

FINAL EXAMINATION

December 2019

P16(DTI)
Syllabus 2016

Direct Tax Laws and International Taxation

Time Allowed: 3 Hours

Full Marks: 100

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 2019-20 and the provisions referred to are the Income-Tax Act, 1961, unless stated otherwise.

Answer Question No. 1, which is compulsory and five questions out of Question Nos. 2 to 8.

Section-A

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

(i) Martin (age 62) resident in India received interest on fixed deposit with SBI of ₹ 45,000 for the year ended 31.03.2019. He does not have PAN. At what rate the bank must deduct tax at source?

- (A) Nil
- (B) 10%
- (C) 20%
- (D) 30%

(ii) Damage (P) Ltd. filed an application in March, 2019 for corporate insolvency resolution process, which was admitted by the adjudicating authority under Insolvency and Bankruptcy Code, 2016. The company has two full-time directors and a managing director. Who must sign the return of income of the company for the assessment year 2019-20?

- (A) Any one of the full-time directors.
- (B) The professional appointed by the said adjudicating authority.
- (C) Liquidator of the company.
- (D) Managing director.

(iii) Shri Rajiv paid ₹ 1,20,000 by cheque on 05.01.2019 towards medical insurance premium for his parents who are senior citizens and not dependent on him. The premium was to provide health insurance cover for 3 years. How much is deductible under section 80D for the assessment year 2019-20?

- (A) Nil
- (B) ₹ 25,000
- (C) ₹ 40,000
- (D) ₹ 50,000

- (iv) Mahasakthi Sugars Co-operative Society is engaged in manufacture of jaggery from sugarcane cultivated by its members. What is the 'due date' for filing the return of income for the assessment year 2019-20 in order to be eligible for deduction under section 80-P?
- (A) Due date specified in section 139(1)
(B) No specific date
(C) 31st March, 2020
(D) 31st December, 2019
- (v) During the course of survey in the premises of Jagan & Co. on 10.01.2019, stocks of goods purchased for ₹ 10 lakhs were found to be not recorded in the books of account. The firm has brought forward loss of ₹ 5 lakhs and incurred business loss of ₹ 2 lakhs for the year ended 31.03.2019 without considering the unaccounted stock. The tax liability of the firm including the said unaccounted purchase would be _____ (including surcharge and cess).
- (A) ₹ 3,12,000
(B) ₹ 7,80,000
(C) Nil
(D) ₹ 93,600
- (vi) ABC Ltd. declared interim dividend in August, 2018 of ₹ 100 lakhs. The amount payable by way of dividend distribution tax would be
- (A) ₹ 31,20,000
(B) ₹ 26,00,000
(C) ₹ 17,47,200
(D) ₹ 20,55,600
- (vii) A certificate issued by a registered valuer contained incorrect information. The CIT (Appeals) while giving appellate order can
- (A) impose penalty of ₹ 1 lakh on registered valuer.
(B) not impose penalty on registered valuer.
(C) impose penalty of ₹ 10,000 on registered valuer.
(D) direct registered valuer to rectify the error.
- (viii) Tripti Charitable Trust registered under section 12AA paid rent for premises at ₹ 30,000 per month by cash. It also did not deduct tax on salary paid to its manager amounting to ₹ 4,80,000 for the previous year 2018-19. The total income of the assessee would be increased by _____ because of the above said transactions.
- (A) ₹ 3,60,000
(B) ₹ 5,04,000
(C) ₹ 8,40,000
(D) ₹ 2,52,000

- (ix) X Co. Ltd. paid interest to its holding company Y Inc. of USA at 15% amounting to ₹ 200 lakhs. The total interest paid by X Co. Ltd. for the previous year 2018-19 was ₹ 500 lakhs. In determining arm's length price interest paid to Y Inc. was added back to the extent of ₹ 100 lakhs in the hands of X Co. Ltd. The EBITDA of X Co. Ltd. is ₹ 700 lakhs for the year ended 31st March, 2019. The amount of interest liable for disallowance in the hands of X Co. Ltd. would be _____.
- (A) ₹ 500 lakhs
(B) ₹ 300 lakhs
(C) ₹ 190 lakhs
(D) Nil
- (x) Madan Traders Ltd., Jaipur received ₹ 200 lakhs by way of dividend declared by Botham Co. Ltd. of UK in January, 2019. Madan Traders Ltd has 26% shareholding in Botham Co. Ltd. The tax liability of Madan Traders Ltd. on the dividend income would be
- (A) Nil
(B) ₹ 62.4 lakhs
(C) ₹ 34.944 lakhs
(D) ₹ 43.0976 lakhs

Section-B

2. (a) Vittal & Co. is a partnership firm deriving income from an industrial undertaking whose income is eligible for deduction u/s 80-IA (8th year). During the year ended 31-03-2019, the firm derived an income of ₹ 5,00,000 from the industrial undertaking. The firm omitted to file the return of income on the ground that its total income being nil, no tax was payable by it.

The assessment was later completed on the basis of AMT provisions u/s 115JC, the income from the industrial undertaking being taken as ₹ 5,00,000.

Discuss whether any penalty leviable in this regard, and if so, specify the quantum.

Will your answer remain the same if the assessable entity is an AOP instead of a firm? The AOP is one wherein the members and their shares are determinate and known. 8

- (b) State whether "business connection" is established as envisaged by section 9 of the Income-tax Act, 1961, in the under-mentioned situations:
- (i) Jupiter Pty Ltd., London (JPL), a non-resident company, has set up a liaison office at Kolkata, with the permission of the RBI. Indian customers, who are briefed of the products of JPL by the liaison office, interact directly with JPL for placing and processing of their orders. 2
- (ii) Madan & Co. (MC), is acting on behalf of Nelson Inc., Sydney, a non-resident company. MC can accept the order, negotiate the price and coordinate with MC for delivery of product to the Indian clients. MC is paid commission in this regard. 2

- (c) On 20th Feb., 2019, Vaamana Textiles Pvt. Ltd., has given a trade advance of ₹ 50 lakhs to Ms. Poorvisha, a shareholder holding 30% of the equity shares and voting power in the company. On this date, the company has credit balance of ₹ 35 lakhs in the profit and loss account.

Ascertain the quantum of deemed dividend which is assessable in the hands of Ms. Poorvisha. 4

3. Barun Co. Ltd. is engaged in the business of manufacture of chemicals since June, 2005. The Statement of Profit and Loss for the year ended 31.03.2019 shows a Net Profit of ₹ 35,60,000 and aggregate turnover which never exceeded ₹ 25 crores. The following additional information is provided:

- (a) Depreciation debited in the books ₹ 19,40,000 (it includes depreciation on revalued plant and machinery of ₹ 3,00,000). Amount of depreciation deductible under Income-tax Rules ₹ 13,15,000.
- (b) Interest payable to financial institutions ₹ 5,20,000 debited in the books but ₹ 3,90,000 was actually paid during the previous year and up to the date of filing the return of income under section 139(1).
- (c) Provision for doubtful debts ₹ 8 lakhs being 5% on debtors debited to Statement of Profit and Loss.
- (d) Expenditure towards issue of bonus shares ₹ 2 lakhs and alteration of memorandum of association for increasing the authorized capital ₹ 1 lakh. Both have been debited in the books as expenditure.
- (e) Purchase of agricultural produce being raw material for manufacture by making cash payment on 15.08.2018 ₹ 60,000 and on 26.01.2019 ₹ 40,000. Also, cash payments of ₹ 50,000 made for purchases of the previous year 2017-18 on 03.05.2018.
- (f) Contract payments made during the year ₹ 5,10,000 to ABC Ltd., Chennai. Tax was not deducted at source in respect of the payments of ₹ 1,50,000.
- (g) Dividend from subsidiary company credited to Statement of Profit and Loss ₹ 90,000.
- (h) Provision for taxation ₹ 2 lakhs and proposed dividend ₹ 80,000 debited to Statement of Profit and Loss.

Compute Total income and tax liability as per regular provision and under section 115JB (MAT Provision) for the assessment year 2019-20. 16

Note: You have to deal with each and every item given above and provide brief reasons for treatment given.

4. (a) Vishwa & Co., a partnership firm has earned a net profit of ₹ 6.2 lakhs after debiting the following items:

(₹ in lakhs)

| | |
|--|---|
| (i) Depreciation as per books for the current year | 2 |
| (ii) Interest to partners at 15% | 9 |
| (iii) Remuneration to working partners | 7 |

Additional information:

| | |
|--|---|
| (i) Depreciation for the current year as per Income-tax Rules, 1962 | 4 |
| (ii) Unabsorbed depreciation of AY 2018-19 pertaining to a business which was discontinued | 3 |
| (iii) Brought forward business loss of AY 2018-19 | 5 |
| (iv) Remuneration as per partnership deed to working Partners | 8 |
| (v) Interest to partners as per partnership deed 15% | |

You are required to compute the total income for the firm, when the firm files its return of income on 30-07-2019.

Assuming that a best judgment assessment under section 144 is made, what will be the total income assessed? 8

- (b) Padmaja Textiles Ltd., (PTL) has two separate divisions J and K. Division K was started on 14-05-2010. The summarized financial position of the company as on 1st October, 2018 was as under:

| | (₹ in lakhs) |
|---------------------------------------|--------------|
| Share capital | 1200 |
| Reserves and surplus | 500 |
| Loan creditors: | |
| Division J | 400 |
| Division K | 300 |
| Total | 2400 |
| Represented by | |
| Fixed assets: | |
| Division J | 800 |
| Division K | |
| Goodwill | 30 |
| Vacant Land (purchased on 02-03-2011) | 170 |
| Plant and Machinery (WDV) | 400 |
| Current assets: | |
| Division J | 550 |
| Division K | 450 |
| Total | 2400 |

On 01-10-2018, Division K was acquired by Virat Kohli Textile Pvt. Ltd., in a slump sale, the entire sale consideration of ₹ 310 lakhs being paid through RTGS.

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The following additional information are available relating to the fixed assets of Division K:

- (i) All the plant and machinery were acquired 11 months back.
- (ii) The WDV of the plant and machinery of division K as per the Income-tax Act, 1961 was ₹ 350 lakhs.
- (iii) Apart from these, there are plant used in scientific research for which deduction had been availed u/s 35AD in the assessment year 2015-16. The fair market value of these items of plant is ₹ 12 lakhs.

Cost inflation index for FY 2010-11 is 167 and for FY 2018-19 is 280.

You are required to ascertain the capital gain, if any, arising from the slump sale. 8

5. In the light of decided case laws, 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 the case law is NOT required*]: 4×4=16

- (a) Sagoserve Cooperative Society was a cooperative society deriving income of ₹ 2 crore, for which deduction was allowed under section 80P(2)(d). The total income of the assessee was ₹ 3 crore. The Assessing Officer disallowed 40% of interest expenditure, invoking the provisions of section 14A. According to the AO, out of the aggregate income of ₹ 5 crore, ₹ 2 crore did not form part of the same.

Is the disallowance made by the AO justified?

- (b) Lavanya Syndicates Pvt. Ltd., owns several house properties, let out on commercial basis to various kinds of people like business houses, corporate entities, etc. One of the objectives of the company is to own and derive income from letting out various kinds of immovable property. The rental income derived was offered by the company as its business income. Various deductions for earning such income was claimed, as also depreciation on the buildings owned by the company.

The Assessing Officer treated the rental income as income from house property and granted deduction only u/s 24.

Discuss whether the treatment of the impugned income made by the company is correct.

- (c) Mr. Pandurang sold a residential house property and invested whole of the long-term capital gain for purchasing a residential flat. The possession was not handed over by the builder to the assessee even after 3 years, even though the entire sale consideration had been paid.

The Assessing Officer refused to grant exemption u/s 54 on the ground that the prescribed condition for purchase of a residential house had not been complied with, in as much as the possession had not been handed over.

Judge the correctness of the action of the Assessing Officer.

- (d) Bluesky Airlines, the assessee-company was operating an airlines in India. Payment of ₹ 34 lakhs was made during the year to the Airport Authority of India. The assessee deducted tax at source at 2% u/s 194-C. The AO contended that the same was for parking charges and being payment made for use of land, section 194-I will apply.

Is the contention of the Assessing Officer correct in law?

- (e) The assessee was dealing in Indian Made Foreign Liquor (IMFL). It was purchasing IMFL in wholesale from the State Govt., and selling it for higher price in the market. The Department recovered documents during survey which showed that the assessee had sold IMFL at price higher than what had been sold. Addition was made u/s 68 for suppressed sales. The assessee objected to the same.

Is the objection sustainable?

6. (a) Bharat Cellphones Ltd. (BCL) of Mumbai and Japan Mobiles Ltd. (JML) of Tokyo are associated enterprises. BCL imported 10,000 mobile handsets from JML for ₹ 15,000 per handset which are sold to unrelated parties in India for ₹ 20,000 per handset. BCL also imported similar mobile sets from Europe Ltd. (EL) of London which was sold with a gross profit margin of 25% on cost. JML offered quantity discount @ ₹ 2,000 per unit and whereas EL offered discount @ ₹ 800 per unit as quantity discount. The freight and customs duty paid for imports from EL had cost BCL ₹ 1,500 per unit. In respect of purchases from EL, the expenditure towards freight and customs duty was ₹ 500 per unit.

State the most appropriate method applicable in this case and determine the arm's length price and amount of increase in total income of BCL. 8

- (b) Compute the interest income to be disallowed under section 94B in the following cases: 5

| Particulars | Case I | Case II | Case III |
|--|------------|---------|----------|
| | ₹ in lakhs | | |
| Net Profit after deduction of the following items: | 1,000 | 1,000 | 1,000 |
| Interest to SBI | 70 | 50 | 200 |
| Interest to associated enterprise | 200 | 110 | 320 |
| Interest to unrelated parties | 500 | 190 | 300 |
| Depreciation | 90 | 80 | 110 |
| Provision for taxation | 340 | 170 | 70 |
| Proposed dividend | 300 | 150 | 100 |

- (c) State briefly whether the following actions would lead to establishment of PE in India: 3

- A foreign company having a warehouse for storage of goods procured from suppliers in India for the purpose of export to various countries.
- Display of goods by a reputed car manufacturer in a trade fair at Delhi for the purpose of booking orders and supplying directly to the customers in India.
- Extracting oil in a river bed by a foreign company Elegant Inc. by entering into contract with a public sector undertaking in India.

7. (a) Mr. Rupesh is a resident and ordinary resident has furnished following particulars of income earned during the previous year relevant to the assessment year 2019-20:

| | | In ₹ |
|--------|--|----------|
| (i) | Income from agriculture in Pakistan, received there but latter on ₹ 86,000 is remitted to India. | 3,41,000 |
| (ii) | Income from property in USA received outside India (out of this ₹ 92,000 is used in Canada for meeting education expenses of his son and ₹ 2,48,000 is latter remitted to India. | 3,40,000 |
| (iii) | Income from business in Iran which is controlled from New Delhi (₹ 70,000 is received in India) | 4,05,000 |
| (iv) | Dividend paid by Indian Company on May 10, 2018 but received outside India | 1,95,800 |
| (v) | Profits from a business in New Delhi and managed from outside India (60% of profit is received outside India) | 92,000 |
| (vi) | Profits on sale of a building in India but received in Nepal | 8,74,000 |
| (vii) | Pension from a former employer in India, received in Iran | 2,55,000 |
| (viii) | Gift in foreign currency from a friend received in India on September 6, 2018. | 80,000 |

Find out gross total income for the assessment year 2019-20.

8

- (b) Mr. Ron, a nonresident, is engaged in business of shipping and operating its ships in Indian ports during the previous year ending on March 31, 2019 had collected freight ₹ 100 lakhs (collected in US dollars) for the cargo booked for Paradeep Port from London and ₹ 45 lakhs for shipping goods from Mumbai. Besides above demurrages ₹ 20 lakhs and handling charges ₹ 10 lakhs also collected. The expenses of operating its fleets during the year for Indian ports were ₹ 110 lakhs (out of which two lakhs paid in cash). He has brought forward loss of ₹ 2 lakhs from trading business in India which is discontinued during the year 2017-18. He has opted for payment of tax under section 44B (presumptive scheme).

Compute taxable income and explain the basis taken for computation of such income. 8

8. Write Short Notes on any Four :

4×4=16

- Capitalisation of Borrowing Costs under ICDS - IX
- Consequences of Impermissible Avoidance Arrangement (section 98)
- Assessment procedure under Black Money and Imposition of Tax Act.
- Secondary adjustments in books of accounts under section 92CE in certain cases.
- Filing of documents along with settlement petition before Settlement Commission.