
Answers

Notes:

- The suggested answers provide detailed guidance on the subject for use as a study aid to the question paper. Candidates were not expected to produce answers with this extensive detail, which would not be possible in a three hour exam.
- All references to legislation shown in square brackets are for information only and do not form part of the answer expected from candidates.

1 Faisal Industries Limited ('FIL') Marks

(a) Taxable income for the tax year 2013 (accounting year ended 30 June 2013)

	Note	Rs.	Rs.	
Income from business				
Net profit as per income statement			11,000,000	0.5
<i>Add:</i>				
Adjustment in the sales value of goods sold to an associate	(1)	200,000		1.0
Adjustment in the value of closing stock	(2)	3,000,000		1.0
Accounting depreciation in the cost of sales	(3)	2,000,000		0.5
Payment made to a French company	(4)	1,500,000		0.5
Salaries paid in cash	(5)	480,000		1.0
Wages of a personal servant of a director	(6)	600,000		1.0
Expenses relating to the acquisition of another company	(7)	500,000		1.0
Depreciation on fixed assets taken under a finance lease	(3)	100,000		0.5
Rent paid in advance	(8)	500,000		0.5
Penalty imposed for late filing of return	(9)	45,000		1.0
Donation to a political party	(10)	50,000		0.5
Payment of reward without tax deduction	(11)	500,000		1.0
Capital expenditure on the visitors' room	(12)	600,000		1.0
Loan written off	(13)	110,000		1.0
Taxable profit on the sale of furniture	(14)	500,000		0.5
Provision for bad debts	(15)	50,000		1.0
			10,735,000	
<i>Less:</i>				
Amortisation of intangible	(4)	150,000		1.5
Accounting profit on the sale of furniture	(14)	200,000		0.5
Initial allowance	(16)	737,500		1.5
Tax depreciation	(16)	5,353,125		4.0
			(6,440,625)	
Income from business/taxable income			15,294,375	

Items not included in the computation of taxable income

- Freight inwards paid in cash – Rs. 1,000,000
Freight charges are not rendered inadmissible merely on the basis that they have been paid in cash. [2nd proviso to s.21(l)] 1.0
- Decoration items – Rs. 100,000
Since the useful life of the decoration items was estimated to be one year only, it is admissible as revenue expenditure. [s.20(2)] 1.0
- Motor vehicle tax – Rs. 50,000
Motor vehicle tax is for the purposes of business and revenue in nature. Further, it does not fall in the list of inadmissible deductions. [s.20(1) read with s.21(a)] 1.0
- Scholarship granted to a Pakistani citizen – Rs. 150,000
Since the scholarship has been granted to a Pakistani citizen for his technical training under a scheme approved by the Federal Board of Revenue, the expenditure is admissible. The beneficiary of the scholarship does not need to be an employee of the taxpayer. [s.27(c)] 1.0

(v) Lease rentals paid to an approved modaraba – Rs. 700,000

A lease rental comprises the principal amount and finance charges. Since the plant and machinery were taken on a finance lease from an approved modaraba, the lease rentals paid are fully admissible. [s.28(1)(b)]

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Notes

Note 1

The price charged to the associate was below the market value of the goods by Rs. 200,000. The sales are, therefore, enhanced by this amount to reflect the correct value as if it were an arm's length transaction. [ss.68 and 108]

Note 2

The closing value of stock-in-trade for a tax year can be the lower of cost [Rs. 35,000,000] or net realisable value [Rs. 40,000,000] of the stock-in-trade on hand at the end of the year. It cannot be lower than both of these values. The amount of Rs. 3,000,000 is, therefore, added back to income to make the value of the closing stock equal to cost. [s.35(4)]

Note 3

Accounting depreciation is not a deductible charge. Tax depreciation and initial allowance are deductible at the rates prescribed in the Third Schedule and subject to the conditions mentioned in the relevant provisions [ss.22 and 23] of the Ordinance.

Note 4

The non-exclusive, non-transferable right for the production of an item is defined as an intangible in the Income Tax Ordinance, 2001. The full cost of an intangible is not allowed as a deduction in any single tax year. It is to be amortised over the useful life of the intangible. An intangible asset with a normal useful life of more than ten years shall be treated as if it had a normal useful life of ten years. [s.24(4)(a)] The amount to be amortised is computed below:

Cost of the intangible	Rs. 1,500,000
Actual useful life	15 years
Deemed to have useful life	10 years
Amortised cost chargeable this year	$1,500,000/10 = \text{Rs. } 150,000$
[s.24(3) and (11)]	

Note 5

Since the monthly salary of each employee is above the maximum amount which can be paid in cash [i.e. Rs. 15,000 per month], the amount is disallowed in full at Rs. 480,000 (20,000 x 6 x 4). [s.21(m)]

Note 6

Wages of Rs. 600,000 paid to a personal servant of a director of FIL are not for the purposes of business carried on by FIL. It is, therefore, not allowed as an expense. [s.20(1) and s.21(h)]

Note 7

Expenses incurred at Rs. 500,000 relate to the acquisition of another company. The expense, therefore, being capital in nature, is disallowed. [s.21(n)]

Note 8

Since half the amount of the rent paid relates to the next tax year, it is disallowed at Rs. 500,000. [s.34(1) and (3)]

Note 9

A penalty of Rs. 45,000 paid for the late filing of a return of income is an inadmissible expense on either of the following two grounds:

- A penalty for the late filing of a return of income is included in tax as defined in the Income Tax Ordinance, 2001 (the 'Ordinance'). Tax is an inadmissible deduction under the law. [s.21(a)]
- It was imposed for violation of the provisions of the Ordinance, hence not admissible. [s.21(g)]

Note 10

Donation of Rs. 50,000 made to a political party is not an allowable expense because it was not for the purposes of business. The fiscal ideology of a political party is irrelevant in determining the admissibility of an expense. Further, a donation paid to a political party does not qualify for any tax credit. [s.20(1) and s.61]

Note 11

Any amount paid in connection with employment falls in the definition of 'salary'. Since no tax was deducted from the taxable salary of the employee, it became an inadmissible expense. [s.21(c)]

Note 12

Expenditure of Rs. 325,000 for an extension of the visitors' room and Rs.275,000 for the installation of new air conditioners are capital expenditure and not allowable as a deduction. However, tax depreciation and initial allowance will be admissible as per law. [s.21(n)]

Note 13

Since FIL is not a financial institution carrying on a business of lending money, the amount of the loan written off as a bad debt is not allowable as a deduction. For non-financial institutions, only those amounts which first had been offered for tax are eligible for deduction as bad debts, when they are written off as irrecoverable. [s.29(1)(a)]

Note 14

An accounting loss or profit resulting from the disposal of an asset is tax neutral. Therefore, to nullify its effect, the amount of the accounting profit of Rs. 200,000 is reduced from the total income and the excess of the sale proceeds over the tax written down value of the furniture is added back at Rs. 500,000. [s.22(8)(a)]

Note 15

Provision for bad debts at Rs. 50,000 has been made on an estimated basis and does not satisfy the conditions of:

- written off in the accounts; and
- existence of reasonable grounds for believing that the debt is irrecoverable.

The provision is, therefore, added back to the total income of the taxpayer. [s.29(1)(b) and (c)]

Note 16

Initial allowance and tax depreciation:

Asset	TWDV on 1 July 2012	Addition/ (deletion) during the year	Initial allowance	TWDV for depreciation	Rate of depreciation	Depreciation
(1)	(2)	(3)	(4)	5 = (2 + 3) – (4)	(6)	(7)
	Rs.	Rs.		Rs.		Rs.
Freehold land	10,000,000	–		–	–	–
Building on freehold land	5,000,000	1,000,000	250,000 (see (a))	5,750,000	10%	575,000
		325,000 (see (b))	–	325,000	10%	32,500
Plant, machinery and equipment	12,000,000	50,000 (see (c))	–	12,050,000	15%	1,807,500
		275,000 (see (d))	137,500	137,500	15%	20,625
Computers	1,825,000	700,000 (see (e))	350,000	2,175,000	30%	652,500
Furniture and fittings	6,000,000	(300,000)	–	5,700,000	15%	855,000
Motor vehicles	7,000,000	2,400,000		9,400,000	15%	1,410,000
Total			<u>737,500</u>			<u>5,353,125</u>

[s.22 and 23 read with 3rd Sch]

Sub-notes to note 16

- (a) The rate of initial allowance on new buildings used for business during the tax year is 25%.
- (b) The addition represents an extension of an existing room for visitors. Hence no initial allowance is admissible. However, depreciation is admissible on such an addition.
- (c) The machine already in use by the taxpayer under the finance lease was transferred at its residual value [Rs. 50,000] at the maturity of the finance lease term. Tax depreciation is allowable at 15% of the residual value and not on the book value of Rs. 200,000. [s.22 read with ss.76 and 77(4)]

- (d) The amount represents new air conditioners installed and used during the tax year and eligible for depreciation and initial allowance at 50% of the cost. [s.23]
- (e) Although computers of Rs. 1,000,000 were purchased during the year, a computer costing Rs. 300,000 was not put to use during the year ended 30 June 2013, hence is not entitled to any capital allowance.

(b) Tax liability for the tax year 2013

	Rs.	Rs.	
Taxable income for the tax year 2013 (from (a))		15,294,375	
Since the company does not fall within the definition of 'small company', tax is charged at 35%		5,353,031	0.5
Less: Tax already paid			
Tax deducted on payments received for the supply of goods [Proviso to s.153(3)]	45,000		0.5
Tax collected along with electricity bills [ss.168 and 235]	800,000		0.5
Advance tax paid in cash [s.147]	4,000,000		0.5
		(4,845,000)	
Tax payable with return [s.137]		508,031	2.0

- (c) (i) The Commissioner of Inland Revenue ('CIR') cannot recover the principal amount of tax from the withholding agent, if in the meanwhile it has been paid by the person from whom it was originally deductible. Hence, the CIR cannot recover the amount in question from Goodluck Ltd. 1.0
- (ii) The CIR can only recover the amount of default surcharge from Goodluck Ltd and not from FIL. The period of default starts from the date the deducted tax amount was payable to the date it was paid by FIL. 1.0

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2 (a) Dr Ali

Taxable income and tax payable for the tax year 2013 (accounting year ended 30 June 2013)

	Note	Rs.	Rs.	
Income under normal law				
Net income as per income statement			80,000	0.5
<i>Add:</i>				
Rent of the clinic	(1)	60,000		1.0
Salary paid to nurse	(2)	575,000		1.0
Purchase of car	(3)	1,200,000		0.5
Expenses relating to personal use car	(4)	60,000		1.0
Advance income tax paid	(5)	25,000		0.5
Communication expenses	(6)	62,000		1.5
Pre-paid fees to PMA	(7)	72,000		1.0
Fine for violation of electricity rules	(8)	50,000		1.0
			<u>2,104,000</u>	
<i>Less:</i>				
Depreciation on car	(3)	120,000		1.0
Depreciation on cell phone	(6(i))	3,000		1.0
			<u>(123,000)</u>	
Income from business			<u>2,061,000</u>	
Tax on taxable income under the normal law				
Tax on income from business				
On first Rs. 1,500,000		147,500		
On remainder of Rs. 561,000 at 20%		112,200	259,700	0.5
Tax on income under the final tax regime (FTR)				
Tax on profit on debt	(9)		9,500	1.5
Total tax payable			<u>269,200</u>	
<i>Less: Tax paid or deducted/collected by withholding agents</i>				
Tax deducted on profit for debt	(9)	9,500		0.5
Tax collected with electricity bills [s.235]		5,000		0.5
Tax collected with mobile phone bills [s.236]		4,000		0.5
Advance tax paid by Ali [s.147]		25,000		0.5
			<u>(43,500)</u>	
Tax payable with return [s.137]			<u>225,700</u>	

Explanation of items not included in the computation of taxable income

- (i) Salary paid to office boy – Rs. 75,000
If the monthly salary of an employee does not exceed Rs. 15,000, its payment in cash does not render it inadmissible. Since the monthly salary of the office boy was Rs. 12,500 (75,000/6), the full amount is admissible. [s.21(m)] 1.0
- (ii) Utility bills paid in cash – Rs. 75,000
When otherwise admissible, the utility bills do not become inadmissible on account of being paid in cash. [para (b)(i) of proviso to s.21(l)] 1.0
- (iii) Destruction of expired medicines – Rs. 50,000
Destruction of expired medicines is incidental to the medical practice and allowable as a deduction. [s.20 and general principles of taxation] 1.0
- (iv) Share from association of persons (AOP) – Rs. 250,000
Where income from an AOP is assessable under the normal law, the share of profit from such an AOP is added to the income of the individual member when determining the rate of tax to be applied to his other taxable income. However, where the income from the AOP is taxable under the final tax regime (FTR), the share of profit is neither liable to be further taxed nor added when determining the rate of tax for other taxable income. Since the total income of the AOP is covered under the FTR, it does not need to be further added to the income of Ali. [s.169(2)(a)] 1.0

- (v) Income from ex-employer in Dubai – Rs. 450,000
 Dr Ali was not resident in Pakistan in any of the four tax years preceding the tax year 2013. Therefore, his foreign-source income during the tax years 2013 and 2014 will be exempt from tax in Pakistan. [s.51(1)] 1·0
- (vi) Agricultural income – Rs. 40,000
 Rent received from land which is situated in Pakistan and is used for agricultural purposes is treated as agricultural income and exempt from income tax under the Ordinance. [s.41(1) and (2)(a)] In such a situation there is no need to determine the fair market rent of the land. 1·0
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Notes

Note 1

Rent paid in cash – Rs. 60,000

Where any expenditure under a single head of account exceeds Rs. 50,000 and the individual payment is more than Rs. 10,000, to be admissible as a deduction, it has to be paid through the prescribed modes like a crossed pay order, crossed bank draft, etc. Verifiability of the expense does not mitigate the inadmissibility of the expense, therefore it is disallowed. [s.21(l)]

Note 2

Dr Ali, being an employer, was required to deduct income tax from the taxable salaries paid to his employees. Since the salary of the nurse was above Rs. 400,000, his failure to deduct tax at source and deposit it in the government treasury renders the whole salary of Rs. 575,000 paid to the nurse as inadmissible. [s.21(m)]

Note 3

The car is a capital asset and any costs incurred in acquiring a capital asset are not admissible. [s.21(n)].

However, depreciation on the car is admissible at 15% of the value of car. Since one-third of the usage of the car was not for the purposes of business, the admissible tax depreciation is restricted accordingly as below:

	Rs.
Value of the car	1,200,000
Tax depreciation at 15% [s.22 read with Part I of the 3rd Sch]	180,000
Admissible depreciation restricted to 2/3rd (180,000 x 2/3) [s.22(3)]	120,000

Further, no initial allowance is admissible on a car. [s.22(5)(a)]

Note 4

One-third usage of the car was for non-business purposes, therefore, Rs. 60,000, being one-third of total expenses, are added back as inadmissible. [s.21(h)]

Note 5

Income tax paid is an inadmissible expense under the relevant provision [s.21(a)] of the Ordinance. However, it is included when computing the tax payable/refundable with the return.

Note 6

- (i) Communication expenses include inadmissible capital expenditure of Rs. 40,000 incurred on the purchase of a mobile phone. The expenditure is inadmissible as a straight deduction [s.21(n)]; however, it is eligible for depreciation as computed below:

	Rs.
Value of the mobile phone	40,000
Tax depreciation at 15% [s.22 read with Part I of the 3rd Sch]	6,000

Since only half the usage was for the purposes of business, the amount of allowable depreciation is reduced by 50% to Rs. 3,000.

Further, no initial allowance is admissible on a used mobile phone. [s.22(1)]

- (ii) The total mobile phone calls bill at Rs. 40,000 includes advance income tax collected at source which is not admissible as a deduction. [s.21(a)] However, it is adjustable against the tax liability of the taxpayer.

Since half of the calls were made for non-business purposes, half the bill is to be disallowed on a pro-rata basis. [s.20(1)]

The inadmissible amount is, consequently, computed as below:

	Rs.
Total mobile phone bill	40,000
Less: Inadmissible advance income tax	<u>(4,000)</u>
	36,000
Less: Expenditure relating to non-business use (36,000 x 1/2)	(a) <u>(18,000)</u>
Admissible expenditure	(b) <u>18,000</u>
Inadmissible phone call expenditure (a) – (b)	18,000
Inadmissible advanced income tax	<u>4,000</u>
	<u>22,000</u>
Total inadmissible communication expenses at (i) and (ii) [40,000 + 22,000]	62,000

Note 7

Rs. 90,000 paid to the Pakistan Medical Association ('PMA') was for five years. Since only Rs. 18,000 relates to the tax year 2013, the balance amount of Rs. 72,000 is added back to the total income. [s.34(1)]

However, the disallowed amount will be available for deduction in the next four tax years in accordance with the law.

Note 8

A fine paid for the violation of the Electricity Rules, 1937 is an inadmissible deduction under the law. [s.21(g)]

Note 9

Profit on debt

Tax deducted on the profit on debt is the final discharge of the tax liability. [s.151(3)]

Tax is deductible on the gross amount of the profit on debt as reduced by the amount of Zakat deducted at source/paid under the Zakat and Ushr Ordinance, 1980. [s.151(1)]

	Rs.
Gross profit credited to the account	100,000
Less: Zakat deducted	<u>(5,000)</u>
Income liable to tax deduction	<u>95,000</u>
Tax at 10%	9,500

(b) Rectifiable mistakes

Any mistake, whether of the law or of fact, which is apparent from the record and which does not require further investigation/inquiry can be rectified by the Commissioner.

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A rectification order which has the effect of increasing an assessment, reducing a refund or otherwise being adverse to the taxpayer can only be passed after giving the taxpayer a reasonable opportunity of being heard.

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(c) An appeal can be filed within 30 days of the service of the demand notice based on the rectification order or where no demand notice is served, the date on which the rectification order is served.

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The Commissioner (Appeals) can stay the recovery of the tax demanded in appeal for a maximum period of 30 days, in aggregate, after affording an opportunity of being heard before the Commissioner against whose order the appeal has been filed by the taxpayer.

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3 Mr Ilyas

Tax payable for the tax year 2013 (accounting year ended 30 June 2013)

Transaction	Note	Capital gain/(loss) Rs.	Tax Rs.	
Capital gains and tax on the disposal of immovable properties taxable as a separate block				
On the sale of a house in Lahore	(1)	7,700,000	770,000	3·5
On the compulsory acquisition of land	(2)	5,000,000	250,000	2·0
On the sale of a house in Islamabad	(3)	10,000,000	0	1·0
Capital gains on securities taxable as a separate block				
On the sale of shares in Pakistan Petroleum Ltd	(4)	150,000	12,000	1·5
Income under the head 'Capital gains' assessable to tax along with other heads of income				
On the gift of a painting	(5)	375,000		1·0
On the sale of shares in Interwood (Pvt) Ltd	(6)	150,000		2·0
On the disposal of an imported machine	(7)	25,000		2·0
		550,000		
<i>Less:</i>				
Capital loss on the disposal of shares in Delta (Pvt) Ltd	(8)	(100,000)		1·5
Capital loss brought forward from the tax year 2011 on account of disposal of shares in Pakistan Petroleum Ltd	(9)	0		1·0
		(100,000)		
Taxable income		450,000		
Tax at 10% of the amount exceeding Rs. 400,000 (450,000 – 400,000) x 10% [Para (1) of Div I, Pt I of the 1st Sch]			5,000	0·5
Tax payable under the fixed tax regime				
Tax under the head 'Income from property' [s.15 read with Div VI of Pt I of the 1st Sch]	(3)		457,500	1·5
Total tax			1,494,500	
<i>Less: tax already paid</i>				
– on the sale proceeds of house in Lahore at 0·5% of total proceeds Rs. 30,000,000 (30,000,000 x 0·5%) [s.236C]		150,000		0·5
– on cash withdrawals from bank [s.231A]		25,000		0·5
– advance tax paid [s.147]		50,000		0·5
		(225,000)		
Tax payable with return			1,269,500	

Items not included in the computation of capital gain

Ilyas gifted the jewellery to his sister who, although she had been in Saudi Arabia for the last two years on account of being an employee of the Federal Government posted abroad, is treated as resident in Pakistan. [s.82(c)] A gift to a resident person is not a taxable event. [s.79(1)(c)]

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20**Notes:**

Note 1

Sale of house in Lahore

Through an amendment in the Finance Act, 2012, a gain on the disposal of an immovable property held not beyond two years has been made chargeable to tax according to the rates prescribed for such capital gains in the First Schedule to the Income Tax Ordinance, 2001. The capital gain on the disposal of the house in Lahore is computed as:

	Rs.	Rs.
Consideration received		30,000,000
Less:		
Cost of acquisition		
Purchase price [s.76(2)(a)]	20,000,000	
Stamp duty (20,000,000 x 2%) [s.76(2)(b)]	400,000	
Capital value tax (20,000,000 x 2%) [s.76(2)(b)]	400,000	
Broker's fee on the purchase of the house (20,000,000 x 2%) [s.76(2)(b)]	400,000	
Corporation tax (20,000,000 x 1%) [s.76(2)(b)]	200,000	
Modification of the drawing room [s.76(2)(c)]	300,000	
Brokerage to real estate agent on the sale of the property (30,000,000 x 2%) [s.76(2)(b)]	600,000	
	<u>600,000</u>	
		(22,300,000)
Capital gain		<u>7,700,000</u>
Tax at 10% as the holding period of the house was less than one year (7,700,000 x 10%) [Div VIII of Pt I of 1st Sch]		<u>770,000</u>

The property tax paid at Rs. 25,000 did not form part of the cost nor did it increase the value of the house, hence it is not deducted from the consideration received.

Note 2

Land acquired by the Government of Punjab under the Land Acquisition Act, 1894

In the case of an asset compulsorily acquired under any law where the consideration received by the person for the disposal of the asset is reinvested by the recipient in an asset of a similar kind within one year of the disposal, no capital gain is to be recognised. [s.79(1)(d)] In the given case, the amount of consideration received was not reinvested in an asset of the same kind, hence the capital gain is taxable as computed below:

	Rs.
Consideration received on the disposal on 30 September 2012	30,000,000
Less:	
Cost of the land on 1 January 2011	(25,000,000)
Capital gain	<u>5,000,000</u>
Tax at 5% as the holding period of the land was more than one year but less than two years (5,000,000 x 5%) [Div VIII of Pt I of 1st Sch]	<u>250,000</u>

Note: The profit on the fixed term account did not accrue during the tax year 2013, hence, no taxation during the year.

Note 3

Sale of house in Islamabad

(i) Transaction with Mr Sohail

The amount of Rs. 5,000,000 forfeited by Ilyas in accordance with the terms of the contract for the sale of his house to Sohail is to be treated as rent received [s.15(2)] and taxed as below as a separate block of income:

	Rs.
Rent received	5,000,000
Tax payable on Rs. 5,000,000 [Rs. 57,500 plus 10% of the gross amount exceeding Rs. 1,000,000] (57,500 + 10% x (5,000,000 - 1,000,000))	<u>457,500</u>
[s.15 read with Div VI of Pt I of the 1st Sch]	

(ii) Transaction with Mr Mumtaz

	Rs.
Consideration received for the sale of the house on 30 June 2013	49,000,000
Market value on 25 June 2010, the date of inheritance by Ilyas [s.37(4A)(b)]	(39,000,000)
Capital gain	<u>10,000,000</u>

Since the disposal was made after holding the house for more than two years, no gain is taxable under the law. [s.37(1A)]

Note 4

Sale of shares in Pakistan Petroleum Ltd

Since the company is listed on the Karachi Stock Exchange, it is to be treated as a public limited company. Shares of a public company are included in the definition of a 'security'. Any gain or loss on the disposal of a security is treated as a separate block of income. [s.37A] The capital gain is computed as:

	Rs.
Consideration received on the sale of 2,500 shares on 15 July 2012	500,000
Purchase price on 15 September 2011	<u>(350,000)</u>
Capital gain	150,000
Tax at 8% of the capital gain as the holding period is more than six months but less than 12 months (150,000 x 8%) [Div VII of Pt I of 1st Sch]	<u><u>12,000</u></u>

Note 5

Gift of painting

Gift of a capital asset, chargeable to tax, to a non-resident is a taxable event. Since his brother did not stay in Pakistan for 183 days during the tax year 2013, he remained a non-resident and the gift of the painting to him does not fall in the non-recognition clause and so is taxable. [s.79(2) read with s.82(a)]

The capital gain is computed as:

	Rs.
Fair market value of the painting to be treated as consideration received on 30 August 2012	1,000,000
Cost of the painting purchased on 1 January 1990	<u>(500,000)</u>
Capital gain	<u>500,000</u>

Since the disposal of the painting was made after holding it for more than a year, only 75% of the capital gain is taxable at Rs. 375,000. [s.37(3)]

Note 6

Sale of shares in Interwood (Pvt) Ltd

	Rs.	Rs.
Consideration received on the sale of 10,000 shares on 14 December 2012		300,000
Less:		
Purchase price of 5,000 shares at Rs. 18 per share on 5 February 2010 (5,000 x 18)	90,000	
Allotment of 5,000 bonus shares on 1 July 2010 (Fair market value is not relevant in this case)	0	
Incidental charges [s.76(2)(b)]	<u>10,000</u>	
		<u>(100,000)</u>
Capital gain		<u>200,000</u>

Since the disposal of the shares was made after holding them for more than a year, only 75% of the capital gain is taxable at Rs. 150,000. [s.37(3)]

Note 7

Disposal of machine

Since Ilyas was not entitled to claim depreciation on this machine, the machine falls within the definition of a capital asset. [s.37(5)(b)] Discarding an asset is also treated as a disposal of the asset. [s.75(3A)] The capital gain is determined as:

	Rs.	Rs.
Consideration received 15 February 2013		
Damages from the shipping company	850,000	
Scrap value of the machine	<u>200,000</u>	
		1,050,000
Cost of the machine on 1 January 2013		
Purchase price of the machine	1,000,000	
Documentation charges incurred	<u>25,000</u>	
		<u>(1,025,000)</u>
Capital gain		<u>25,000</u>

Since the disposal was made within one year of acquiring the asset, the full amount of capital gain is taxable. [s.37 (3)]

Note 8

Sale of shares in Delta (Pvt) Ltd

	Rs.
Consideration received on 15 April 2013 for the sale of shares	450,000
Purchase price on 15 May 2009	<u>(550,000)</u>
Capital loss	<u>(100,000)</u>

The provision for diminution in the value of shares made on 30 June 2012 is to be ignored as the same, being a notional loss, was not deductible in the tax year 2012. A capital loss on the sale of shares of a private limited company can be set off, subject to certain exceptions, against the capital gains arising from the disposal of other assets. [s.38(1)]

Note 9

The capital loss on the sale of shares in Pakistan Petroleum Ltd, being a loss suffered from the sale of securities during a tax year, is not eligible to be carried forward to the subsequent tax year. [s.37A(5)]

4 (a) Mr Muddasir

Subject to the fulfilment of certain conditions, a taxpayer whose case is pending before an appellate authority can avail of the alternative dispute resolution (ADR) mechanism provided in the law for the resolution of their tax disputes. The points raised in the question are answered as follows:

- (i) There are two exceptions where a taxpayer cannot apply to the Federal Board of Revenue (the 'Board') for the appointment of a committee for the resolution of their dispute. These are where:
- either the prosecution proceedings have already been initiated against the taxpayer; or
 - the dispute involves interpretation of a question of law having effect on identical other cases. 2·0
- (ii) The committee shall consist of an officer of the Inland Revenue and two other persons from a panel. The panel comprises chartered or cost accountants, advocates, income tax practitioners and reputable taxpayers. 2·0
- (iii) Yes, if Muddasir is not satisfied with the orders of the Board, he may continue to pursue his remedy before the Appellate Tribunal as if no order had been made by the Board. [s.134A] 1·0

(b) The last date for the filing of returns of income by taxpayers is determined with reference to the date on which their tax year ends, and the category of persons – to which they fall. In the given situations, the last dates for filing of the returns are as below:

- (i) **Bryonia Laboratories (Pvt) Ltd**
- For the tax year ended 31 March 2012, the last date for filing of the return of income in the case of a company is 31 December 2012. [s.118(2)(a)] 1·0
- (ii) **Silk Bank Ltd**
- For the tax year ended 31 December 2012, the last date for filing of the return of income in the case of a company is 30 September 2013. [s.118(2)(b)] 1·0
- (iii) **Ms Mehwish**
- For the tax year ended 30 June 2013, the last date for e-filing of the return of income in the case of a salaried person is 31 August 2013. [s.118(3)(a)] 1·0
- (iv) **Mr Osmani**
- For the tax year ended 28 February 2013, the last date for filing of the return of income in the case of a person is 30 September 2013. [s.118(3)(b)] 1·0
- 4·0

(c) Application for an extension of time to file a return of income

A person who is required to file a return of income may, by the due date for the furnishing of that return, apply for an extension of time to file the return. Valid reasons for seeking an extension are:

- (i) absence of the person from Pakistan;
- (ii) sickness or other misadventure; or
- (iii) any other reasonable cause.

2·0

In normal circumstances, an extension of time for furnishing a return shall not exceed 15 days from the due date of furnishing of the return. [s.119(2) and (3)]

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3·0

(d) Mr Adeel

Since Adeel has not complied with the notice served on him for the filing of the return of income, the Commissioner of Inland Revenue ('CIR') can frame an assessment in the manner provided in the Ordinance, without waiting for the filing of the return by Adeel. Under the given circumstances in the question, different aspects relating to such assessment of income are explained as follows:

- (i) In the given circumstances, the CIR may issue a provisional assessment order by framing an assessment based on any available information or material and to the best of his judgement.

1·0

- (ii) The provisional assessment order will become a final assessment order after the expiry of 60 days from the date of service of the provisional assessment order. Once the assessment order becomes a final assessment order, the CIR can take coercive measures to recover the amount of tax assessed against Mr Adeel in accordance with the provisions of the Ordinance.

1·0

- (iii) For the provisional assessment order served on him to be abated without the filing of an appeal, Adeel should, within 60 days of the service of the provisional assessment order, file his return of income for the tax year 2013 along with other relevant documents/information, namely:

- a wealth statement;
- a wealth reconciliation statement; and
- an explanation of the source of the funds used for the acquisition of the car. [s.122C and 116(2A)]

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5 (a) Persons required to be registered for sales tax

The following persons, who are making taxable supplies in Pakistan in the course or furtherance of any taxable activity carried on by them, are required to be registered for sales tax under the Sales Tax Act, 1990:

- (i) a manufacturer, not being a cottage industry;
- (ii) a retailer whose value of supplies, in any period during the last 12 months exceeds Rs. 5 million;
- (iii) an importer;
- (iv) a wholesaler (including dealer) and distributor;
- (v) a person required, under any other Federal law or Provincial law, to be registered for the purpose of any duty or tax collected or paid as if it were a levy of sales tax to be collected under the Act; and
- (vi) a commercial exporter, who intends to obtain a sales tax refund against his zero-rated supplies.

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[s.14 of the Sales Tax Act, 1990 read with rule 4 of the Sales Tax Rules, 2006]

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(b) Ms Mehr

In the given circumstances, Ms Mehr can revise her sales tax return, on her own, without waiting for any notice of audit from the Commissioner of Inland Revenue (CIR).

The points raised in the question are answered as follows:

- (i) Ms Mehr can revise her return to declare the correct amount of taxable supplies made without seeking any permission from the CIR and pay the shortfall of tax.

1·0

- (ii) Ms Mehr will be liable to pay the full amount of the default surcharge on the amount of the tax shortfall caused by the non-declaration of taxable supplies of Rs. 500,000 in the original return.

1·0

- (iii) No. If both the tax due and the full amount of the default surcharge are paid by Ms Mehr along with her revised return, the CIR cannot recover any penalty from her on account of the shortfall of tax paid with the original return.

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[First proviso to s.26(4)]

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