

**Paper 16-DIRECT TAX LAWS
AND
INTERNATIONAL TAXATION**

Answer_MTP_Final_Syllabus 2016_June 2018_Set 2

Paper 16 – Direct Tax Laws and International Taxation

Time Allowed: 3 Hours

Full Marks: 100

Section-A

1. Multiple Choice Questions with Justification 10x 2 = 20 Marks
- i. For opting safe harbour, the assessee shall require to furnish a Form No ___ to the assessing officer on or before the due date of furnishing the return of income for the relevant assessment year.
 - A. Form 3CEFB
 - B. Form 3CEB
 - C. Form 3CEC
 - D. Form 3CED
 - ii. The commissioner of Income tax is the ___ appellate authority.
 - A. First
 - B. Second
 - C. Third
 - D. Fourth
 - iii. Provision of advance ruling is provided under section ___ to _____.
 - A. 237 to 245
 - B. 80C to 80U
 - C. 245A to 245L
 - D. 245N to 245V
 - iv. Notice of scrutiny assessment should be served within ___ months.
 - A. 5 months
 - B. 6 months
 - C. 18 months
 - D. 24 months
 - v. A claim of refund shall be made in Form No _____.
 - A. Form No 20
 - B. Form No 30
 - C. Form No 30A
 - D. Form No 30B
 - vi. Where the tax paid by the assessee is in excess of his tax liability, then such assessee shall be entitled to receive back such amount, called _____.
 - A. Advance tax
 - B. Refund
 - C. Revision
 - D. Rectification
 - vii. Interest on refund payable to assessee is @ ___ simple interest per month.
 - A. 1/2 % per month
 - B. 1% per month
 - C. 1.5% per month
 - D. None of the above
 - viii. In case of Company the return of income is verified by _____.
 - A. Karta
 - B. Principal officer
 - C. Chief executive officer
 - D. Managing Director
 - ix. TDS rate on Income from Foreign Currency Bonds.
 - A. 5%
 - B. 10%
 - C. 15%
 - D. 20%

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- x. Fees for default in furnishing return of Income if the total income does not exceed five lakhs rupees is ____.
- A. ₹ 500
B. ₹ 1,000
C. ₹ 1,500
D. ₹ 5,000

Answer:

Sl/No.	Options	Reasons
1.	A	For opting safe harbour, the assessee shall require to furnish a Form No 3CEFB to the assessing officer on or before the due date of furnishing the return of income for the relevant assessment year.
2.	A	The commissioner of appeal is the first appellate authority.
3.	D	Provision of advance ruling is provided under section 245N to 245V.
4.	B	To carryout assessment u/s 143(3) the assessing officer should serve a notice u/s 143(2). Notice u/s 143(2) should be served within a period of 6 months from the end of the financial year in which the return is filed.
5.	B	As per section 239, a claim of refund shall be made in Form No 30.
6.	B	As per section 237, where the tax paid by the assessee is in excess of his tax liability, then such assessee shall be entitled to receive back such amount, called refund.
7.	A	As per section 244A an assessee who is entitled to get refund shall be payable interest @ ½% simple interest per month or part thereof.
8.	D	In case of Company the return of income is verified by Managing Director.
9.	B	As per section 196C TDS rate on income from foreign currency bonds is 10%.
10.	B	As per section 234F Fees for default in furnishing return of Income if the total income does not exceed five lakhs rupees is ₹ 1,000.

Section-B

Answer any five questions out of seven questions)

2.a. PF consulting Ltd total income during the previous year ended 31.03.2018 is ₹10,50,000. Tax deducted at source by different payers amounted to ₹ 24,450 and tax paid in foreign country on a doubly taxed income amounted to ₹ 10,000 for which the company is entitled to relief under section 90 as per the double tax avoidance agreement.

During the year the company paid advance tax as under

Date of payment	Advance tax paid (₹)
15.06.2017	40,000
12.09.2017	65,000
15.12.2017	1,00,000
15.03.2017	62,000

The company filed its return of Income for the Assessment Year 2018-19 on 15.10.2018.

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Compute interest, if any payable by the company under section 234A, 234B and 234C. Assume the transfer pricing provision is not applicable.

8 Marks

2.b. Discuss the tax planning means in respect of Financial Management decisions.

8 Marks

Answer:2.a.

Interest under section 234A:

Since the return of Income has been furnished by PF consulting Ltd. on 15.10.2018 i.e 15 days after the due date of filing of return of income (30.09.2018), interest under section 234A will be payable for 1 month @ 1% on the amount of tax payable on the total income, as reduced by tax reliefs and prepaid taxes:

	Amount (₹)
Tax on Total Income (₹ 10,50,000 x 30.9%)	3,24,450
Less: Advance tax paid	2,67,000
Less: Tax deducted at source	24,450
Less: Relief of tax allowed under section 90	10,000
Tax payable on self assessment	
Interest = ₹ 23,000 x 1%=₹ 230	23,000

Interest under section 234B:

Where the advance tax paid by the assessee is less than 90% of the assessed tax, the assessee would be liable to pay interest under section 234B.

	Amount (₹)
Tax on Total Income (₹ 10,50,000 x 30.9%)	3,24,450
Less: Tax deducted at source	24,450
Less: Relief of tax allowed under section 90	10,000
Assessed tax	2,90,000
90% of assessed tax = ₹ 2,90,000 x 90%=₹ 2,61,000	

Since the advance tax by PF consulting Ltd (₹ 2,67,000) is more than 90% of assessed tax (₹ 2,61,000), its is not liable to pay interest under Section 234B.

Interest under section 234C:

	Amount (₹)
Tax on Total Income (₹ 10,50,000 x 30.9%)	3,24,450
Less: Tax deducted at source	24,450
Less: Relief of tax allowed under section 90	10,000
Tax on returned income / total advance tax payable ₹ 2,90,000 x 90%=₹ 2,61,000	2,90,000

Calculation of interest payable under section 234C:

Date(a)	Advance tax paid till date(b)	Minimum 1% of tax due on returned income to be paid till date to avoid interest under section 234C	Advance tax payable till date in case condition mentioned in © is not met	Shortfall	Interest
15.06.2017	40,000	12% 34,800	15%	-	Nil
15.09.2017	1,05,000	36% 1,04,400	45%	-	Nil
15.12.2017	2,05,000	75% 2,17,500	75%	12,500	12,500x 1% x 3 months =375
15.03.2018	2,67,000	100% 2,90,000	100%	23,000	23,000x1%=230

Interest payable under section 234C	605
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Answer:2.b.

Fund can be obtained from various sources thus their procurement is always considered as a complex problem by a business organisation. Fund procured from different sources have different characteristics in terms of risk, cost and control. Some of the sources for funds for a business enterprise are:

Equity: The funds raised by the issue of equity shares are the best from the risk point of view for the firm, since there is no question of repayment of equity capital except when the firm is under liquidation. From the tax point of view, dividends are an appropriation of profit, thus the same is not allowed as an expense under the Income Tax Act.

Debentures: Debentures as a source of funds are comparatively cheaper than the shares because of their tax advantage. The interest the company pays on a debenture is tax deductible.

In this regards, following sections are relevant:

- ❖ Amortisation of preliminary expenses [Sec. 35D]
- ❖ Interest on borrowed capital [Sec. 36(1)(iii)]
- ❖ Actual cost of assets [Sec. 43(1)]
- ❖ General Deductions [Sec. 37]
- ❖ Depreciation [Sec. 32]
- ❖ Tax on distribution of profit [Sec. 115-O]

Capital Structure

The optimum capital structure is a mix of equity capital and debt funds. Following should be considered in this regard:

- a) Interest on debt fund is allowed as deduction as it is business expenditure. Therefore, it may increase the rate of return on owner's equity.
- b) Dividend on equity fund is not allowed as deduction as it is the appropriation of profit. Further, the company declaring the dividend shall be liable to pay dividend distribution tax.
- c) The cost of raising owner's fund is treated as capital expenditure therefore not allowed as deduction. However, if conditions of Section 35D are satisfied then such cost can also be amortized.
- d) The cost of raising debt fund is treated as revenue expenditure.

Lease or Buy

When a person needs an asset for his business purposes, he has to decide whether the asset should be purchased or taken on lease. Following should be considered in this regard:

- a) Lease rental can be claimed as deduction as revenue expenditure. However, depreciation on leases asset is not allowed.
- b) Depreciation on depreciable assets can be claimed as deduction u/s 32.
- c) In case, the asset is purchased from the amount taken on loan, interest paid for the period after the asset is first put to use, the deduction on account of interest shall be claimed as revenue expenditure. However, interest paid for the period before the asset is first put to use shall be capitalized.
- d) Any gain on transfer of capital asset is subject to capital gain. In this regard, it is to be noted that in case of depreciable asset, asset shall be merged in the respective block of asset.

3. H Ltd., engaged in diversified activities, earned a net profit of ₹ 14,25,000 after debit/credit of the following items to its profit and loss account for the year ended 31.03.2018: 16 Marks

Particulars	Amount (₹)
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Items debited to Profit and Loss Account	
Expenses on Industrial Unit exempt under section 10AA	2,10,000
Provision for loss of Subsidiary	70,000
Provision for Sales Tax Demand (paid before due date)	75,000
Provision for Income tax demand	1,95,000
Expenses on purchase / sale of equity shares	15,000
Depreciation	3,60,000
Interest on deposit credited to buyers on 31.3.2018 for advance received from them, on which TDS was deposited on 31.12.2018	90,000
Items credited to Profit and Loss Account	
Income on Industrial Unit exempt under section 10AA	2,70,000
Profit from 100% EOU	60,000
Long term capital gain on sale of equity shares on which securities transaction tax was paid	3,60,000
Income from units of UTI	75,000

The company provides the following additional information:

1. Depreciation includes ₹ 1,50,000 on account of revaluation of fixed assets.
2. Depreciation allowable as per Income tax Rules is ₹ 2,80,000.
3. Brought forward business loss / unabsorbed depreciation:

	Amount as per books		Amount as per Income Tax	
	Loss	Depreciation	Loss	Depreciation
2009-10	2,50,000	3,00,000	2,00,000	2,50,000
2014-15	Nil	2,70,000	1,00,000	1,80,000
2015-16	3,50,000	3,15,000	1,20,000	2,10,000

You are required to:

1. Compute total income of the company for the assessment year 2017-18 giving the reason for treatment of items, and
2. Examine the applicability of section 115JB of the Income Tax Act, and compute book profit and the tax credit to be carried forward.

Answer:3.

Computation of total income of H Ltd for the Assessment year 2018-19

Particulars	Amount (₹)	Amount (₹)
Net profit as per profit and loss account		14,25,000
Add: Items disallowed / considered separately		
Provision for loss of subsidiary	70,000	
Provision for income tax	1,95,000	
Expenses on transfer of shares	15,000	
Interest on deposit credited to buyers on 31.03.2018, but tax deposited after due date of filing return (disallowed under section 40(a)(ia) to the extent of 30%)	27,000	
Depreciation	3,60,000	6,67,000
		20,92,000
Less: Items credited but not includible under business income or are exempt under the provision of the Act		
Long term capital gain on sale of equity shares on which securities transaction tax was paid	3,60,000	
Income from UTI	75,000	4,35,000
		16,57,000

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Less: Depreciation (allowable as per Income tax rules)		2,80,000
		13,77,000
Less: Set of brought forward business loss and unabsorbed depreciation		
Brought forward business loss under section 72	4,20,000	
Brought forward depreciation under section 32	6,40,000	10,60,000
Income from business		3,17,000
Income from capital gain		
Long term capital gain on sale of equity shares on which securities transaction tax was paid		Exempt
Income from other sources		
Income from units of UTI	75,000	
Less: Exempt under section 10(35)	75,000	Nil
Total income		3,17,000
Tax Payable @ 30%		95,100
Add: Education cess and SHEC @ 3%		2,853
Tax Payable		97,950

Computation of Book Profit under section 115JB

Particulars	Amount (₹)	Amount (₹)
Net profit as per profit and loss account		14,25,000
Add: Provision for loss of subsidiary	70,000	
Provision for Income Tax	1,95,000	
Depreciation	3,60,000	6,25,000
		20,50,000
Depreciation (₹ 3,60,000 – 1,50,000)	2,10,000	
Income from UTI	75,000	
Brought forward business loss or unabsorbed depreciation as per books of account, whichever is less	6,00,000	8,85,000
Book profit		11,65,000
18.5% of book profit		2,15,525
Add: Education cess & SHEC @ 3%		6,466
Tax payable under MAT (rounded off)		2,21,990
The tax payable shall be ₹ 2,21,990		

MAT credit to be carried forward

Particulars	Amount (₹)
Tax on book profit under section 115JB	2,21,990
Add: Tax on total income as per normal provisions of the Act	97,950
Tax credit to be carried forward	1,24,040

4.a. Write a note Scrutiny Assessment.

8 Marks

4.b. From the following details submitted by R Ltd before demerger, determine the value of shares to be issued by the resulting company (say G Ltd.) to the shareholders of R Ltd. assuming division- II is proposed to be hived off.

Description	Division-I	Division-II	Head Office i.e Common to both divisions	Total
Fixed Assets After depreciation	15,00,00	10,00,000	4,00,000	29,00,000
Current Assets	10,00,000	5,00,000	1,00,000	16,00,000
Total	25,00,000	15,00,000	5,00,000	45,00,000
Share Capital			20,00,000	20,00,000

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Reserve Capital			7,00,000	7,00,000
Loans	3,00,000	2,00,000	4,00,000	9,00,000
Current Liabilities	4,00,000	3,00,000	2,00,000	9,00,000
Total	7,00,000	5,00,000	33,00,000	45,00,000

Also determine the ratio of shares of the resulting company to be issued to the shareholder of demerged company assuming the shareholders of R ltd held the shares as under:

- a. Promoters-40%**
- b. Financial Institution-25%**
- c. Public-35%**

8 Marks

Answer:4.a.

Where the Assessing Officer or the prescribed income-tax authority (here-in-after collectively referred to as 'Assessing Officer') considers it necessary to ensure that the assessee has not -

- ❖ understated his income; or
- ❖ declared excessive loss; or
- ❖ under paid the tax,

he can make a scrutiny in this regard and gather such information and evidence as he deems fit. And on the basis of such information and evidence so collected, he shall pass an assessment order. Such order shall be treated as regular assessment order.

Conditions for scrutiny assessment

- A return has been furnished u/s 139 or in response to a notice u/s 142(1); and
- Assessing Officer considers it necessary or expedient to ensure that the assessee has not understated his income, declared excessive loss or under-paid the tax.

Procedure

Notice for scrutiny [Sec. 143(2)]

Assessing Officer shall serve on the assessee a notice requiring the assessee, on a date specified in the notice, to produce, or cause to be produced, any evidence on which assessee may rely, in support of the return.

Time limit of notice

No notice shall be served on the assessee after the expiry of 6 months from the end of the financial year in which the return is furnished.

Order

After collecting such information and hearing such evidence as the assessee produces in response to the notice u/s 143(2) and after taking into account all relevant materials, which the Assessing Officer has gathered;

The Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

Time limit for completion of scrutiny assessment

Assessment u/s 143(3) should be completed within 18 months (from A.Y. 2019-20: 12 months) from the end of the relevant assessment year.

Special procedure in case of research association etc. [Proviso to Sec. 143(3)]

Applicable to

- Research association referred in sec. 10(21);
- News agency referred in sec. 10(22B);
- Association or institution referred in sec. 10(23A);
- institution referred in sec. 10(23B);

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- fund or institution referred in sec. 10(23C)(iv);
- trust or institution referred in sec. 10(23C)(v);
- any university or other educational institution referred in sec. 10(23C)(vi);
- any hospital or other medical institution referred in sec. 10(23C)(via)
- any university or college u/s 35(1)(ii) or (iii)
 - which is required to furnish the return of income u/s 139(4C) or (4D)

Assessment Order

An order for assessment of such assessee shall be made after giving effect to the provisions of sec. 10. However in the following case assessment of such assessee shall be made without giving effect to the provisions of sec. 10—

- a. The Assessing Officer has intimated the Central Government or the prescribed authority about contravention made by above assessee of respective provision of sec. 10 on the basis of which exemption has been granted; and
- b. Approval granted to such assessee has been withdrawn or rescinded by such authority.

Note: No effect shall be given by the Assessing Officer to the provisions of Sec.10(23C) in the case of a trust or institution for a previous year, if the provisions of the first proviso to sec. 2(15) become applicable in the case of such person in such previous year, whether or not the approval granted to such trust or institution or notification issued in respect of such trust or institution has been withdrawn or rescinded.

Answer:4.b.

	Amount (₹)	Amount (₹)
Value of Assets of Division II		1,50,000
Less: Liabilities of division II	5,00,000	
Proportionate liabilities of Division II out of common liability of R Ltd		
Common Liability X Book value of assets transferred/ total value of assets of R Ltd $6,00,000 \times 15,00,000 / 4500000$	2,00,000	7,00,000
Balance		8,00,000
The resulting company i.e G Ltd shall issue shares of ₹ 8,00,000. These will be issued on the same basis which the existing shareholders of the demerged company have in the share capital of the company. Thus these will be offered in the following ratio.		
Promoters ₹ 8,00,000 x 40/100		3,20,000
Financial Institution ₹ 8,00,000 x 25/100		2,00,000
Public ₹ 8,00,000 x 35/100		2,80,000
Total		₹ 8,00,000

5.a. Critically comment with the help of a case law-

“Amount of tax in arrears” in sec. 221 does not include interest component.

8 Marks

5.b. Critically comment with the help of a case law-

“Foreign Taxes not being entitled to the benefit of DTAA relief shall be allowed as expenses”.

8 Marks

Answer:5.a.

CIT -vs.- Oryx Finance & Investment (Pvt) Ltd (2017) (Bom.)

“Amount of tax in arrears” in sec. 221 does not include interest component

The tax return of the assessee was processed u/s 143(1) against which a demand of ₹ 1.64 crores was raised. The Assessing Officer imposed penalty of ₹ 1.19 crores u/s 221(1) due to default in payment of demand. Commissioner (Appeals) deleted the penalty imposed by the Assessing Officer

on the ground that interest component was to be excluded while levying penalty u/s 221(1) and since penalty exceeded tax component the order was set aside. On appeal, the Tribunal upheld the order of Commissioner (Appeals) and remitted matter back to the Assessing Officer.

The definition of tax u/s 2(43) read in its entirety suggests that the "tax" means income-tax, super-tax and/or the fringe benefit tax, as the case may be chargeable under the provisions of the Act. The definition of tax does not take within its fold the interest component.

The definition of "interest" as envisaged u/s 2(28-A) is restricted to the interest payable in respect of any moneys borrowed or debt incurred. It is the elementary rule of interpretation that when the language of a statute is clear and unambiguous, the Courts are to interpret the same in its literal sense and not to give a meaning that would cause violence to the provisions of the statute. Each word in the statute should be assigned the meaning as per the context. The provision imposing penalty will have to be strictly construed.

Reading sec. 221 in its entirety, it is abundantly clear that the aspect of default in payment of tax and the amount of interest payable are treated as distinct and separate components. The section categorically and specifically states that when an Assessee is in default or is deemed to be in default in making payment of tax, he shall in addition to the amount of arrears and the amount of interest payable u/s 220(2), be liable, to pay penalty, however the amount of penalty does not exceed the amount of tax in arrears. The terminology "default in making a payment of tax and amount of interest payable" are considered to be separate for imposition of penalty and penalty is to be levied on account of default in making a payment of tax. However, the total amount of penalty shall not exceed the amount of tax in arrears. The said penalty for non payment of the tax is in addition to the levy of interest u/s 220(2). The amount of penalty will have to be restricted on the arrears of tax, which would not include the interest component charged u/s 220(2) of the Act

Answer:5.b.

Reliance Infrastructure Ltd. -vs.- CIT (2016) (Bom.)

Foreign Taxes not being entitled to the benefit of DTAA relief, shall be allowed as expenses

The assessee has executed some projects in Saudi Arabia and paid taxes in Saudi Arabia for the income earned there. While filing return, benefit u/s 91 of the Act for relief from double taxation on the same income was claimed which was rejected by the AO on ground that the benefit is available when the amount of tax paid under foreign income is again included in the taxable income earned in India i.e. the same income must be taxed in both the countries. On the contrary, an alternative claim was put forth by the company, that, if benefit of section 91 was not given, then the tax paid in Saudi Arabia were to be allowed as a deduction to the company. The applicant assessee illustrated its claim by a hypothetical illustration, which is as under:

- a. In respect of the project in Saudi Arabia, income which is taxable is ₹ 1,000/-. The tax payable in Saudi Arabia is 10% of income. This amount of ₹ 1,000/- includes an amount of ₹ 150/- which has accrued in India and, therefore, outside the scope of doubly taxed income for the benefit of sec. 91 of the Act.
- b. Nevertheless, the assessee paid the tax on ₹ 1,000/- in Saudi Arabia @ 10% i.e. ₹ 100/-. The credit which would be given to the assessee u/s 91 of the Act is to extent of ₹ 85/- i.e. doubly taxed income amounting to ₹ 850/-. However, as no credit is given for the tax of ₹ 15/- paid in Saudi Arabia on income which is accrued in India, the deduction of ₹ 15/- should be given as an expenditure from the income of ₹ 150/- which has accrued / arising of in India.

The High Court has held that the tax which has been paid abroad would not be covered within the meaning of Section 40(a) (ii) in view of the definition of the word 'tax' in sec. 2(43) of the Act. To be covered by sec. 40(a)(ii) of the Act, it has to be payable under the Act. We are conscious of the fact that sec. 2 of the Act, while defining the various terms used in the Act, qualifies it by preceding the definition with the word "In this Act, unless the context otherwise requires" the meaning of the word 'tax' as found in Section 2(43) of the Act would apply wherever it occurs in the Act.

However, to the extent tax is paid abroad, the Explanation to Section 40(a)(ii) of the Act provides / clarifies that whenever an Assessee is otherwise entitled to the benefit of double income tax relief u/s 90 or 91 of the Act, then the tax paid abroad would be governed by sec. 40(a)(ii) of the Act. The occasion to insert the Explanation to Section 40(a)(ii) of the Act arose as Assessee was claiming to be entitled to obtain necessary credit to the extent of the tax paid abroad u/s 90 or 91 of the Act

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and also claim the benefit of tax paid abroad as expenditure on account of not being covered by Section 40(a)(ii).

The tax paid in Saudi Arabia on income which has accrued and / or arisen in India is not eligible to deduction under Section 91 of the Act. Therefore, not hit by Section 40(a)(ii) of the Act. Section 91 of the Act, itself excludes income which is deemed to accrue or arise in India. Thus, the benefit of the Explanation would now be available and on application of real income theory, the quantum of tax paid in Saudi Arabia, attributable to income arising or accruing in India would be reduced for the purposes of computing the income on which tax is payable in India.

This is so as it is a tax which has been paid abroad for the purpose of arriving global income on which the tax payable in India. Therefore, to the extent the payment of tax in Saudi Arabia on income which has arisen / accrued in India has to be considered in the nature of expenditure incurred or arisen to earn income and not hit by the provisions of Section 40(a)(ii) of the Act.

6.a. Quipro Ltd is an Indian Company engaged in the business of developing and manufacturing industrial components. Its Canadian Subsidiary Techpro Inc. supplies technical information and offers technical support to Quipro for manufacturing goods, for a consideration of Euro 80,000 per year.

Income of Quipro Ltd is ₹ 70 Lakhs.

Determine Taxable Income of Quipro Ltd. if Techpro charges Euro 1,00,000 per year to others in India.

What will be the answer if techpro charges Euro 50,000 per year to others. Rate per Euro = ₹ 60.

8 Marks

6.b. During the previous year 2017-18, Ms Indu, a citizen of India, is a resident of both India and Foreign country with which India has a Double Tax Avoidance Agreement (DTAA), which provides that "the Income would be taxable in country where it is earned and not in other country, but would be included for computation of tax rate in such other country". Her income is ₹ 3,25,000 from business in India and ₹ 7,00,000 from business in Foreign country. In the Foreign Country, the rate of tax is 20%. During the year, she paid a Premium of ₹ 32,000 to insure the health of her mother, a Non Resident, aged 82 years, not dependent on her, through her credit card.

Compute the tax payable by Ms Indu in India for the A.Y 2018-19. Also show the tax payable by Ms Indu in India, had there been no DTAA with such Foreign Country.

8 Marks

Answer:6.a.

Computation of Total Income of Quipro Ltd.

₹ in Lakhs

Particulars	Amount (₹)	Amount (₹)
When price charged for comparable Uncontrolled Transaction is	€ 1,00,000	€ 50,000
Price actually paid by Quipro Ltd (\$ 80,000 x ₹ 60)	48	48
Less: Price charged in Rupees (under ALP) (1,00,000 x 60) and (50,000 x 60)	60	60
Incremental Profit on adopting ALP (A)	(12)	18
Total Income before adjusting for differences due to Arms Length Price	70	70
Add: Difference on account of adopting Arms Length Price (if [A] is positive)	-	18
Total Income of Quipro Ltd	70	88

Note:

Under section 92(3), Taxable Income cannot be reduced on applying ALP. So, difference on account of ALP is ignored.

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Answer:6.b.

Mediclaime Insurance premium paid assumed to be other than cash. Under section 80D, premium paid for the parents shall be allowed to the extent of ₹ 25,000 only. Mother being a Non resident is not eligible for the Higher Deduction of ₹ 30,000 allowed for senior citizens.

Computation of Total Income and Tax payable

Particulars	Amount (₹)	Amount (₹)
Profit and Gains from Business and Profession		
Income from business outside India	7,00,000	
Income from business in India	3,25,000	
Profit and Gains from Business and Profession		1,025,000
Gross Total Income		1,025,000
Less: Deduction under chapter VIA		
Under section 80D		
Mediclaime for mother		25,000
Tax on total income [12,500+20%(10,00,000 – 5,00,000)]		1,12,500
Add: Education cess @ 2%		2,250
Add: Secondary and Higher Education cess @ 1%		1,125
Total Tax Payable		1,15,875
Less: Tax paid in the foreign country (7,00,000 x 20%)		(1,40,000)
Total Tax Payable		Nil

Tax credit method:

In this method, the income is taxed in both the countries in accordance with their respective tax laws read with the DTAA. The country of Residence of the Taxpayer allows him Credit / reduction of the tax charged thereon in the Country of Source, from the tax payable to the country of residence i.e tax paid in another country can be adjusted against tax payable in the country of residence. Hence the tax paid of ₹ 1,40,000 is allowed as deduction.

7.a.VKS International Ltd, the assessee, has sold goods on 12.01.2018 to L Ltd. located in a Notified Jurisdictional Area (NJA). The sale price of identical goods sold to an unfamiliar customer in New York during the previous year was 11.5 crores. While the second sale was on CIF basis, the sale to L ltd was on F.O.B basis. Ocean Freight and Insurance amount to ₹ 20 Lakhs.

India has a Double Taxation Avoidance Agreement with the USA. The Assessee has policy of providing After Sales Support Services to the tune of ₹ 14 Lakhs to all customers except L ltd. The ALP worked out as per Cost plus Method for identical goods is ₹ 12.10 crores.

You are required to compute the ALP for the sales made to L ltd and the amount of consequent increase, if any, in profits of the Assessee Company. **8 Marks**

7.b. The following are the particulars of Income earned by Miss Nikita, a resident Indian aged 25, for the Assessment Year 2018-19.

Particulars	₹ Lakhs
	Amount (₹)
Income from playing snooker in country L	12.00
Tax paid in country L	1.80
Income from playing snooker tournament in India	19.20
Life Insurance Premium paid	1.70

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Medical Insurance premium paid for her father aged 62 years (Paid through credit card)	0.20
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Compute her total income and tax payable by her for the Assessment Year 2018-2019. There is no Double Taxation Agreement between India and Country L.

8 Marks

Answer:7.a.

Computation of Arm's Length Price of Products sold to L Ltd by VKS International Ltd.

	₹ Crores	₹ Crores
Price in a Comparable Uncontrolled Transaction		11.5
Less: Adjustment of Differences		
Freight and Insurance Charges	(0.20)	
After sales support services	(0.14)	(0.34)
Arm's Length Price Sales to L Ltd.		11.16

Computation of Increase in Total Income of VKS International Ltd.

	₹ Crores
Arm's Length Price as above	11.16
Less: Price at what actually sold to L Ltd.	10.50
Therefore increase in Total Income of VKS International Ltd.	₹ 0.66

Working Notes:

1. ALP given under Cost plus Model is not considered because ALP determined under comparable Uncontrolled Transaction Method is considered as Most Appropriate Method in the given case.
2. Under section 92C, when more than one price is determined by the most appropriate method, the Arms length price shall be taken to be the based on the prescribed method. Since only one price is available in Most Appropriate Method, the same is considered here.
3. Since proviso to Section 92C(2) in relation to permissible variation of 3% is not applicable to transactions with person located in Notified Jurisdictional areas. As the Assessee customer is in Notified Jurisdictional area, the principle relating to permissible variation is not applicable.

Answer:7.b.

Computation of Total Income and tax payable by Ms Nikita for A.Y 2018-19 relating to P.Y 17-18

	₹	₹
Profit and Gains from Business or Profession		
Income from playing outside India (Country L)	12,00,000	
Income from India	19,20,000	
Taxable Profit and Gains from Business or Profession		31,20,000
Gross Total Income		31,20,000
Less: Chapter VIA deduction		
Under section 80C		
Life Insurance Premium paid 1.7 Lakh but restricted to	1,50,000	
Under Section 80D		
Medical Insurance Premium	20,000	1,70,000
Total Income		29,50,000
Tax on Total Income (1,12,500 + (29,50,000 – 10,00,000) x 30%)		6,97,500
Add: Education cess @ 2%		13,950
Add: Secondary and Higher Education Cess @ 1%		6,975
Total Tax payable		7,18,425

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Average Rate of Indian Tax (7,18,425 / 29,50,000)	24.35%	
Average Rate of Foreign Tax (1,80,000 / 12,00,000)	15.00%	
Less: Relief under section 91 @ 15% of Foreign Income of ₹ 12,00,000 (Least of the above)		1,80,000
Net Tax Payable (Rounded off u/s 288B)		5,38,430

8. Write short notes on the following (Any four to be answered out of 5 questions) (4x4=16 Marks)

- Computation of total undisclosed foreign income and asset [Sec. 5].
- Provisional Attachment.
- Cases not considered as under-reporting of income [Sec. 270A(2)].
- Enterprise Section 92F(iii)
- Advance Ruling [Sec. 245N(a)]

Answer:8.a.

Computation of total undisclosed foreign income and asset [Sec. 5]:

In computing the total undisclosed foreign income and asset of any previous year of an assessee:

- ☛ No deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee, whether or not it is allowable in accordance with the provisions of the Income-tax Act.
- ☛ Any income,—
 - which has been assessed to tax for any assessment year under the Income-tax Act prior to the assessment year to which this Act applies; or
 - which is assessable or has been assessed to tax for any assessment year under this Act, shall be reduced from the value of the undisclosed asset located outside India, if, the assessee furnishes evidence to the satisfaction of the Assessing Officer that the asset has been acquired from the income which has been assessed or is assessable, as the case may be, to tax.

The amount of deduction in case of an immovable property shall be the amount which bears to the value of the asset as on the first day of the financial year in which it comes to the notice of the Assessing Officer, the same proportion as the assessable or assessed foreign income bears to the total cost of the asset.

Answer:8.b.

Provisional Attachment:

☛ Provisional Attachment

☛ Where

- during the course of the search or seizure; or
- within a period of 60 days from the date on which the last of the authorisations for search was executed,

the authorised officer may attach provisionally any property belonging to the assessee and for the said purpose, the provisions of the Second Schedule shall, mutatis mutandis, apply.

☛ Such attachment shall be subject to following conditions:

- The authorised officer is satisfied that for the purpose of protecting the interest of revenue, it is necessary to do so.
- The reasons for such provisional attachment should be recorded in writing
- Previous approval (in writing) of the Principal Director General or Director General or the Principal Director or Director has taken.

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- ☛ Every provisional attachment shall cease to have effect after the expiry of 6 months from the date of such order.
- ☛ The authorised officer may make a reference to a Valuation Officer referred to in sec. 142A, who shall estimate the fair market value of the property in the manner provided under that section and submit a report of the estimate to the said officer within a period of 60 days from the date of receipt of such reference.

Answer:8.c.

Cases not considered as under-reported income [Sec. 270(6)]

The under-reported income shall not include the following:

- a. **Proper Explanation:** The amount of income in respect of which the assessee offers an explanation and the Assessing Officer or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner, as the case may be, is satisfied that the explanation is bona fide and the assessee has disclosed all the material facts to substantiate the explanation offered.
- b. **Estimate by the authority:** The amount of under-reported income determined on the basis of an estimate, if the accounts are correct and complete to the satisfaction of the Assessing Officer or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner, as the case may be, but the method employed is such that the income cannot properly be deduced therefrom;
- c. **Estimate by the assessee:** The amount of under-reported income determined on the basis of an estimate, if the assessee has, on his own, estimated a lower amount of addition or disallowance on the same issue, has included such amount in the computation of his income and has disclosed all the facts material to the addition or disallowance.
- d. **Arm's length price:** The amount of under-reported income represented by any addition made in conformity with the arm's length price determined by the Transfer Pricing Officer, where the assessee had maintained information and documents as prescribed u/s 92D, declared the international transaction under Chapter X, and, disclosed all the material facts relating to the transaction; and
- e. **Undisclosed income in search operation:** The amount of undisclosed income referred u/s 271AAB.

Answer:8.d.

Enterprise:

Enterprise means a person (including a permanent establishment¹ of such person) who is, or has been, or is proposed to be, engaged:

- ⊗ in any activity, relating to the production, storage, supply, distribution, acquisition or control of:
 - (a) articles or goods; or
 - (b) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature; or
 - (c) any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or
- ⊗ in the provision of services of any kind; or
- ⊗ in carrying out any work in pursuance of a contract; or
- ⊗ in investment, or providing loan; or
- ⊗ in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate,

whether such activity or business is carried on, directly or through one or more of its units or divisions or subsidiaries; or

whether such unit or division or subsidiary is located at the same place where the enterprise is

located or at a different place or places.

¹. Permanent establishment includes a fixed place of business through which the business of the enterprise is wholly or partly carried on [Sec. 92F(iia)]

Answer:8.e.

Advance ruling means:

- (i) A determination by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant; or
- (ii) A determination by the Authority in relation to the tax liability of a non-resident arising out of a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with such non-resident; or
- (iia) A determination by the Authority in relation to the tax liability of a resident applicant, arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant
In above cases, such determination shall include the determination of any question of law or of fact specified in the application.
- (iii) A determination or decision by the Authority in respect of an issue relating to computation of total income which is pending before any income-tax authority or the Appellate Tribunal and such determination or decision shall include the determination or decision of any question of law or of fact relating to such computation of total income specified in the application.
- (iv) A determination or decision by the Authority whether an arrangement, which is proposed to be undertaken by any person being a resident or a non-resident, is an impermissible avoidance arrangement as referred to in Chapter X-A or not.