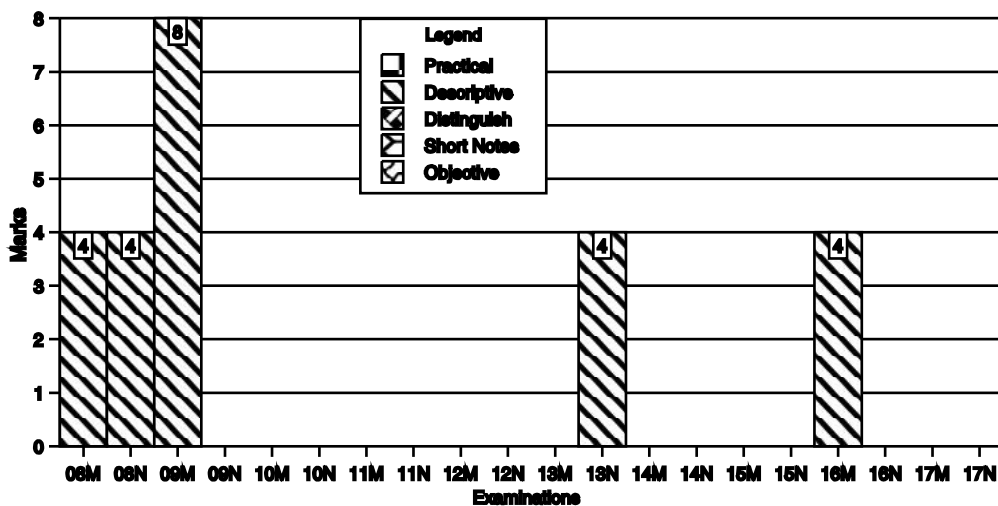


Star Rating

On the basis of Maximum marks from a chapter Nil
 On the basis of Questions included every year from a chapter Nil
 On the basis of Compulsory questions from a chapter Nil

CHAPTER	
1	Basic Concepts
THIS CHAPTER COMPRISES OF	
☞ What is Tax ? ☞ Overview of Income- tax law in India ☞ Important Definitions ☞ Previous Year and Assessment Year ☞ Previous year for undisclosed sources of income ☞ Charge of Income- tax.	

Marks of Objective, Short Notes, Distinguish Between, Descriptive & Practical Questions



DESCRIPTIVE QUESTIONS

2008 - May [5] Answer the following five sub-divisions with regard to the provisions of the Income-tax Act, 1961 :

- (e) Briefly explain the term “substantial interest”. State any two situations in which the same assumes importance. (4 marks)

Answer :

According Section 40A(2), a person shall be deemed to have a substantial interest in a business or profession, if,:

- (1) In case where the business or profession is carried on by a company, such person is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits), carrying not less than 20% of the voting power.
- (2) In any other case, such person is beneficially entitled to not less than 20% of the profits of such business or profession.

Following are the situations under which the substantial interest assumes importance.

- (i) Taxability of deemed dividend under section 2(22)(e);
- (ii) Disallowance of excessive or unreasonable expenditure under section 40A(2) to an individual who has a substantial interest in the business or profession of the assessee, and
- (iii) Clubbing of salary income of spouse, under section 64(1)(ii) in respect of salary received by the spouse from a concern in which the individual has a substantial interest.

2008 - Nov [5] Answer the following five sub-divisions with regard to the provisions of the Income-tax Act, 1961 :

- (c) Explain the concept of “Marginal Relief” under the Income-tax Act, 1961. (4 marks)

Answer :

Marginal Relief shall be allowed to all the assessee in all the cases to ensure that the additional amount of income-tax payable including surcharge, on the excess of income over ₹ 1 crore (50 lakh in case of individual) is limited to the amount by which the income is more than ₹ 1 crore (50 lakh in case of individual).

Marginal Relief = Increase in Tax - Increase in Income.

In case of Individual / HUF / AOP / BOI / AJP / Co-Op. Societies / Local Authorities Firms / LLPs

Marginal relief is available in case of such person (other than individual) having a total income exceeding ₹ 1 crore & individual having total income ₹ 50 lakh i.e. the additional amount of Income Tax payable (together with surcharge) on the excess of income over ₹ 1 crore or 50 lakh should not be more than the amount exceeding ₹ 1 crore or ₹ 50 lakh.

Domestic companies and Foreign companies. Whose Total Income is > ₹ 10 crores.

Marginal relief is available in case of such companies i.e. the additional amount of Income Tax payable (together with surcharge) on the excess of income over ₹ 10 crores should not be more than the amount exceeding ₹ 10 crores.

Marginal relief is also available in those companies which are subject to MAT u/s 155JB in case where the book profit (i.e. deemed total income) exceeds ₹ 1 crore and 10 crores, respectively.

2009 - May [5] Answer the following five sub-divisions with regard to the provisions of the Income-tax Act, 1961 :

(a) Explain "Previous year" for undisclosed sources of Income. (4 marks)

Answer :

(a) Previous year in case of undisclosed source of income is the financial year in which the assessing officer finds such income. The following are treated as income from undisclosed sources:-

- 1. Cash Credit: [Sec. 68]:** Where any sum is found credited in the books of an assessee maintained for any previous year and the assessee offers no explanation about the nature and source thereof or the explanation offered by him, is not in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year. Also in the case of a closely held company, if the amount credited is by way of share application money, share capital, share premium or any such amount by whatever name called, the explanation offered for the credit will not be considered

to be satisfactory, unless the person (being a resident) in whose name the amount is credited also offers explanation about the source and nature of the amount credited. Further, such explanation should be found to be satisfactory by the assessing officer. In the event of failure to do so, the entire amount credited will be taxed at the rate of 30% plus applicable surcharge and

education cess. The provision does not apply to amount received from a venture capital fund or a venture capital company.

2. **Unexplained investments [Sec. 69]:** Where in the financial year immediately preceding the assessment year, the assessee has made investments which are not recorded in the books of accounts, if any, maintained by him for any source of income and the assessee offers no satisfactory explanation about the nature and source of the investment or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory the value of the investment may be deemed to be the income of the assessee of such financial year.
3. **Unexplained money, etc.[Sec. 69A]:** Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery, or other valuable article and such money, bullion, jewellery, or other valuable article is not recorded in the books of account, if any, maintained by him for any source of income and the assessee offers no explanation about the nature and source of acquisition of such articles or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money etc. and the value of such articles may be deemed to be the income of the assessee for such financial year.
4. **Amount of investments, etc., not fully disclosed in books of account [Sec. 69B]:** Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the Assessing Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers

no explanation about such excess amount or the explanation offered by him is not, in the opinion of the

Assessing Officer, satisfactory, the excess amount may be deemed to be the income of the assessee, for such financial year.

- 5. Unexplained expenditure, etc. [Sec. 69C]:** Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, shall be deemed to be the income of the assessee for such financial year.
- 6. Amount borrowed or repaid on hundi [Sec. 69D]:** Where any amount is borrowed on a hundi from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be. To avoid double taxation, it has been provided that if any amount borrowed on a hundi has been deemed under the provisions of this section to be the income of any person, such person should not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount.

2009 - May [5] Answer the following five sub-divisions with regard to the provisions of the Income-tax Act, 1961 :

- (b) Define the meaning of "Infrastructure Capital Fund" as per section 2(26B) of the Income-tax. Act, 1961. (4 marks)

Answer:

Infrastructure capital fund [Sec. 2(26B)]

The expression "infrastructure capital fund" means such fund operating under a trust deed (which is registered under the Registration Act), established to raise moneys by the trustees for investment by way of acquiring shares or providing long- term finance to any of the following enterprises or undertakings-

1. An undertaking wholly engaged in the business referred to in section 80-IA (4).
2. An undertaking wholly engaged in the business referred to in section 80-IAB(1).
3. An undertaking wholly engaged in the business of developing and building housing projects referred to in section 80-IB(10).
4. An undertaking wholly engaged in a project for constructing a hotel of not less than three-star category as classified by the Central Government.
5. An undertaking wholly engaged in a project for constructing a hospital with at least one hundred beds for patients.

2013 - Nov [7] (a) Define the term “assessee” as per the Income-tax Act, 1961. (4 marks)

Answer:

“Assessee” means:

1. A person by whom income-tax or any other sum of money (interest or penalty) is payable under the Act.
2. Person in respect of whom any proceeding under the Act has been taken for the assessment of his income or loss.
3. Person who is deemed to be assessee (person who is assessable in respect of income or loss of another person).
4. Person who is deemed to be an assessee in default.
 - (a) Fails to comply with the provision of TDS
 - (b) Fails to pay advance tax.

2016 - May [2] (a) (ii) How is the term “Assessee” defined under the provisions of the Income-tax Act, 1961? (4 marks)

Answer:

“Assessee” means a person by whom any tax or any other sum of money is payable under this Act. In addition, it includes-

- Every person in respect of whom any proceeding under this Act has been taken for the assessment of
 - his income; or
 - assessment of fringe benefits; 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 by such other person.
- Every person who is deemed to be an assessee under any provision of this Act.
- Every person who is deemed to be an assessee in default under any provision of this Act.