

**INTERMEDIATE EXAMINATION
GROUP I
(SYLLABUS 2008)**

**SUGGESTED ANSWERS TO QUESTIONS
JUNE 2015**

Paper-7: APPLIED DIRECT TAXATION

Time Allowed : 3 Hours

Full Marks : 100

The figures in the margin on the right side indicate full marks.

Wherever required, the candidate may make suitable assumptions and state them clearly in the answers.

Working notes should form part of the relevant answers.

All questions relate to the assessment year 2015-16 unless state otherwise

[Answer Question No. 1 which is compulsory and any five from the rest.]

1. (a) Choose the most appropriate alternative: 1×12=12
- (i) In the case of very senior citizen resident in India, rebate under section 87A is
(A) ₹5,000
(B) ₹2,000
(C) ₹10,000
(D) ₹Nil
- (ii) In the case of domestic companies where the total income exceeds ₹ 10 crores, the rate of surcharge applicable is
(A) 10%
(B) 5%
(C) 2%
(D) Nil
- (iii) Transfer of unlisted shares held as capital assets for 33 months after acquisition is taxable as
(A) Long-term capital gain
(B) Short-term capital gain
(C) Income from other sources
(D) Income from business
- (iv) Monetary limit for exemption in respect of gratuity received under the Payment of Gratuity Act, 1972 is
(A) ₹ 5 lakhs
(B) ₹ 10 lakhs
(C) ₹ 3.50 lakhs
(D) Entire amount without limit

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- (v) Quantum of deduction by way of interest on moneys borrowed for construction of self-occupied house property is
- (A) ₹ 1,50,000
 - (B) ₹ 30,000
 - (C) ₹ 2,00,000
 - (D) ₹ 1,00,000
- (vi) Expenditure incurred for ready to use software is deductible at
- (A) 15% as depreciation
 - (B) 30% as depreciation
 - (C) 60% as depreciation
 - (D) 100% as revenue expenditure
- (vii) Expenditure incurred towards Corporate Social Responsibility in accordance with section 135 of the Companies Act, 2013 is
- (A) Expenditure deductible at 100%
 - (B) Expenditure deductible at 150%
 - (C) Inadmissible expenditure
 - (D) Expenditure deductible in five annual installments
- (viii) Payment received by employee in respect of encashment of earned leave during service is
- (A) Taxable as salary
 - (B) Taxable as income from other sources
 - (C) 50% is exempt and balance taxable as salary
 - (D) Fully exempt under section 10
- (ix) When "book profit" of a partnership firm is ₹ 1,60,000, the maximum amount deductible by way of working partners' salary is
- (A) ₹1,60,000
 - (B) ₹1,44,000
 - (C) ₹1,50,000
 - (D) Nil
- (x) When Mr. A receives arrear rent of a house property based on court decree and at the time of receipt he was not the owner of the property, it is
- (A) Exempt from tax
 - (B) Chargeable as income from other sources
 - (C) Chargeable as income from house property
 - (D) Not taxable
- (xi) Deduction under section 80U in the case of a person with severe disability is
- (A) ₹ 50,000
 - (B) ₹ 75,000
 - (C) ₹ 1,50,000
 - (D) ₹ 1,00,000
- (xii) The due date for filing return of income in the case of a domestic company is
- (A) 31st July
 - (B) 30th September
 - (C) 31st October
 - (D) 31st December

Suggested Answer_Syl2008_June2015_Paper_7

- (b) Fill up the blanks: 1×13= 13
- (i) Special provisions of section 44AD for computing profits and gains of business on presumptive basis shall not be applicable if the total turnover of such retail trade exceeds ₹ _____.
- (ii) When income tax deducted at source by a person other than Government in the month of March 2014, the tax so deducted is required to be deposited by _____.
- (iii) A residential property which is let out for a minimum period of _____ days in the previous year is not treated as asset u/s 2(ea) of the Wealth Tax Act.
- (iv) Depreciation will be allowed on an asset purchased and kept as standby during previous year, as it has _____ use by the assessee.
- (v) Rate of income tax deductible at source under section 194I of the Income-tax Act for use of any Machinery, Plant or Equipment is _____.
- (vi) For concealment of particulars of income or furnishing of inaccurate particulars of income, maximum penalty of _____ % of the tax sought to be evaded is imposed under section 271(1)(c) of the Income-tax Act.
- (vii) _____ of the qualifying preliminary expenses is allowed as deduction under section 35D of the Income-tax Act in each of the successive years beginning with the year in which business commences while computing income from business.
- (viii) Notice under section 143(2) should be issued within a period of _____ from the end of the financial year in which the return is furnished.
- (ix) The amount of tax credit under section 115JAA shall be carried forward for maximum period of _____ for set off against income tax computed under normal provisions of the Income-tax Act.
- (x) Amount withdrawn by an employee from recognized provident fund at the time of leaving the service is exempt if he has rendered _____ years of continuous service with the same employer.
- (xi) When ₹ 16,000 is the reimbursement of medical expenditure, the amount liable to tax is ₹ _____.
- (xii) Mr. A, an Indian Civil Servant was posted to Indian Embassy in UK, the value of perquisites received by him is _____.
- (xiii) The maximum amount of deduction in respect of interest on loan borrowed for repair and reconstruction of self occupied property is ₹ _____.

Answer:

1. (a) (i) (D) Nil
(ii) (A) 10%
(iii) (B) Short-term capital gains
(iv) (B) ₹ 10 lakhs
(v) (C) ₹ 2,00,000
(vi) (D) 100% as revenue expenditure
(vii) (C) Inadmissible expenditure
(viii) (A) Taxable as salary

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- (ix) (C) ₹1,50,000
- (x) (C) Chargeable as income from house property
- (xi) (D) ₹1,00,000
- (xii) (B) 30th September

- (b)**
- (i) 100 lakhs (or 1 crore)
 - (ii) 30th April, 2014
 - (iii) 300
 - (iv) Passive
 - (v) 2%
 - (vi) 300
 - (vii) 1/5th (or 20%)
 - (viii) Six months
 - (ix) 10 years
 - (x) Five
 - (xi) 1,000
 - (xii) Exempt
 - (xiii) 30,000

2. (a) Mr. Naveen joined N & Co. Ltd. on 01.10.2014 for a basic salary of ₹ 40,000 per month. He is also eligible for a HRA of ₹ 8,000 per month. He paid ₹ 10,000 every month towards rent at Delhi. Compute his salary income chargeable to tax. 5
- (b) State with reasons the eligible amount of deduction in the following cases under Chapter VI-A of the Income-tax Act, 1961. 6
- (i) Annual life insurance premium ₹ 60,000 on the life of son suffering from disease specified in 80DDB. Policy was taken on 05.04.2013 and the capital sum assured is ₹ 5 lakhs.
 - (ii) Tuition fees paid to a son studying part-time MBA at Mumbai ₹ 1,20,000.
 - (iii) Stamp duty paid ₹ 80,000 on purchase of a residential house property let out for a monthly rent of ₹ 20,000.
- (c) State the 'due date' for filing the return of income in the following cases: 4
- (i) An individual whose accounts are liable for audit under section 44AB.
 - (ii) A partnership firm with a sales turnover of ₹ 30 lakhs.
 - (iii) An individual government pensioner.
 - (iv) Working partner of a partnership firm whose turnover exceeded ₹ 100 lakhs during the previous year.

Answer:

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2. (a)

Computation of salary income of Mr. Naveen for the assessment year 2015-16

Particulars	₹	₹
Salary		2,40,000
House rent allowance	48,000	
Less: Exemption U/s 10(13A)		
(i) 50% of basic salary	₹ 1,20,000	
(ii) Actual HRA	₹ 48,000	
(iii) Rent paid in excess of 10% of salary [₹ 10,000 × 6] – 24,000 = ₹ 36,000		
Least of the above is exempt	36,000	12,000
Salary income		2,52,000

- (b) (i) Where the life insurance policy is issued after 01.04.2013 on the life of any person with disease or ailment specified in the rules made under section 80DDB, the premium payable on the policy in excess of 15% of the capital sum assured is not eligible for deduction under section 80C.

In this case, the annual premium is less than 15% of the policy sum assured and therefore, it is eligible for deduction.

- (ii) Tuition fees paid at the time of admission or thereafter to any university, college, school or other educational institutional institution situated within Indian is deductible if it is for the purpose of full-time education and it is for the individual, his wife or husband and any child of such individual.

As the son is studying part-time the amount of tuition fee paid is not eligible for deduction under section 80C.

- (iii) Stamp duty, registration fee and other expenses paid by the assessee for the purpose of acquisition of residential house property is deductible under section 80C.

Therefore, even the stamp duty expenditure incurred for acquisition of let out residential house property is eligible for deduction under section 80C.

- (c) (i) As per Explanation 2 to section 139(1) the due date is 30th September of the assessment year.
 (ii) The due date is 31st July of the assessment year.
 (iii) The due date is 31st July of the assessment year.
 (iv) The due date is 30th September of the assessment year.

3. (a) Mr. Raghu has two houses both of which are self-occupied. The details are given below:

Particulars	House – I (₹)	House – II (₹)
Municipal value	4,50,000	5,40,000
Fair rent	3,00,000	6,00,000
Standard rent	3,60,000	4,80,000
Municipal tax	49,000	60,000
Municipal tax actually paid	45,000	54,000
Interest on moneys borrowed for construction	80,500	78,200

Compute income from house property for the assessment year 2015-16 and suggest which house should be opted as self-occupied in order to minimize the tax liability. 6

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(b) Mr. Surya (age 62) derives income only from one heavy goods carriage and two other goods carriages which he owned throughout the financial year 2014-15. His income as per books of account is ₹ 2,30,000. He wants to know the amount of presumptive income under section 44AE. Advise whether he should offer income under presumptive provision or as per books of account. 5

(c) State which of the following agricultural lands given below is a capital asset: 4

Particulars	Aerial distance from municipal limit	Population
Agricultural land – I	5 kms	60,000
Agricultural land – II	1 km	8,00,000
Agricultural land – III	7 kms	15,00,000
Agricultural land –IV	10 kms	50,00,000

Answer:

3. (a)

Computation of income from house property of Raghu for the Assessment Year 2015-16.

Particulars	House 1	House 2
Gross Annual Value(GAV)		
Expected Rent (ER) is the GAV of house property		
ER= Higher of Municipal value and Fair rent restricted to Standard rent.	3,60,000	4,80,000
Municipal taxes paid	45,000	54,000
Net Annual Value (NAV)	3,15,000	4,26,000
Less:- Deductions u/s 24		
a. 30% of NAV	94,500	1,27,800
b. Interest on borrowed capital	80,500	78,200
Income from house property	1,40,000	2,20,000

Option 1. (House 1 self occupied and house 2 deemed to be let out)

House 1-(self occupied)[Representing interest on borrowed capital, assuming the construction of the house was completed within 3 years from the end of the FY in which the capital was borrowed.	(80,500)
House2- (Deemed to be let out)	2,20,000
Income from house property	1,39,500

Option 2. (House 2 self occupied and house 1 deemed to be let out)

House 2 - (self occupied)[Representing interest on borrowed capital, assuming the construction of the house was completed within 3 years from the end of the FY in which the capital was borrowed.	(78,200)
House1- (Deemed to be let out)	1,40,000
Income from house property	61,800

Since option 2 is more beneficial Raghu should opt to treat house 2 as self occupied and house 1 as deemed to be let out.

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- (b) As per section 44AE the presumptive income is ₹ 7,500 per month for each vehicle. Hence, income of Mr. Surya is ₹ 7,500 × 3 × 12 = ₹ 2,70,000.

If he is going to offer income under section 44AE his books of account need not be audited under section 44AB.

If he is opting to admit income as per books of account then such books of account have to be audited under section 44AB.

Since, he is a senior citizen eligible for basic exemption limit of ₹ 3 lakhs he will not have any tax liability in either of the options.

Hence, he is advised to offer income under section 44AE.

- (c) (i) Less than 6 kms but the population is less than 1,00,000. Therefore, it is an agricultural land which is not a capital asset.
(ii) Less than 6 kms and the population is more than 1,00,000 but below 10,00,000 and therefore it is an agricultural land which is a capital asset.
(iii) Less than 8 kms and the population is above 10,00,000 and therefore it is an agricultural land which is capital asset.
(iv) More than 8 kms regardless of the population, it is an agricultural land which is not a capital asset.

4. (a) State whether the following expenses are allowed while computing income under the head 'profit and gains of business or profession'. 5

- (i) Provision for gratuity of ₹ 7 lakhs made in the books but no actual payment made.
(ii) Salary of ₹ 9 lakhs paid to a non-resident employee permanently located outside India without deduction of tax at source.
(iii) Sales tax deposited in cash ₹ 25,000 with State Bank of India.
(iv) Cash paid to a transporter for carriage of goods ₹ 33,000.
(v) Oil seeds purchased from a farmer on a banking day by paying cash of ₹ 45,000.

- (b) Mr. Balu acquired a house property in March, 1981 for ₹ 2 lakhs. the fair market value as on 01.04.1981 was ₹ 3,40,000. He gifted the property to his son Raju in December 1999 when the fair market value was ₹ 10 lakhs. Raju entered into a sale agreement in January 2012 and received ₹ 1 lakh from Raghav which was subsequently forfeited as the buyer Raghav did not fulfill the commitment.

In June, 2014 an agreement was made for sale of property with Dinesh and a sum of ₹ 2 lakh was received as advance. This advance was also forfeited by Mr. Raju due to failure of Dinesh.

Finally Raju sold the property to Priya for ₹ 90 lakhs in January, 2015. He started construction of a residential house in August, 2014 and incurred ₹ 10 lakhs till March, 2015.

Mr. Raju subscribed to REC bonds for ₹ 30 lakhs in March, 2015 and wished to invest the balance amount in construction of residential house in the financial year 2015-16 in such a way that his income from capital gain is reduce to 'nil'.

Compute his income under the head 'capital gains' for the assessment year 2015-16. 7

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Note:

Financial Year	Cost inflation index
1980 – 1981	100
1999-2000	389
2011-2012	785
2014-2015	1024

(c) Do you agree with the proposition that an Indian company is always resident in India for the purpose of Income-tax? 3

Answer:

4. (a) (i) Not allowed. Provision for payment of gratuity is not allowed. It is allowed only on actual payment basis. [Section 40A(7)].
 (ii) Not allowed. Salary paid outside India to a non-resident without deduction of tax at source is not allowable. [Section 40(a)(iii)].
 (iii) Allowed. Sales tax deposited in cash through State Bank of India is covered by payment made through bank. [Rule 6DD read with section 40A(3)].
 (iv) Allowed. Payment in cash upto ₹ 35,000 to a payee who is engaged in the business of carriage of goods is not subject to disallowance under section 40A(3).
 (v) Allowed. Payment made in cash to purchase agricultural produce is not subjected to disallowance under section 40A(3) read with rule 6DD.

(b)

Computation of capital gains of Mr. Raju for the assessment year 2015-16

		₹
Sale consideration		90,00,000
Less: Cost of acquisition	3,40,000	
Less: Amount forfeited in January, 2012	1,00,000	
	2,40,000	
Indexed cost : $2,40,000 \times 1024 \div 100$		24,57,600
Note: As the property was obtained by way of gift from father who acquired the same before 01.04.1981 the FMV as on 01.04.1981 could be adopted.		
The indexation benefit must be with reference to the date of acquisition of the previous owner and not the date of receipt of gift by Mr. Raju.		
		65,42,400
Less: Exemption U/s. 54EC in respect of amount invested in REC bonds		30,00,000
		35,42,400
Less: Exemption U/s. 54 in respect of amount to be invested in construction of residential house.		35,42,400
Capital gain		Nil

Note: Amount forfeited in respect of advance from Dinesh in June, 2014 is taxable under the head 'income from other sources'.

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- (c) A company is said to be resident in India in any previous year if
- (i) it is an Indian company; or
 - (ii) during that year, the control and management of its affairs is situated wholly in India.

Even if any one of the conditions is satisfied such company is said to be resident in India. A foreign company if its control and management of affairs is situated wholly in India it is resident in India for that year.

An Indian company even though its control and management of its affairs is wholly outside India, still it would be resident for the purpose of Income-tax.

5. (a) Ms. Premalatha drawing a salary of ₹ 15,000 per month received the following gifts during the previous year 2014-15.
- (i) Gift of ₹ 70,000 on the occasion of her marriage from her office colleagues on 15.09.2014.
 - (ii) Gift of listed equity shares from her brother's mother in law on 10.11.2014. The market value of shares on that date was ₹ 85,000.
 - (iii) A vacant site was obtained by way of gift from her maternal grandfather's sister. Stamp duty value on the date of gift ₹ 40,000.
 - (iv) Received a Rolex watch from a cousin who is in Dubai on the occasion of her birthday on 15.08.2014. The purchase price of watch was ₹ 10,000.
 - (v) Her friend paid life insurance premium due of ₹ 25,500 by way of cheque to express her love and affection.

Compute the income under the head 'other sources' of Ms. Premalatha for the assessment year 2015-16. 5

- (b) Mr. Amin whose total income is ₹ 4,50,000 paid house rent of ₹ 8,000 per month in respect of residential accommodation occupied by him. He has not received any house rent allowance nor owns a house property anywhere.
Compute the amount of deduction if any, that could be claimed in respect of rent paid. 3

- (c) Akshaya Infra Ltd., New Delhi is a company engaged in the construction and sale of buildings. It has the following assets as on 31.03.2015. Compute the Net Wealth of the company as on the valuation date, 31.03.2015. 7

	Assets	₹ in lakhs
(i)	Flats-residential ready for sale	200
(ii)	Commercial properties ready for sale	500
(iii)	Guest House situated 30 kms away from Delhi	25
(iv)	Two residential houses occupied by:	
	An officer having an annual salary of ₹ 8 lakhs	10
	An officer having an annual salary of ₹ 15 lakhs	15
(v)	Cars used for company's business	20
(vi)	Urban land held from 31.03.2001, on which no building could be built due to dispute of title	50
(vii)	Cash in hand (recorded in the books of accounts)	5

Answer:

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5. (a)

Computation of Income from Other Sources for the Assessment Year 2015-16

	Particulars	₹
(i)	Gift received on the occasion of marriage is not chargeable to tax even though it is received from non-relatives.	NIL
(ii)	Brother's mother in law is not a 'relative' as per section 56(2)(vii). The 'property' covered in Explanation includes shares. Therefore, ₹ 85,000 being the fair market price on the date of gift is chargeable to tax.	85,000
(iii)	Her maternal grandfather's sister is not a 'relative' under section 56(2)(vii). But the value of vacant site gifted by her is less than ₹ 50,000 and therefore, it is not chargeable to tax.	NIL
(iv)	Rolex watch received from cousin is not liable to tax since the term 'property' does not include watch.	NIL
(v)	The amount of insurance premium on her policy paid by friend directly to insurance company is not liable to tax as it is not received in money nor it is a property as per Explanation to section 56(2)(vii).	NIL
		85,000

(b) Section 80GG provides scope to Mr. Amin to claim deduction in respect of rent paid as he has not received any house rent allowance and does not own any house property during the financial year 2014-15.

The deduction under section 80GG is

(i) Actual rent less 10% of total income = ₹ 96,000 – ₹ 45,000 = ₹ 51,000.

(ii) 25% of total income = ₹ 1,12,500.

(iii) Amount calculated at ₹ 2,000 per month = ₹ 24,000.

The least of the above is eligible for deduction U/s 80GG i.e. ₹ 24,000.

(c) **Computation of Net Wealth of Akshaya Infra Ltd. as on Valuation Date 31.03.2015 under Wealth Tax Act.**

	Particulars	₹ in lakhs
(i)	Residential flats for sale – stock in trade – exempt u/s 2(a)(i)(2)	Nil
(ii)	Commercial properties being stock-in-trade – exempt u/s. 2(ea)(i)(2)	Nil
(iii)	Guest House situated beyond 25 km from the municipal limits of Delhi – asset u/s 2(ea)(i)	25
(iv)	Residential house allotted to employee with annual salary of ₹ 8 lakhs – exempt U/s. 2(ea)(i)(1)	Nil
	Residential house allotted to employee with annual salary of ₹ 15 lakhs – asset u/s 2(ea)(i)	15
(v)	Cars (Other than those used for running on hire or stock-in-trade) – asset u/s 2(ea)(ii)	20
(vi)	Urban land held as stock-in-trade for over 10 years – asset u/s 2(ea)(v)	50
(vii)	Cash in hand (recorded in the books of account)	Nil
	Net Wealth	110

Note: The question clearly states that no construction could be carried out due to dispute of title. The exemption under the Explanation 1 (b) to clause (ea) of section 2 of Wealth Tax Act is available only if the construction is prohibited in that place by law. This is not the case here. Hence, the value of urban land will have to be included in the net wealth.

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6. (a) Discuss the taxability of unexplained expenditure incurred by the assessee under the provisions of the Income-tax Act. 3
- (b) Mr. Joseph, a Cost Accountant in practice had gross receipts from profession amounting to ₹ 40 lakhs during the previous year 2013-14. He filed, his return of income on 1st December, 2014 disclosing a taxable income of ₹ 12 lakhs. on 25th March, 2015, he discovered that he did not claim certain expenses and filed a revised return showing taxable income of ₹ 11.80 lacs after adjustment of such expenses on 30th March 2015.
- Explain the validity of the revised return of income filed by Mr. Joseph on 30th March, 2015 3
- (c) Mr. Avinash entered into the following transactions during the previous year 2014-15. Discuss the income tax implications of each transaction in the hands of Mr. Avinash and Mrs. Alka wife of Mr. Avinash 6
- (i) Mr. Avinash holds 51% share in a partnership firm. Mrs. Alka received a remuneration of ₹ 75,000 from the firm for writing its books of account. Mrs. Alka, being a fashion designer, does not possess any qualification or training in the field of accountancy.
- (ii) Mr. Avinash gifted a residential house to Mrs. Alka on 1st April, 2014. During the previous year 2014-15, she received rent of ₹ 10,000 per month from letting out of the said house.
- (d) Can an individual, who is not in India, sign the return of income from outside India? Is there any other option? 3

Answer:

6. (a) As per section 69C of the Income-tax Act, where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or the explanation offered is unsatisfactory, the Assessing Officer can treat such unexplained expenditure as the income of the assessee for such financial year.

Such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as deduction under any head of income.

The unexplained expenditure deemed as income under section 69C shall be taxed at maximum marginal rate of 30% as per section 115BBE. No basic or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act.

- (b) Mr. Joseph is engaged in profession. As his gross receipt exceeded ₹ 25 lakhs, his accounts were subject to tax audit as per the provision of section 44AB.

The due date for filing return of income for Assessment Year 2014-15 is 30th September, 2014, as his accounts were required to be audited under section 44AB.

The original return filed by Mr. Joseph is a belated return under section 139(4), as it was filed within one year from the end of the assessment year. The Supreme Court in Kumar Jagdish Chandra Sinha vs. CIT 220 ITR 67 (SC) held that a return filed under section 139(4) is not eligible for revision and therefore, the belated return cannot be revised. Hence, the revised return filed by Mr. Joseph on 30th March, 2015 is not valid.

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- (c) (i) As per section 64(1)(ii) of the Income-tax Act, in case the spouse of the an individual receives any amount by way of income from any concern in which the individual has substantial interest (i.e., holding shares carrying at least 20% voting power or entitled to at least 20% of the profits of the concern), then such income shall be included in the total income of the individual.

The only exception is in a case where the spouse possesses professional or technical qualification and the income earned is solely attributable to the application or professional knowledge and experience, in which case, the clubbing provision shall not apply.

In the instant case, the remuneration received by Mrs. Alka from the partnership firm for writing its books of account has to be included in the total income of Mr. Avinash, as she does not have any professional qualification or training in the field of accountancy and Mr. Avinash has substantial interest in the firm.

- (ii) According to section 27(i) of the Income-tax Act, an individual who transfers any house property to his spouse otherwise than for adequate consideration or in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred. Hence, the income from the property shall be computed in the hands of Mr. Avinash.

Net income i.e., 84,000 (i.e., ₹ 1,20,000) – standard deduction (30%) ₹ 36,000 shall be included in total income of Mr. Avinash.

The provision of section 56(2)(vii) is not attracted in the hands of Mrs. Alka as she received the property without consideration from a relative i.e., her husband.

- (d) As per section 140 of the Income-tax Act, return of income can be signed by an individual even if he is absent from India. Hence, an individual can himself sign the return of income from a place outside India.

Alternatively, any person holding a valid power of attorney and duly authorized by the individual can also sign the return of income.

7. (a) **A company incorporated outside India is not liable to wealth tax in India. Examine the correctness of the statement.** **4**
- (b) **When shall a transaction be considered as “international transaction”?** **4**
- (c) **Mr. Anuj, an individual, resident in India aged 49 years has received professional fees of ₹ 1,70,000 (net of tax ₹ 30,000) and ₹ 2,55,000 (net of tax ₹ 45,000) on 7th August, 2014 and 15th March, 2015 respectively for rendering services in Hong Kong. India does not have any double taxation avoidance agreement with Hong Kong. He incurred ₹ 1,60,000 as expenditure for earning such fees. His income from other sources in India is ₹ 2,60,000. He paid ₹ 90,000 towards public provident fund.**
Compute tax liability of Mr. Anuj for Assessment Year 2015-16. **7**

Answer:

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7. (a) Under Section 2(h) of the Wealth-tax Act, 1957, a company shall have the same meaning as assigned to it in clause (17) of Section 2 of the Income-tax Act, 1961. As per Section 2(17), a company means, inter alia, any Indian company or any body corporate incorporated by or under the laws of a country outside India. Therefore, a company incorporated outside India will be liable to wealth tax in respect of assets located in India and which are subject to wealth tax under Section 2(ea) of the Wealth-tax Act, 1957.
- (b) As per Section 92B of the Income Tax Act, 1961 an international transaction is one which satisfies the following criteria:
- A transaction between two or more associated enterprise, either or both of whom are non-residents;
 - It is in the nature or purchase, sale or lease of tangible or intangible property, or provision of services, lending/borrowing money or any other transaction having a bearing on the profits, income, losses or assets of such enterprise;
 - It includes a transaction in the nature of a mutual agreement, or arrangement between two or more associated enterprise for the allocation or apportionment of any contribution, cost or expense incurred (or to be incurred) in connection with a benefit, service or facility provided (or to be provided) to any one or more of such enterprise.
- (c) **Computation of tax liability of Mr. Anuj as per the Income Tax Act, 1961 for the assessment year 2015-16.**

Particulars	Amount in ₹	
Income under the head business & profession (₹ 1,70,000 + ₹ 2,55,000 + ₹ 30,000 + ₹ 45,000)	5,00,000	
Less: Expenditure incurred	1,60,000	3,40,000
Income from other sources		2,60,000
Gross Total Income		6,00,000
Less: Deduction u/s 80C: PPF		90,000
Taxable income		5,10,000
Tax on Taxable Income of ₹ 5,10,000		27,810
Less: Relief u/s 91 of income tax act As per Note – 1		(18,540)
Tax Payable (rounded off)		9,270

Note 1: Computation of relief u/s 91 of Income Tax Act

Average rate of tax in India

(Tax on total income in India/Total income in India)*100 i.e.,
(27,810/5,10,000)*100

5.453%

Average rate of tax in foreign country

(Tax paid in Foreign country/Doubly Taxed Income)*100
(75,000/3,40,000)*100

22.06%

Doubly taxed income

3,40,000

Rebate u/s 91 {3,40,000*5.453%}—

(Lower of avg. Indian tax rate and foreign tax rate)

18,540

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Note regarding applicability of Sec 91 is to be provided which states as follows:-

An assessee shall be allowed deduction u/s 91 provided all the following conditions are fulfilled:

- (i) The assessee is a resident in India during the relevant PY.
- (ii) The income accrues or arises to him outside India during that PY.
- (iii) Such income is not deemed to accrue or arise in India during the PY.
- (iv) The income in question has been subjected to income tax in the foreign country in hands of the assessee and the assessee has paid tax on such income in the foreign country.
- (v) There is no agreement u/s 90 for the relief or avoidance of double taxation between India and the other country where income has accrued or arisen.

8. (a) Following questions have been raised in the context of the provisions regarding deduction of tax at source. Answer the questions: 5

- (i) X Ltd. has taken a flat on rent from Y Ltd. to set up its branch office. Rent payable to Y Ltd. for the flat in ₹ 90,000 per month plus applicable service tax. X Ltd. wishes to know whether tax is required to be deducted at source under section 194-I from gross amount of rent including service tax.
- (ii) An employee of Central Government is to receive arrears of salary for the earlier 3 years. He enquires whether tax will be deducted at source from the entire amount of arrear salary.

(b) Mr. Atul (age 45) is a trader whose income from business for the year ended 31st March, 2015 amounts to ₹ 5 lakhs. He sold a vacant site resulting in a long-term capital gain of ₹ 3 lakhs. State the amount of advance tax payable by him during the financial year 2013-14 mentioning the dates.

Assuming he filed his return of income on 15th May, 2015 and has not paid any advance tax at all, compute interest payable under section 234B of the Income-tax Act. 5

(c) State the quantum of penalty in the following cases: 5

- (i) Failure to comply with a direction for audit under section 142(2A).
- (ii) Failure to get the accounts audited under section 44AB.
- (iii) Cash loan received ₹ 50,000.
- (iv) Failure to file return of income by a charitable trust within due date.
- (v) Failure to file return of income by a salaried individual before end of the assessment year.

Answer:

- 8. (a) (i)** Service tax paid by tenant is not in the nature of "income" for the landlord. Hence, TDS u/s 194-I would be required to be made on the amount of rent paid / payable without including service tax. [Circular No. 4/2008 dated 28.4.2008 of CBDT]. Since the amount of rent payable exceeds ₹ 1,80,000, TDS is to be deducted @ 10% during the previous year 2014-15 is ₹ 90,000 × 12 months × 10% = ₹ 1,08,000.
- (ii) As per section 192, tax is deductible at source by any person who is responsible for paying any income chargeable under the head salaries. However, under sub-section (2A) of that section, the employee will be entitled to relief under section 89(I) and consequently he will be required to furnish to the person responsible for making the payment, such particulars in Form No. 10 E. The person responsible for making the payment shall compute the relief on the basis of above particulars submitted and takes it into account making deduction of tax at source from salary.

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(b)

Computation of advance tax liability of Mr. Atul for the financial year 2014-15

	₹	₹
Income from business		5,00,000
Long term capital gain		3,00,000
Total income		8,00,000
Tax thereon [(5,00,000 – 2,50,000) × 10% + 3,00,000 × 20%]		85,000
Add : Cess @ 3%		2,550
		87,550
Advance tax installments:		
On or before 15 th September, 2014 @ 30% ₹ 25,750 on business income	7,720	
On or before 15 th December, 2014 @ 60% ₹ 25,750 on business income after deducting the previous installment.	7,730	
On or before 15 th March 2015 @ 100% ₹ 87,550.	72,100	

If no advance tax was paid during the previous year, interest under section 234B is to be paid from 1st April, 2015.

Interest on ₹ 87,550 @ 1% per month for 2 months = ₹ 1,750.

- (c) (i) ₹ 10,000 for the failure to comply with a direction issued under section 142(2A) [Section 271(1)(b)].
- (ii) 0.5% of the turnover or ₹ 1,50,000 whichever is less for the failure to get the accounts audited under section 44AB. [Section 271B].
- (iii) Equal to the amount of loan obtained in contravention of section 269SS. Thus the penalty would be ₹ 50,000 [Section 271D].
- (iv) ₹ 100 per day during which the failure continues [Section 272A(2)].
- (v) ₹ 5,000 for failure to file return of income before the end of the relevant assessment year [section 271F].