

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF PAKISTAN

EXAMINERS' COMMENTS

SUBJECT	SESSION
Taxation	Intermediate - Autumn 2007

Overall Feedback

The questions in the paper were designed to assess the theoretical and practical knowledge of the candidates. The performance of the candidates was unsatisfactory mainly due to insufficient preparation, poor grasp on the law and lack of presentation skills.

Question-wise Comments:

Q.1 The question was quite straight forward and the performance of the candidates was above average. Following common mistakes were noted:

- (i) It seemed that students had not read the question properly as many of them failed to restrict the calculation of salary to six months. Similarly, they also computed the notional interest on car loan for the whole year.
- (ii) Most students were of the view that like medical allowance, the exemption to medical reimbursement is also limited to 10 percent of basic salary.
- (iii) Special gratuity was also treated as exempt. In fact, it was taxable as the exemption from gratuity cannot be claimed more than once.
- (iv) Surprisingly, for no apparent reason, many candidates deducted the loan amount from the total income whereas some of them deducted the amount of loan which Mr. Ayub had to pay, from his taxable income.

Q.2 (a) It was a poorly attempted question. The Income Tax Ordinance, 2001 has brought in the concept of apportionment of specific and common expenditures in three different situations, which have been referred to in Section 67.

A large number of examinees restricted their answers to allocation of personal and business expenses only.

Few examinees got mixed up and started discussing apportionment of input tax with reference to the Sales Tax Act, 1990.

- (b) Average performance was observed in this question. Following shortcomings were noted in many scripts.
- The fact that special tax year is allowed only when there is a compelling need for doing so was not mentioned.
 - Very few candidates could mention that while giving the permission for change of tax year, the CIT may impose such conditions as he may deem necessary.
- (c) On the basis of Section 116 of the Income Tax Ordinance, 2001, many candidates correctly mentioned that wealth statement is required to be filed if the income exceeds Rs. 500,000 even if the tax payer is not required to file the return. However, certain students referred to a CBR Circular letter to claim that depositing of wealth statement in the above situation was not required. Such answers were also treated as correct.
- Q.3 (a) The performance of the candidates was not satisfactory. Some of the commonly appearing mistakes were as follows:
- Gain on sale of shares of public listed company was also included in taxable income.
 - Many candidates were of the view that membership card of stock exchange is not a capital asset and did not consider its sale for the purpose of computing taxable income. Many candidates mixed it up with clause 110 B of the Second Schedule and declared that income from the sale of membership card was exempt.
 - The examinees were required to give proper explanation for the items which were not included in taxable income. Very few candidates cared to give such explanations.
- (b) The seven situations in which a person is not required to deduct tax while making payments are given in Section 153 (5) of the Income Tax Ordinance, 2001. Certain other situations are given elsewhere. A maximum of seven exceptions were required to be given but only few students could get full marks.
- Q.4 (a) It was a simple theoretical question from section 121 of the Income Tax Ordinance, 2001 and many candidates secured full marks. Some of the omissions that were observed by the examiners are described hereunder:
- One of the condition mentioned by many candidates was that "Commissioner can make best judgment assessment if a person has not filed his tax return". This statement is incomplete and the full spirit of this provision should include "Despite being served a notice by the Commissioner".
 - Many candidates could not point out that assessment based on best judgment can only be made within five years of the end of the related tax year.

- (b) This part was attempted reasonably well by the majority of the students as they knew that credit for foreign tax paid is available at the lower of the amount of foreign tax actually paid by him or the Pakistan tax applicable on foreign source income based on average tax rate.
- Q.5 (a) An average response was seen. Candidates were able to write general answers on the basis of their knowledge of Companies Ordinance, 1984 but failed to mention the specific and wider law mentioned in Section 85 of the Income Tax Ordinance, 1979.
- (b) It was a well attempted question and many candidates secured full marks. Many examinees gave their final opinion without giving any reasons and lost valuable marks.
- (c) Performance of the candidates was poor and most of them did not have complete knowledge of the concept of Permanent Establishment as given in Section 2(41) of the Income Tax Ordinance, 2001.
- Q.6 (a) An average response was seen in this question. The important aspects which were required to be mentioned in the answer were that it is the obligation of the person leaving the country for good, to send a notice to the Commissioner and to file a return covering the period for which return has not been filed and upto the date of his leaving. These important aspects were rarely mentioned by the examinees.
- (b) It was a straight forward question from section 23 of the Income Tax Ordinance, 2001 and well attempted by most of the candidates. However, some of them lost these easy marks as they misunderstood the law. They stated that initial depreciation allowance shall not be allowed on any asset which has previously been used in Pakistan. They failed to realize that this restriction does not apply to all assets but to plant and machinery only.
- Q.7 (a) An average response was seen in this case. Candidates generally missed the important point that monthly allocation of input tax is in the nature of provisional adjustment and a final adjustment is required to be made after the end of the year.
- (b) This part of the question was aimed to test the concept of time of supply and its implication on the chargeability of sales tax. Most candidates were able to respond correctly with reference to Section 2(44) of the Sales Tax Act, 1990 that under the given circumstances the transaction will be recorded in the period in which the exemption is withdrawn. (The situation has now changed as the Finance Act 2007 has deleted the relevant paragraph of Section 2 (44) of the Sales Tax Act 1990). Those candidates who answered giving reference to the Finance Act 2007 were also considered correct.

- Q.8
- (a) It was an easy question based on section 23 of the Sales Tax Act, 1990 and was well attempted by majority of the candidates.
 - (b) The question was based on Section 26 AA of the Sales Tax Act, 1990 and most of the students were able to narrate the requirements correctly.
 - (c) It was again a simple question and most of the candidates were able to mention the circumstances in which a registered person may apply for deregistration, as are given in rule 11 of the Sales Tax Rules 2006.

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