of ₹ 60,000)

Step 3 : ₹ 1,24,500 – ₹ 24,500 = ₹ 1,00,000

Step 4 & 5 : Total tax payable = ₹ 1,00,000

= ₹ 1,00,000 + 4% of ₹ 1,00,000 = ₹ 1,04,000.

(b) Computation of tax liability (age 70 years)

Computation of total income of Mr. X for the A.Y. 2024-25 under default tax regime under section 115BAC

Tax liability of Mr. X would be same under default tax regime whether he is of age of 45 years or 70 years i.e., ₹ 52,000.

Computation of total income of Mr. X for the A.Y. 2024-25 under normal provisions of the Act

His tax liability is computed in the following manner:

Step 1 : ₹ 7,30,000 + ₹ 3,10,000 = ₹ 10,40,000

Tax on ₹ 10,40,000 = ₹ 1,22,000

(i.e., 5% of ₹ 2,00,000 plus 20% of ₹ 5,00,000 plus 30% of ₹ 40,000)

Step 2 : ₹ 3,10,000 + ₹ 3,00,000 = ₹ 6,10,000

Tax on ₹ 6,10,000 = ₹ 32,000

(i.e. 5% of ₹ 2,00,000 plus 20% of ₹ 1,10,000)

Step 3 : ₹ 1,22,000 – ₹ 32,000 = ₹ 90,000

Step 4 & 5 : Total tax payable = ₹ 90,000

= ₹ 90,000 + 4% of ₹ 1,00,000 = ₹ 93,600.

Question 17

Miss Vivitha, a resident and ordinarily resident in India, has derived the following income from various operations (relating to plantations and estates owned by her) during the year ended 31-3-2024:

S. No.	Particulars	₹
(i)	Income from sale of centrifuged latex processed from rubber plants grown in Darjeeling.	3,00,000
(ii)	Income from sale of coffee grown and cured in Yercaud, Tamil Nadu.	1,00,000
(iii)	Income from sale of coffee grown, cured, roasted and grounded, in Colombo. Sale consideration was received at Chennai.	2,50,000
(iv)	Income from sale of tea grown and manufactured in Shimla.	4,00,000
(v)	Income from sapling and seedling grown in a nursery at Cochin. Basic operations were not carried out by her on land.	80,000

You are required to compute the business income and agricultural income of Miss Vivitha for the A.Y. 2024-25.

[SM Q.]

Answer 17

Computation of business income and agricultural income of Ms. Vivitha for the A.Y.2024-25

Sr. No.	Source of income	Gross (₹)	Business income		Agricultural income
			%	₹	₹
(i)	Sale of centrifuged latex from rubber plants grown in India.	3,00,000	35%	1,05,000	1,95,000
(ii)	Sale of coffee grown and cured in India.	1,00,000	25%	25,000	75,000
(iii)	Sale of coffee grown, cured, roasted and grounded outside India. (See Note 1 below)	2,50,000	100%	2,50,000	-
(iv)	Sale of tea grown and manufactured in India	4,00,000	40%	1,60,000	2,40,000
(v)	Saplings and seedlings grown in nursery in India (See Note 2 below)	80,000		Nil	80,000
	Total			5,40,000	5,90,000

Notes:

- Where income is derived from sale of coffee grown, cured, roasted and grounded by the seller in India, 40% of such income is taken as business income and the balance as agricultural income. However, in this question, these operations are done in Colombo, Sri Lanka. Hence, there is no question of such apportionment and the whole income is taxable as business income. Receipt of sale proceeds in India does not make this agricultural income. In the case of an assessee, being a resident and ordinarily resident, the income arising outside India is also chargeable to tax.
- Explanation 3 to section 2(1A) provides that the income derived from saplings or seedlings grown in a nursery would be deemed to be agricultural income whether or not the basic operations were carried out on land.

Question 18

Discuss the taxability of the following transactions giving reasons, in the light of relevant provisions, for your conclusion.

- (i) Mr. Rajpal took a land on rent from Ms. Shilpa on monthly rent of ₹ 10,000. He sub-lets the land to Mr. Manish for a monthly rent of ₹ 11,500. Manish uses the land for grazing of cattle required for agricultural activities. Mr. Rajpal wants to claim deduction of ₹ 10,000 (being rent paid by him to Ms. Shilpa) from the rental income received by it from Mr. Manish.
- (ii) Mr. Netram grows paddy on land. He then employs mechanical operations on grain to make it fit for sale in the market, like removing hay and chaff from the grain, filtering the grain and finally packing the rice in gunny bags. He claims that entire income earned by him from sale of rice is agricultural income not liable to income-tax since paddy as grown on land is not fit for sale in its original form.

Answer 18

- (i) The rent or revenue derived from land situated in India and used for agricultural purposes would be agricultural income under section 2(1A)(a). Therefore, rent received from sub-letting of the land used for grazing of cattle required for agriculture activities is agricultural income. The rent can either be received by the owner of the land or by the original tenant from the sub-tenant. Accordingly, rent received by Mr. Rajpal from Mr. Manish for using land for grazing of cattle required for agricultural activities is agricultural income exempt u/s 10(1). As per section 14A, no deduction is allowable in respect of exempt income.
- (ii) The income from the process ordinarily employed to render the produce fit to be taken to the market would be agricultural income under section 2(1A)(b)(ii). The process of making the rice ready from paddy for the market may involve manual operations or mechanical operations, both of which constitute processes ordinarily employed to make the product fit for the market. Accordingly, the entire income earned by Mr. Netram from sale of rice is agricultural income.

Residence and Scope of Total Income

Question 1

Mr. Anand is an Indian citizen and a member of the crew of a Singapore bound Indian ship engaged in carriage of passengers in international traffic departing from Chennai port on 6th June, 2023. From the following details for the P.Y. 2023-24, determine the residential status of Mr. Anand for A.Y. 2024-25, assuming that his stay in India in the last 4 previous years (preceding P.Y. 2023-24) is 400 days: [SM Q.]

Particulars	Date
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Anand	6th June, 2023
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Anand	9th December, 2023

Answer 1 .

In this case, since Mr. Anand is an Indian citizen and leaving India during P.Y. 2023-24 as a member of the crew of the Indian ship, he would be resident in India if he stayed in India for 182 days or more.

The voyage is undertaken by an Indian ship engaged in the carriage of passengers in international traffic, originating from a port in India (i.e., the Chennai port) and having its destination at a port outside India (i.e., the Singapore port). Hence, the voyage is an eligible voyage for the purposes of section 6(1).

Therefore, the period beginning from 6th June, 2023 and ending on 9th December, 2023, being the dates entered into the Continuous Discharge Certificate in respect of joining the ship and signing off from the ship by Mr. Anand, an Indian citizen who is a member of the crew of the ship, has to be excluded for computing the period of his stay in India. Accordingly, 187 days [25 + 31 + 31 + 30 + 31 + 30 + 9] have to be excluded from the period of his stay in India. Consequently, Mr. Anand's period of stay in India during the P.Y. 2023-24 would be 179 days [i.e., 366 days – 187 days]. Since his period of stay in India during the P.Y. 2023-24 is less than 182 days, he is a non-resident for A.Y. 2024-25.

Question 2

Brett Lee, an Australian cricket player visits India for 100 days in every financial year. This has been his practice for the past 10 financial years.

- Find out his residential status for the assessment year 2024-25.
- Would your answer change if the above facts relate to Srinath, an Indian citizen who resides in Australia and represents the Australian cricket team?
- What would be your answer if Srinath had visited India for 120 days instead of 100 days every year, including P.Y.2023-24?

[SM Q.]

Answer 2

(a) Determination of Residential Status of Mr. Brett Lee for the A.Y. 2024-25:-

Period of stay during previous year 2023-24 = 100 days

Calculation of period of stay during 4 preceding previous years (100 x 4=400 days)

2022-23	100 days
2021-22	100 days
2020-21	100 days
2019-20	100 days
Total	400 days

Mr. Brett Lee has been in India for a period more than 60 days during previous year 2023-24 and for a period of more than 365 days during the 4 immediately preceding previous years. Therefore, since he satisfies one of the basic conditions under section 6(1), he is a resident for the assessment year 2024-25.

Computation of period of stay during 7 preceding previous years = 100 x 7=700 days

2022-23	100 days
2021-22	100 days
2020-21	100 days
2019-20	100 days
2018-19	100 days
2017-18	100 days
2016-17	100 days
Total	700 days

Since his period of stay in India during the past 7 previous years is less than 730 days, he is a not-ordinarily resident during the assessment year 2024-25.

Therefore, Mr. Brett Lee is a resident but not ordinarily resident during the previous year 2023-24 relevant to the assessment year 2024-25.

(b) If the above facts relate to Mr. Srinath, an Indian citizen, who residing in Australia, comes on a visit to India, he would be treated as non-resident in India, irrespective of his total income (excluding income from foreign sources), since his stay in India in the current financial year is, in any case, less than 120 days.

(c) In this case, if Srinath's total income (excluding income from foreign sources) exceeds ₹ 15 lakh, he would be treated as resident but not ordinarily resident in India for P.Y.2023-24, since his stay in India is 120 days in the P.Y.2023-24 and 480 days (i.e., 120 days x 4 years) in the immediately four preceding previous years.

If his total income (excluding income from foreign sources) does not exceed ₹ 15 lakh, he would be treated as non-resident in India for the P.Y.2023-24, since his stay in India is less than 182 days in the P.Y.2023-24.

Question 3

Mr. B, a Canadian citizen, comes to India for the first time during the P.Y. 2019-20. During the financial years 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24, he was in India for 55 days, 60 days, 90 days, 150 days and 70 days, respectively. Determine his residential status for the A.Y. 2024-25. **[SM Q.]**

Answer 3

During the previous year 2023-24, Mr. B was in India for 70 days and during the 4 years preceding the previous year 2023-24, he was in India for 355 days (i.e. 55+ 60+ 90+ 150 days).

Thus, he does not satisfy the basic condition under section 6(1). Therefore, he is a non-resident for the previous year 2023-24.

Question 4

The business of a HUF is transacted from Australia and all the policy decisions are taken there. Mr. E, the Karta of the HUF, who was born in Kolkata, visits India during the P.Y. 2023-24 after 15 years. He comes to India on 1.4.2023 and leaves for Australia on 1.12.2023. Determine the residential status of Mr. E and the HUF for A.Y. 2024-25. **[SM Q.]**

Answer 4

(a) During the P.Y. 2023-24, Mr. E has stayed in India for 245 days (i.e. 30 + 31 + 30 + 31 + 31 + 30 + 31 + 30 + 1 days). Therefore, he is a resident. However, since he has come to India after 15 years, he does not satisfy the condition for being ordinarily resident.

Therefore, the residential status of Mr. E for the P.Y. 2023-24 is resident but not ordinarily resident.

(b) Since the business of the HUF is transacted from Australia and policy decisions are taken there, it is assumed that the control and management is in Australia i.e., the control and management is wholly outside India. Therefore, the HUF is a non-resident for the P.Y. 2023-24.

Question 5

Mr. David, an Indian citizen aged 40 years, a Government employee serving in the Ministry of External Affairs, left India for the first time on 31.03.2023 due to his transfer to High Commission of Canada. He did not visit India any time during the previous year 2023-24. He has received the following income for the Financial Year 2023-24:

S. No.	Particulars	₹
(i)	Salary (Computed)	5,00,000
(ii)	Foreign Allowance [not included in (i) above]	4,00,000
(iii)	Interest on fixed deposit from bank in India	1,00,000
(iv)	Income from agriculture in Nepal	2,00,000
(v)	Income from house property in Nepal	2,50,000

Compute his Gross Total Income for Assessment Year 2024-25.

[SM Q.]**Answer 5**

As per section 6(1), Mr. David is a non-resident for the A.Y. 2024-25, since he was not present in India at any time during the previous year 2023-24.

As per section 5(2), a non-resident is chargeable to tax in India only in respect of following incomes:

(i) Income received or deemed to be received in India; and

(ii) Income accruing or arising or deemed to accrue or arise in India.

In view of the above provisions, income from agriculture in Nepal and income from house property in Nepal would not be chargeable to tax in the hands of David, assuming that the same were received

in Nepal. Income from 'Salaries' payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India as per section 9(1)(iii). Hence, such income is taxable in the hands of Mr. David, even though he is a non-resident.

However, allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt under section 10(7). Hence, foreign allowance of ₹ 4,00,000 is exempt under section 10(7) in the hands of Mr. David.

Gross Total Income of Mr. David for A.Y. 2024-25

Particulars	₹
Salaries (computed)	5,00,000
Income from other sources (Interest on fixed deposit in India)	1,00,000
Gross Total Income	6,00,000

Question 6

Miss Vivitha paid a sum of 5000 USD to Mr. Kulasekhara, a management consultant practising in Colombo, specializing in project financing. The payment was made in Colombo. Mr. Kulasekhara is a non-resident. The consultancy is related to a project in India with possible Ceylonese collaboration. Is this payment chargeable to tax in India in the hands of Mr. Kulasekhara, since the services were used in India? [SM Q.]

Answer 6

A non-resident is chargeable to tax in respect of income received outside India only if such income accrues or arises or is deemed to accrue or arise to him in India.

The income deemed to accrue or arise in India under section 9 comprises, inter alia, income by way of fees for technical services, which includes any consideration for rendering of any managerial, technical or consultancy services. Therefore, payment to a management consultant relating to project financing is covered within the scope of "fees for technical services".

The Explanation below section 9(2) clarifies that income by way of, inter alia, fees for technical services, from services utilized in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India or whether or not the non-resident has a residence or place of business or business connection in India.

In the instant case, since the services were utilized in India, the payment received by Mr. Kulasekhara, a non-resident, in Colombo is chargeable to tax in his hands in India, as it is deemed to accrue or arise in India.

Question 7

Compute the total income in the hands of an individual aged 35 years, being a resident and ordinarily resident, resident but not ordinarily resident, and non-resident for the A.Y. 2024-25, assuming that he has exercised the option of shifting out of the default tax regime provided u/s 115BAC(1A) – [SM Q.]

Particulars	Amount (₹)
Interest on UK Development Bonds, 50% of interest received in India	10,000
Income from a business in Chennai (50% is received in India)	20,000
Short term capital gains on sale of shares of an Indian company received in London	20,000
Dividend from British company received in London	5,000
Long term capital gains on sale of plant at Germany, 50% of profits are received in India	40,000

Chapter 2: Residence and Scope of Total Income

Particulars	Amount (₹)
Income earned from business in Germany which is controlled from Delhi (₹ 40,000 is received in India)	70,000
Profits from a business in Delhi but managed entirely from London	15,000
Income from house property in London deposited in a Bank at London, brought to India (Computed)	50,000
Interest on debentures in an Indian company received in London	12,000
Fees for technical services rendered in India but received in London	8,000
Profits from a business in Mumbai managed from London	26,000
Income from property situated in Nepal received there (Computed)	16,000
Past foreign untaxed income brought to India during the previous year	5,000
Income from agricultural land in Nepal, received there and then brought to India	18,000
Income from profession in Kenya which was set up in India, received there but spent in India	5,000
Gift received on the occasion of his wedding	20,000
Interest on savings bank deposit in State Bank of India	12,000
Income from a business in Russia, controlled from Russia	20,000
Dividend from Reliance Petroleum Limited, an Indian Company	5,000
Agricultural income from a land in Rajasthan	15,000

Answer 7

Computation of total income for the A.Y. 2024-25

Particulars	Resident and ordinarily resident	Resident but not ordinarily resident	Non-resident
	₹	₹	₹
Interest on UK Development Bonds, 50% of interest received in India	10,000	5,000	5,000
Income from a business in Chennai (50% is received in India)	20,000	20,000	20,000
Short term capital gains on sale of shares of an Indian company received in London	20,000	20,000	20,000
Dividend from British company received in London	5,000	-	-
Long term Capital gains on sale of plant at Germany, 50% of profits are received in India	40,000	20,000	20,000
Income earned from business in Germany which is controlled from Delhi, out of which ₹ 40,000 is received in India	70,000	70,000	40,000
Profits from a business in Delhi but managed entirely from London	15,000	15,000	15,000