FINAL EXAMINATION

December 2018

P–16(DTI)
Syllabus 2016

Direct Tax Laws and International Taxation

Time Allowed: 3 Hours

Full Marks: 100

The figures in the margin on the right side indicated 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 Income-Tax Assessment Year 2018-19 and the provisions referred to are those of the Income-Tax Act, 1961, unless stated otherwise.

Answer Question No.1 *which is compulsory and* any five *from* Question Nos. 2 *to* 8.

1. Find the most suitable alternative and give brief justification / working for your answer: 2×10=20

(i) Tax payable by a firm whose total income is ₹ 11 crores is ₹__________ crores.

(A) 3·7389

(B) 3·390

(C) 3·80688

(D) None of the above

(ii) A businessman at Delhi is using a car exclusively for business purposes. As per Union Territory rule, his car can be used in Delhi only on alternate days. Car is the only asset in the block. Car has thus been used for only 50% of the number of days in the year. WDV of the car as on 1.4.2017 is ₹ 10 lakhs. Rate of depreciation is 15%. Depreciation allowable is ₹__________.

(A) 75,000

(B) 1,50,000

(C) 1,00,000

(D) None of the above

(iii) Safe Harbour Rules are relevant in the context of

(A) Maritime Law (Maintenance of sea harbours in a safe manner)

(B) Customs Act, 1962

(C) Transfer pricing

(D) None of the above

(iv) Mr. A acquired a house property on 12.3.1990 for ₹ 5 lakhs. He gifted the same to his brother on 16.5.1993, who gifted it to his son S on 22.7.2015, when the stamp valuation was ₹ 12 lakhs. S sold the house on 14.5.2016 for ₹ 24 lakhs, which was also the stamp duty value. For computing capital gain, the date of acquisition is

(A) 1.4.1981

(B) 12.3.1990

(C) 16.5.1993

(D) 22.7.2015

(v) When total income of resident assessee, Mr. Ram (age 50) is ₹ 50,65,000, his net tax liability (including cess) and after marginal relief would be __________.

(A) ₹ 14,18,830

(B) ₹ 13,31,000

(C) ₹ 13,70,930

(D) ₹ 12,84,500

(vi) Mr. Cheema withdrew ₹ 2 lakhs out of his own contribution with National Pension System Trust. On the date of withdrawal, the balance in the account consisted of his own contribution of ₹ 6 lakhs and Employer's contribution of ₹ 8 lakhs. The amount of withdrawal liable to tax in the hands of Mr. Cheema would be

(A) Nil

(B) ₹ 3,00,000

(C) ₹ 1,50,000

(D) ₹ 50,000

(vii) Mahan Charitable Trust (registered under section 12AA) is engaged in running educational institutions. It paid ₹ 5 lakhs to Malar Charitable Trust (registered under section 12AA) as corpus donation out of its income of the previous year 2017-18. The amount of corpus donation is

(A) taxable in the hands of both the trusts.

(B) exempt in the hands of both the trusts.

(C) deductible for payer as application and taxable for the payee.

(D) not deductible for payer as application but exempt for payee.

(viii) Real Builders (a partnership firm) admitted income under section 44AD up to the assessment year 2017-18 resorted to determination of income as per regular provisions by getting the books of account audited for the assessment year 2018-19. The assessee firm cannot revert to presumptive provisions contained in section 44AD up to the assessment year ______.

(A) 2023-24

(B) 2024-25

(C) Indefinitely

(D) 2019-20

(ix) M/s KLM Ltd., a company having international transactions of ₹ 7 crores related to purchase of raw materials from its subsidiary company, M/s BL Inc., in USA. M/S KLM Ltd. is required to keep and maintain certain information and documents under section 92D for period of ________ years.

(A) five

(B) eight

(C) ten

(D) fourteen

(x) In the assessment of Mr. Amar, the Assessing Officer has observed that he has purchased diamonds for ₹ 18 lakhs on 1st October, 2017 which was not recorded in the books of account and he is unable to offer any explanation. Applicable rate of income tax leviable under section 115BBE is ____________ plus surcharge and education cess as applicable.

(A) 20%

(B) 30%

(C) 40%

(D) 60%

2. (a) M/s NIACO Ltd., an Indian Company reports total income of ₹ 10,50,000 for the previous year ending March 31, 2018. Tax deducted at source by different payers amounts to ₹ 24,450 and tax paid in foreign country on a doubly taxed income amounts to ₹ 10,000 for which the company is entitled to relief under section 90 as per DTAA. During the year the company pays advance tax on June 15, 2017 — ₹ 40,000; on September 12, 2017— ₹ 65,000; on December 15, 2017 — ₹ 1,00,000 and on March 15, 2018 — ₹ 62,000. The company files its return of income for the assessment year 2018-19 on October 15, 2018. There is no international transaction and no transfer pricing provisions are applicable. Compute interest, if any, payable by the company under sections 234A, 234B and 234C. The due date for filling return of income is September 30, 2018. 8

(b) State with brief reason, whether the following would fall in the category of tax planning, tax avoidance or tax evasion: 8

(i) Setting up of a liaison office in India by a foreign company, instead of a full fledged establishment to run its business activities in India;

(ii) Investment in bonds approved under section 54EC;

(iii) Claiming depreciation for business purposes for a solar power generation system installed in the residential premises of Propietor;

(iv) A Hindu Undivided Family (HUF) engaged in business, paid salary to family members who were actually involved in day to day business activities of the HUF.

3. (a) Vimala Boilers Pvt. Ltd. furnishes the following summarized position of its statement of profit and loss and pertinent additional information thereto, for the year ended 31.3.2018:

	[All amounts are ₹ in lakhs]
(i) Net profit as per books	26
(ii) Share income from an AOP	6
Expenditure debited in books for earning such income	0·8
(iii) Compounding fee paid to the Corporation authorities	1·2
(iv) Provision for income-tax	2
(v) Provision for loss of foreign subsidiary	4
(vi) CSR expenditure debited to statement of profit and loss	14
(vii) Royalty received relating to business (Chargeable at 10%)	6

(viii) The brought forward business loss and depreciation are as under (₹ in lakhs):

Particulars	As per books	As per Income Tax Act
Business loss for AY 2017-18	4	12
Unabsorbed Depreciation	3	11

(ix) The members as well as their shares in the AOP (in which the assessee is a member) are specific and determinate.

Compute Minimum Alternate Tax(MAT) payable by the company for the Assessment Year 2018-19. The company is not an Ind-AS compliant company. 8

(b) AKP is a public charitable trust created under a trust deed for providing relief to physically challenged persons and registered under section 12AA. The following are the particulars of receipts of the trust during the year ending March 31, 2018:

Particulars	₹ in lakhs
Income from properties held by trust (net)	15
Income (net) from business (incidental to main objects)	14
Voluntary contributions from public (including the corpus donation of ₹ 7 lakh)	18

The trust applied ₹ 18 lakh towards various activities and programmes undertaken for the benefit of physically challenged persons during the year. The trust has also paid ₹ 8 lakh towards repayment of a loan taken two years back for the purpose of construction of its centre for training the handicapped persons in various handicraft works and sports.

Determine the tax liability, if any of the trust for the Assessment Year 2018-19 and also state how the trust can mitigate such liability. 8

4. (a) Answer the following with reference to assessment and reassessment provisions: 4×2=8

(i) Mr. Bharadwaj (age 50) returned to India in April, 2016 after remaining outside India for 22 years. He continued to hold a bank account outside India during the financial year 2017-18. In September, 2018 the Assessing Officer wants to issue a notice under section 148 for the assessment year 2005-06 in order to tax a vacant land purchased (outside India) out of income chargeable to tax in India and which escaped assessment previously. Is the issue of notice valid in law?

(ii) A notice under section 143(2) was served on Mr. Imaan for the assessment year 2017-18 on 05.09.2018. State the time limit within which the assessment would be completed in his case.

(iii) Can the Joint Commissioner issue directions to the Assessing Officer for completion of assessment in a particular case? Is such direction binding on the Assessing Officer?

(iv) In the assessment order passed under section 143(3) dated 10.10.2018 for the assessment year 2016-17 there is an error apparent on record by not allowing set off of brought forward depreciation. The assessee wants to know the time limit for passing order of rectification under section 154. State.

(b) ABC & Co. a partnership firm got converted into ABC Co.(P) Ltd. on 01.09.2017. It furnishes you the following details for the year ended 31st March, 2018:

(i) Unabsorbed depreciation ₹ 15 lakhs relating to assessment year 2012-13.

(ii) Business loss ₹ 20 lakhs relating to assessment year 2010-11.

(iii) Unadjusted AMT credit ₹ 2 lakhs of the assessment year 2017-18.

(iv) Written down value of assets under the Income-tax Act, 1961 [Section 43 (6)]:

Plant & Machinery (15%) ₹ 20 lakhs (market value ₹ 25 lakhs)

Plant & Machinery cost ₹ 50 lakhs — deduction claimed under section 35AD

Factory Building (10%) ₹ 30 lakhs (market value ₹ 50 lakhs)

(v) Cost of land (acquired in 2008) ₹ 50 lakhs (market value ₹ 90 lakhs)

(vi) Bad debt written off in assessment year 2013-14 ₹ 8 lakhs. Amount recovered in December 2017 from the debtor ₹ 6 lakhs.

Explain the tax treatment of each of the items given above in the hands of the company on the assumption that all the conditions laid down in section 47 (xiii) are satisfied. 8

5. Answer *any four* of the following [Your answer should be under the following heads: (i) Issue involved (ii) Brief discussion on provisions applicable to the issue (iii) Analysis of the issue involved, and (iv) Conclusion [*Citation of case law is NOT required*]: 4×4=16

(a) Ram and Rahim were Executive Directors of Saraswati Tea Pvt. Ltd. In respect of a bank loan, they gave their personal guarantee. The assessee-company paid them guarantee commission of ₹ 1 lakh each. The Assessing Officer feels that this is a disguised payment of dividend under section 2(22) and is not a commission which is deductible as business expenditure. He has disallowed the same. Is the action of the AO valid in law?

(b) Govinda and Vaamana were partners in a firm, which got dissolved consequent to the demise of Govinda. The firm had unabsorbed losses. Vaamana, who took over the business, has set off the said loss in his personal hands in the subsequent year. Such set off is not allowed by the Assessing Officer. Is his action correct?

(c) MNC Ltd. is engaged in the business of managing and operating hotels. The assessee allowed the employees to accept tips from customers. Some customers paid the bill and tips to the employees through credit card. The assessee, being employer collected the amounts and disbursed tips to the employees on monthly basis.The assessee did not deduct tax at source on the said payments as the amounts were not in the nature of salary. Does the action of the assessee satisfy the legal requirements?

(d) Dempo Ltd. transferred its factory building for ₹ 65 lakhs. The company owned only one such building in the block of assets. The written down value of the factory building was ₹ 13·95 lakhs. The company acquired the building 10 years ago for ₹ 40 lakhs. It deposited ₹ 50 lakhs in REC bonds within one month after the transfer of factory building. The company claimed exemption under section 54EC. Is the claim of the company tenable in law?

(e) Jayakrishna Flour Mills Pvt. Ltd., has derived an income of ₹ 1·2 crore from generation and distribution of electricity, using windmills. Such profits have been claimed as 100% deduction under section 80-IA. The assessee has other income from certain other activities also, which form part of the total income. The assessee has paid interest of ₹ 60 lakhs to a bank in respect of the term loans on the windmills. The Assessing Officer wants to invoke the provisions of section 14A in respect of such interest. Can he do so?

6. (a) Mr. Amin, a resident individual in India (age 42) furnishes you the following particulars of income for the previous year 2017-18:

Particulars	₹
(i) Income from business in India (computed)	11,00,000
(ii) Dividend received from Company incorporated in Country X (gross)	2,00,000
(iii) Royalty income from writing text book for schools in Country Y (gross)	6,00,000
(iv) Expenditure incurred for authoring text book	50,000
(v) Business loss in Country Y (gross)	2,50,000
(vi) Health insurance premium paid by credit card for his father (age 67) a resident in India. (His father is not dependent on Mr. Amin)	31,000

The business loss in Country Y is eligible for set off against other incomes as per the Income-tax law of that country.

Note: There is no DTAA between India and Country "X" and Country "Y" given above. The rate of tax in Country "X" and Country "Y" may be taken as 10% and 25% respectively (without any threshold exemption limit).

Compute the total income and tax payable by Mr. Amin in India for the Assessment Year 2018-19.
8

(b) Chetan (P) Ltd. located in Special Economic Zone (SEZ) since April, 2012 is engaged in manufacturing activity by importing raw materials from its holding company Bada Inc. of UK. The following details are furnished:

- Chetan (P) Ltd. imported goods for ₹ 60 crores during the financial year 2017-18 from Bada Inc.

- Bada Inc. supplied similar raw materials to unrelated parties with a mark-up of 20%, whereas for Chetan (P) Ltd. it provided a mark-up of 25%.

- Chetan (P) Ltd. was allowed to use the brand name of Bada Inc. without any payment and whereas the unrelated parties cannot use such brand name in India. The annual cost of brand value is ₹ 100 lakhs.

- Chetan (P) Ltd. was allowed credit period of 2 months, whereas for the unrelated parties, Bada Inc. allowed only 1 month as credit period. The interest cost may be taken as 12% per annum and the purchases were uniform throughout the year.

- The Assessing Officer referred the matter to Transfer Pricing Officer (TPO) for determination of Arm's Length Price (ALP).

(i) Compute the ALP of the transaction and adjustments to be made to the income of Chetan (P) Ltd.

(ii) What is the due date for Chetan (P) Ltd. for furnishing audit report under section 92E?

(iii) If TPO had enhanced the income of Chetan (P) Ltd. by ₹ 2 crores, will that enhanced amount of income be eligible for deduction under section 10AA?

(iv) Will Chetan (P) Ltd. become liable for penalty for under-reporting of income based on the report of the TPO? 8

7. (a) (i) Under the provisions of the Income-tax Act, 1961 read with the Income-tax Rules, 1962, what is the meaning of Foreign Tax Credit (FTC)? 2

(ii) To whom is FTC allowed and in which year? 4

(iii) An assessee has to pay income-tax of ₹ 92 lakhs, surcharge of ₹ 9·2 lakhs, Education Cess & SAH Cess ₹ 3,03,600 and interest under section 234B of ₹ 9,78,700. Against which of these items/amounts is FTC available? 2

(b) Kiwi LLC., is a foreign company incorporated in Singapore. Brightstars Inc. (BI), is a foreign company incorporated in Australia. Daffodils Pvt. Ltd. (DPL), is an Indian company.

The Indian company has taken a loan of ₹ 120 crore from Moonshine Inc., a foreign company, at the rate of 10% per annum on 1st October, 2017. The guarantee for this loan has been provided by BI. This is the only loan taken by DPL during the year.

Kiwi LLC., holds 27% of the voting power in BI as well as in DPL.

The net profit of DPL, after above interest and depreciation of ₹ 1·8 crore, but before income-tax is ₹ 9·2 crore, for the year ended 31.3.2018. Income-tax liability for the year may be taken as ₹ 1·2 crore.

Is any disallowance warranted in respect of interest in the hands of DPL, as per the transfer pricing provisions, for the assessment year 2018-19? *Append suitable notes.* 8

8. Write short notes on *any four* of the following: 4×4=16

(a) Scope of undisclosed foreign income and asset under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

(b) Fees prescribed for filing appeal before the Commissioner (Appeals)

(c) Valuation of inventory as per ICDS in case of dissolution of firm

(d) Assessment of persons leaving India

(e) Impermissible Avoidance Arrangement