



Examiner's report

F6 Taxation (IND)
June 2009

General Comments

The paper has followed the usual pattern as prescribed by the syllabus partly computational and partly theoretical. The computation part of the paper carries 65 to 70 marks and the rest is distributed over the theory questions. No choice in the answer of questions is offered to the students – who are required to answer all the five questions.

The computation part of the paper normally requires the students to compute the total income of the corporate entity and one of the non-corporate entities such as individuals, Hindu undivided family, firm or association of persons and also calls for the calculation of tax payable. In some instances, candidates are also required to state penal consequences arising out of non-filing of return of income, late filing of return of income, non payment of advance tax etc. The third question which again is mostly computational deals with the subject of capital gains. In all these questions, candidates are tested on their knowledge of the provisions and procedure of law and practice in areas of questions of residence, accrual of income, revenue or capital nature of expense, type of receipts that are treated separately and the tax rates including surcharges and cess. (Tax rates etc. are given as part of the question paper and hence candidates do not have to remember them).

The remaining two questions deal mainly with prosaic law- situations of tax – planning, procedure on assessment of incomes, issues of notices, reassessment procedure, correction of mistakes apparent from the records etc. The subjects covered are vast and sitting after sitting one or the other areas of law/ theory is set for a question. Occasionally, opportunity is utilized to test the candidates' awareness of a recent decision of the Supreme Court.

Specific Comments

Question One

This question is on the determination of a group of individuals who succeed to their father's estate and decide to carry on his business, The aspect on which the knowledge of the candidates are tested deal with the following aspects – the category of assessee the business will be assessed, the computation of the income tax of the business including questions on whether some receipts can be taxed or not and more than anything else the application of section 45(3) of the Income Tax Act dealing with the aspect of transfer of individual assets at market value to the firm or association of persons leading to capital gains taxation. Incidentally one other issue that gets mentioned is the taxation of agricultural income in excess of Rs.5000 on an aggregation basis to decide the tax on other incomes.

Of the issues mentioned above, the first one viz status of the business is found to have been dealt correctly by only one or two candidates. Many refer to the business being treated as a firm though it is clearly stated in the question that no partnership deed was concluded by legatees.

On the second issue, there is found to be not much of a problem and many answers are on proper lines.

The third issue regarding "capital gains" is adequately dealt with by many candidates though two aspects of the issue are found to have been messed up. – viz., since the father having started the business, the cost to the children will be the cost to the father and the period of ownership of shares etc. to determine the nature of capital gains - whether long term or short term – would include the period of holding of the father as well.

The general level of answers to this question is found to be average.

Question Two

This is on the computation of income and tax liability of a corporate assessee. The question is straight forward and does not carry any complications. The only aspect of law touched upon in the question dealt with Section 25A (taxability of arrears of rent received), the treatment to be given to excess receipt on a fire loss policy and the allowance of depreciation not claimed in books of account. The other issue on which a candidate has to exercise

is the applicability of minimum alternate tax. The aspect of certain donations being limited to 10% of the total income and some others not is also tested as part of the question.

The quality of answers to this question is again average and below satisfactory level.

Both questions, viz 1 and 2, are computational in nature and candidates are given abstracts of revenue amounts and required to make certain adjustments to the income based on the provisions of law, judicial decisions etc. Normally, candidates are to adopt the net result of the revenue account as the starting point and make adjustments. The normal format is that and gives not only acceptability but also elegance to answer. It is surprising, therefore, to notice that some candidates take the gross profit/gross sales figure and start making adjustments. Some answers proceed on the basis that the claims to expenditure had not been deducted from gross revenue. This is not so. Therefore some answers exhibit a fundamental or basic flaw in the comprehension of the problems and when a candidate loses 55% marks, then he/she cannot expect to clear the paper successfully.

Question Three

This is a simple problem on capital gains. While the ascertainment of the quantum of gains does not present much of a difficulty, the problem lies in tackling the issue of reduction of the liability to tax. The basic requirement will be how to convert a short term gain attracting a large quantum of tax to long term capital gains leading to tax at 20%. The simple answer required is to postpone the date of sale by a short while to reap this benefit.

Question Four

This and the next question call for knowledge of the procedural aspects of Income taxation. Question 4 consists of three small parts covering the aspect of liability to file returns, service of notice within the permitted period, any delay leading to the invalidation of the notice and the consequent proceedings, the power of a joint commissioner of income tax, either at the request of the tax payer or on a reference by an assessing officer to issue directions concerning an assessment of a return to tax etc.

Most of these answers are not satisfactory.

Question Five

The aspects covered by this question are basic – the concept of a Hindu Undivided Family and its assessability through a Kartha, the residential status of an individual and the taxability at a fixed rate of the winnings of a lottery.

Compared to the answers to the question 4, the quality of answers to this question is better.

General

The general standard of performance of the candidates in this paper is not as well as expected.

A feature noticed, as mentioned earlier is the un-preparedness of the students to understand the requirements of the question paper.