

FINAL EXAMINATION

June 2017

P-16(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 Assessment Year 2017-18 and the provisions referred are those of the Income-tax Act, 1961.

Answer Question No.1 which is compulsory and any five from 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

- (a) Health insurance premium paid for Mr. Ram being non-resident (age 70) is deductible up to _____.
- (A) ₹ 25,000
(B) ₹ 30,000
(C) ₹ 5,000
(D) ₹ 50,000
- (b) Mr. Xavier (age 55) a non-resident individual received dividend of ₹ 12 lakhs from Fair Trading Co (P) Ltd. in August, 2016. He has no other income in India. His tax liability for the dividend income would be
- (A) Nil
(B) ₹ 1,90,550
(C) ₹ 61,800
(D) ₹ 3,70,800

Please Turn Over

- (c) XYZ (P) Ltd. decided to buy-back shares from the shareholders. It bought 30000 shares of ₹ 10 each by paying ₹ 40 per share. The accumulated profits of the company on the date of buy-back was ₹ 30 lakhs. The buy-back was 30% of the total paid up capital. The tax liability on the company for buy-back of shares would be
- (A) Nil
 - (B) ₹ 12,36,000
 - (C) ₹ 4,32,600
 - (D) ₹ 1,85,400
- (d) Kumar Industries is engaged in manufacture of leather products. It was set up in backward area and became eligible for subsidy @25% for the generator acquired by it for ₹ 12 lakhs on 15.12.2016. It received the subsidy in March 2017. The amount of depreciation for the year at the applicable rate would be
- (A) Nil
 - (B) ₹ 90,000
 - (C) ₹ 67,500
 - (D) ₹ 1,80,000
- (e) Ms. Pinky resigned from employment from Zeet University after serving for 4 years and 8 months. She received ₹ 1,40,000 from recognized provident fund. The amount of tax deductible at source under section 192A would be
- (A) Nil
 - (B) @ 20% being ₹ 28,000
 - (C) @ 30% being ₹ 42,000
 - (D) @ 10% being ₹ 14,000

- (f) Mr. Murali employed in a company constructed a residential house property for self-occupation by availing bank loan of ₹ 50 lakhs. Interest on the loan for the year amounts to ₹ 2,60,000. He paid ₹ 1,70,000 up to 31.03.2017. The amount of interest eligible for deduction in the hands of Mr. Murali would be
- (A) ₹ 30,000
(B) ₹ 2,60,000
(C) ₹ 2,00,000
(D) ₹ 1,70,000
- (g) Mr. Santhanam is employed in Gama Ltd. He opted for transfer of funds from superannuation fund to National Pension Systems Trust referred to in section 80CCD and accordingly ₹ 5 lakhs was transferred from approved superannuation fund to an account held with National Pension Systems Trust. His salary income (excluding the said transfer) amounts to ₹ 9,40,000 (computed). His total income after considering the transfer would be
- (A) ₹ 9,40,000
(B) ₹ 10,90,000
(C) ₹ 12,90,000
(D) ₹ 14,40,000
- (h) Pai Softwares Ltd. is engaged in BPO at Bengaluru. It acquired computers for ₹ 20 lakhs on 10.05.2016. It also acquired computer softwares for ₹ 10 lakhs in July 2016. The total amount of depreciation claim in respect of these assets would be
- (A) ₹ 4,50,000
(B) ₹ 12,00,000
(C) ₹ 7,50,000
(D) ₹ 14,50,000

- (i) Beta Ltd. of Mumbai is subsidiary of Unity Inc. of USA. Beta Ltd. purchased goods from Unity Inc. Transfer pricing adjustment would arise between them when
- (A) Sale price is less than arm's length price.
 - (B) Sale price is equal to Indian market price.
 - (C) Purchase price is more than arm's length price.
 - (D) Purchase price is less than arm's length price.
- (j) An advance pricing agreement is valid for a period specified in APA but not exceeding _____ consecutive financial years.
- (A) 1
 - (B) 5
 - (C) 3
 - (D) 10

Section B

2. (a) Mitra & Co. a partnership firm consisting of 5 partners was constituted on 01.04.2016. On the same date all the partners contributed capital of ₹ 5 lakhs each. Also, one partner Ashwin contributed a vacant land owned by him as his capital contribution on the same date besides capital contribution in cash. The land was inherited by him from his father in June 2009 when the fair market value was ₹ 15 lakhs. It was acquired originally by his father in April, 1991 for ₹ 1 lakh. The fair market value on the date of contribution was ₹ 30 lakhs and it was recorded in the books at ₹ 40 lakhs by credit to his capital account.

The firm was engaged in developing and trading of vacant sites. It incurred development expenses of ₹ 18 lakhs on the land contributed by the partner Ashwin. The total extent of land contributed amounts to 30,000 sq. ft. After leaving space for road, park etc. the firm could plot 8 sites of 2400 sq.ft. each, which were sold for ₹ 10 lakhs each after incurring brokerage @ 2.5% of the sale price. The stamp duty valuation was ₹ 12 lakhs for each plot of land.

The deed of partnership provides for monthly working partner's salary of ₹ 20,000 each and interest on capital (including contribution of land) at 15% per annum.

Cost inflation index: F.Y. 1991-92 = 199; F.Y. 2009-10 = 632; F.Y. 2016-17 = 1125

Compute the presumptive income under section 44AD and income as per the regular provisions of the firm for the Assessment Year 2017-18. Also, work out the tax implication in the hands of partner, Mr. Ashwin.

- (b) ACHARYA LLP, a limited liability partnership in India is engaged in development of software and providing IT enabled services through two units, one of which is located in a notified Special Economic Zone (SEZ) in Chennai (commenced from 01.04.2006). The particulars relating to previous year 2016-17 furnished by the assessee are as follows:

Total Turnover: SEZ unit ₹ 120 lakhs and the other unit ₹ 100 lakhs

Export Turnover: SEZ unit ₹ 100 lakhs and the other unit 60 lakhs

Profit: SEZ unit ₹ 48 lakhs and the other unit ₹ 42 lakhs

Amount debited to Profit and Loss Account towards Special Economic Zone Re-Investment Reserve Account ₹ 21 lakhs.

The Assessee has no other income during the year.

- (i) Compute tax payable by ACHARYA LLP for the Assessment Year 2017-18.
 - (ii) Will the amount of tax payable change, if ACHARYA LLP is an overseas entity? 8
3. (a) What are the incomes which can be declared under the Income Declaration Scheme, 2016? Narrate the step by step processes involved in the declaration process. 8
- (b) (i) Balaji Airlines Ltd. paid ₹ 10 lakhs to Airport Authority of India towards landing and parking charges. The payment was towards use of land in the airport besides technical services involving navigation, security and other ancillary services. The tax was deducted at source under section 194C at 2%. The Income Tax Officer (TDS) held that the assessee ought to have deducted tax under section 194-I i.e. towards rent. Discuss the consequence of the action of the Assessing Officer and also the correctness of such decision.
- (ii) Venkat & Co. a partnership firm was constituted on 01.06.2015 with four partners. All the partners contributed ₹ 10 lakhs each by way of capital. While examining the return of the Assessment Year 2016-17, the Assessing Officer verified the source of investments made by the partners. Not satisfied with the explanation of the partners/firm, the Assessing Officer assessed to tax ₹ 25 lakhs as unexplained cash credit under section 68 of the Act in the hands of the firm. Decide the validity of the action of the Assessing Officer. 4+4=8
4. (a) Outline the legislative objective of bringing into existence the provisions relating to transfer pricing in relation to international transactions? 5
- (b) The statement of profit & loss of BG (P) Ltd, a resident company engaged in manufacturing activity, shows a net profit of ₹ 36 lakhs for the year ended 31.03.2017, after debit/credit of the following items:

Credited to Profit and Loss Account:

- (i) Long term capital gain on sale of vacant site ₹ 25,00,000.
- (ii) Dividend from Indian companies ₹ 10,20,000.
- (iii) Rent from commercial property ₹ 3,00,000.

Debited to Profit and Loss Account:

- (i) Depreciation ₹ 13,00,000.
- (ii) Donation to electoral trust ₹ 80,000.
- (iii) Advertisement in souvenir of political party ₹ 45,000.
- (iv) Interest paid to non-resident ₹ 1,00,000 (without deduction of tax at source).
- (v) Salary payable to managing director ₹ 15,00,000 but not paid till 31. 03. 2017. (no tax was deducted at source).
- (vi) Sold goods for ₹ 5 lakhs to a firm in which the wife of managing director had 25% share. Discount @ 10% of the sale price was given to the firm.
- (vii) Loss from trading in commodity derivatives ₹ 1,60,000.
- (viii) Provision for income-tax ₹ 4,25,000.
- (ix) Proposed dividend ₹ 7,50,000.

Additional Information:

Depreciation allowable as per the Income-tax Act, 1961 ₹ 14,50,000.

The long-term capital gain on sale of unused land (computed) is ₹ 21,20,000. The company purchased a residential building in December 2016 by investing the entire sale consideration. The newly acquired building was meant to be used as quarters by managing director.

Compute the total income of the company for the Assessment Year 2017-18. Ignore MAT provisions.

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5. (a) Saraswati Ltd. has received a proper notice under section 148 for the Assessment Year 2014-15 on 22.03.2017. They also anticipate similar notices for the Assessment Years 2011-12 and 2012-13 for which they have already furnished return of income and for which assessments have been completed. On a scrutiny of the books of account produced, you have seen huge amounts of income which has escaped taxation. The tax effect for AY 2014-15 is ₹ 35 lakhs and for AYs 2011-12 and 2012-13 the differential tax is likely to exceed ₹ 1 crore.

The company seeks your advice as to what should be done now. Advise the company suitably.

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- (b) Brahma Ltd., discarded certain number of assets forming part of a block of assets during the previous year 2016-17. The Assessing Officer has disallowed the depreciation pertaining to such discarded assets.

Discuss whether such action of the Assessing Officer is tenable in law.

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- (c) Maushyaputra Ltd., issued debentures of ₹ 5 crores, redeemable after six years. The debenture holders were given an option of taking up the interest for all the six years upfront, at a discount. All the debenture holders opted for the same. The company complied with the TDS formalities. The Assessing officer is of the view that only one-sixth of the interest is allowable in the current year.

Is the contention of the Assessing Officer correct in law?

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6. (a) Pradhan (P) Ltd. gives you the following information for the Financial Year 2016-17:

- (i) It paid a refundable deposit of ₹ 5 lakhs to the landlord where the company has commenced manufacturing activity during the year.
- (ii) It paid ₹ 3 lakhs to a hotel accommodation where the training programme for the marketing force was conducted.
- (iii) Paid non-compete fee of ₹ 10 lakhs to a director who was associated with the company for the last 15 years.
- (iv) It filed the quarterly statement of TDS for the quarter ended 30.09.2016 on 05.01.2017. The amount of tax deducted and remitted in the quarter is ₹ 60,000.
- (v) It received interest-free loan of ₹ 7 lakhs from its subsidiary company in December 2016 to meet its working capital requirements. The subsidiary company has accumulated profit of ₹ 20 lakhs.
- (vi) It engaged a famous tennis player Mr. Mahesh as Brand Ambassador for promoting its products and paid ₹ 2 lakhs as fee to him.
- (vii) It acquired a luxury car for ₹ 15 lakhs by making payment by cheque on 01.10.2016.
- (viii) It paid ₹ 30,000 to travel agents for purchase of train and air tickets to the company officials during the year.

You are requested to state in brief the consequences of the above transaction as per TDS/TCS provisions of the Income-tax Act, 1961. 8

- (b) Parthiv, aged 45, is resident of India. During the F.Y. 2016-17, interest of ₹ 3,10,000 was credited to his Non-resident (External) Account with UBI ₹ 70,000 being interest on fixed deposit with UBI, was credited to his saving bank account during this period. He also received ₹ 13,000 as interest on this saving account.

Is Parthiv required to file return of income?

What will be your answer, if he also owns one shop in Delhi having area of 250 sq.ft., for which he has received gross rent of ₹ 21,000 per month, property taxes being borne by the tenant? 8

7. (a) Mr. Ram gave cash gift of ₹ 10 lakhs to his younger brother Mr. Bharat's wife Smt. Mandavi. On the same date Mr. Bharat gave gift to wife of Mr. Ram viz, Smt. Sita a vacant land measuring 2000 sq.ft. The stamp duty valuation of the land on the date of gift was ₹ 8 lakhs.

Smt. Mandavi invested ₹ 8 lakhs in bank fixed deposit fetching interest at 7% per annum and commenced a business with the balance of ₹ 2 lakhs along with her own capital of ₹ 3 lakhs. The profit for the year from the business amounts to ₹ 1,50,000.

Determine the tax implication of the above transaction in the hands of all the parties. Would your answer be different if all of them are non-relatives? 8

- (b) In the context of e-commerce transactions, explain why the existing income tax laws are inadequate. 8

8. Write Short notes (*any four*):

4×4=16

- (a) Distinction between Tax Avoidance and Tax Evasion
 - (b) Penalties that are imposable for violation of Transfer pricing provisions
 - (c) Best Judgement Assessment
 - (d) Memorandum of Cross Objection
 - (e) Condonation of delay in filling appeal before CIT (Appeal)
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