

FINAL EXAMINATION

June 2019

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 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 any five from Question No. 2 to Question No.8.

Section A

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

(i) Alpha Ltd., Mumbai has 27% shareholding in Beta Pte. Inc. of Singapore. Alpha Ltd. received ₹ 15 lakhs (converted in Indian rupee) by way of dividend in October, 2018. The dividend so received is taxable in the hands of Alpha Ltd. at

- (A) Nil, Fully exempt
- (B) 10%
- (C) 15%
- (D) 30%

(ii) Gama Traders is a partnership firm consisting of 4 equal partners. One partner retired on 31.03.2018. The firm has eligible brought forward loss of ₹ 4 lakhs relating to the assessment year 2017-18. The total income of the firm of the previous year 2018-19 before set off of the said brought forward loss is ₹ 7,20,000. The amount of brought forward loss eligible for set off would be

- (A) ₹ 4,00,000
- (B) Nil
- (C) ₹ 1,00,000
- (D) ₹ 3,00,000

- (iii) The provisions of Alternate Minimum Tax (AMT) will be applicable when the adjusted total income of the individual taxpayer exceeds
- (A) ₹ 10,00,000
 - (B) ₹ 20,00,000
 - (C) ₹ 50,00,000
 - (D) ₹ 1,00,00,000
- (iv) Mr. Ram Chandran a resident individual (age 52) has income of ₹ 51,00,000 for the year ended 31.03.2019. His income-tax liability after marginal relief would be
- (A) ₹ 14,76,250
 - (B) ₹ 14,69,000
 - (C) ₹ 14,12,500
 - (D) ₹ 13,62,400
- (v) Y & Co. is a partnership firm which was dissolved on 31.03.2018. The return of income of the firm for the assessment year 2018-19 was filed on 31.08.2018. The return of income of the firm was selected for scrutiny assessment under section 143(3). The notice for scrutiny assessment under section 143(2) has to served on
- (A) all the partners.
 - (B) any working partner.
 - (C) any partner having long association.
 - (D) any partner.
- (vi) Sakshita Fertilisers P Ltd., is a manufacturer. A factory building has been constructed for ₹ 40 lakhs and occupied on 12.02.2018. Additional depreciation allowable for the said factory building is
- (A) Nil
 - (B) ₹ 4 lakhs
 - (C) ₹ 2 lakhs
 - (D) None of the above

- (vii) Mr Nyati has won a lottery prize. After deduction of tax, he received ₹ 7 lakhs. He has spent ₹ 20,000 by way of purchase of lottery tickets and for collecting the prize money. The amount chargeable to tax in his hands in this regard is
- (A) ₹ 7 lakhs
(B) ₹ 10 lakhs
(C) ₹ 6.8 lakhs
(D) ₹ 9.8 lakhs
- (viii) Mr. Janak's turnover during the year ended 31.03.2017 was ₹ 3 crores. He has paid a sum of ₹ 3 lakhs to an engineer for supervision of a residential house for his own occupation. The amount of tax to be deducted at source from such payment u/s 194-J is
- (A) ₹ 3 lakhs
(B) ₹ 3.3 lakhs
(C) ₹ 30,000
(D) Nil
- (ix) Mrs. Rakshita, a Cost Accountant has raised a fees bill on LMN P Ltd., for ₹ 3,00,000 and in addition, has charged separately IGST of 18% i.e. ₹ 54,000, the total amount of the bill being ₹ 3,54,000. The amount of tax to be deducted at source by LMN P Ltd., is
- (A) ₹ 30,000
(B) ₹ 30,900
(C) ₹ 35,400
(D) None of the above
- (x) Harivallabh Pvt. Ltd., has spent a sum of ₹ 10 lakhs towards meeting its corporate social responsibility (CSR) under the Companies Act, 2013. The amount of deduction available while computing the business income is
- (A) ₹ 10 lakhs
(B) ₹ 15 lakhs
(C) ₹ 12.5 lakhs
(D) Nil

Section B

2. (a) Mrs. Malavika commenced the business of warehousing of food grains on 1st April, 2018.

The under-mentioned summarised data relating to the warehousing business are furnished to you:

Particulars	(₹ in lakhs)
Net profit from business	126.5
Capital expenditure on Land & Building (35+20) incurred on 19.05.2018	55
Warehouse building additional cost incurred towards above building (completed on 20.12.2018)	50

The assessee did not derive any other income during the year.

You are required to compute the total income and the tax payable by the assessee for the assessment year 2019-20. 8

- (b) State whether 'business connection' is established as envisaged by section 9 of the Income-tax Act, 1961, in the under-mentioned situations: 2+2=4

- (i) Jupier 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.
- (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 Nelson Inc. for delivery of product to the Indian clients. MC is paid commission in this regard.
- (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. King Metals (P) Ltd. reports a Net Profit ₹ 10,20,000 as per Statement of Profit and Loss for the year ended 31.03.2019. The following additional information is provided:

- (i) Opening stock as on 01.04.2018 was ₹ 9,00,000 and the closing stock as on 31.03.2019 was ₹ 16,50,000. The opening stock was overvalued by 10% and the closing stock was undervalued by 10%.

- (ii) Dividend received from a foreign company credited to Statement of Profit and Loss ₹ 31,000. The company has 2% shareholding in the foreign company.
- (iii) The company sold a vacant land for ₹ 23 lakhs on 05.07.2018. The original cost of acquisition is ₹ 12 lakhs. The indexed cost of acquisition is ₹ 16,17,000. Profit on sale of vacant land has been credited to Statement of Profit and Loss. The company subscribed to REC bonds for ₹ 5,30,000 on 20.12.2018.
- (iv) The company made a provision for bad and doubtful debts @ 5% of debtors on the closing date. The debtors outstanding as on 31.03.2019 was ₹ 62 lakhs.
- (v) Depreciation debited to Statement of Profit and Loss ₹ 7,50,000. Depreciation allowable as per Income-tax Rules ₹ 6,55,000.
- (vi) Salary expenditure includes ₹ 3,60,000 paid to son of managing director who was no way connected with the business of the company. It also includes commission paid to a director's son 3% being ₹ 2,40,000 and whereas for other commission agents it was paid @ 2%.
- (vii) The company has paid term loan interest to SBI relating to previous year 2017-18 ₹ 2,10,000 in December, 2018. It has not paid term loan interest of ₹ 1,90,000 of the previous year 2018-19 during the year and proposes to make the payment only in January, 2020.
- (viii) The company took factory premises on lease and paid lease rent of ₹ 60,000 per month for 2 months to Mr. Akhil. No tax was deducted on such rent payment.
- (ix) Directors sitting fee of ₹ 50,000 was paid to 5 directors during the year. Tax was deducted for 2 directors and for the balance no tax deduction was made.
- (x) Provision for loss of subsidiary included in administrative expenses ₹ 2 lakhs.
- (xi) Amount credited to Statement of Profit and Loss by transfer from revaluation reserve amounts to ₹ 1,10,000.
- (xii) Provision for gratuity debited to Statement of profit and loss ₹ 7 lakhs. Actual gratuity paid during the year debited to provision account ₹ 4 lakhs.
- (xiii) A bad debt claim of ₹ 1,60,000 relating to the assessment year 2015-16 allowed in assessment was recovered and was credited to general reserve account.

You are required to compute the income of King Metals (P) Ltd. by giving brief explanations for each of the adjustments given above.

4. (a) State the 'due date' for filling the return of the assessment year 2019-20 in the following cases: 8

- (i) Rohan engaged in proprietary business with turnover of less than ₹ 50 lakhs and wants to file return of income under section 44AD.
- (ii) Vinod Raj (HUF) engaged in manufacture of automobile spare parts with gross turnover always exceeding ₹ 200 lakhs per annum, with Karta and two male members managing the business.
- (iii) Vashist & Co. a partnership firm engaged in turmeric brokerage business with gross receipt below ₹ 20 lakhs.
- (iv) Nehra Trade (P) Ltd. engaged in trading business with loss of ₹ 2,60,000 and turnover of ₹ 82,40,000.
- (v) MNO Co. Ltd., Mumbai being subsidiary of Crowe Pte Inc. of Malaysia having transactions with the parent company of ₹ 440 lakhs during the year by way of export to the parent company.
- (vi) Welfare Charitable Trust registered under section 12AA having aggregate annual receipt of ₹ 6.20 crores and revenue expenditure of ₹ 4.10 crore and capital expenditure of ₹ 1.85 crores.
- (vii) Raghu working partner of Raghu Associates with working partner salary of ₹ 1 lakh per month and book of account of Raghu Associates is liable for tax audit under section 44AB.
- (viii) Dr. Ravi an orthopaedic surgeon with aggregate annual receipt from profession of ₹ 24 lakhs and maintaining books of account with income from profession of ₹ 11,40,000.

(b) Laxmi Ltd transferred its Unit X to Amin Ltd. by way of slump sale on 31st December, 2018. The summarized balance sheet of Laxmi Ltd. as on that date is given below:

Liabilities	₹ in lakhs	Assets	₹ in lakhs
Share capital-paid up	2,000	Fixed Assets:	
Reserves and Surplus	950	Unit X	700
Liabilities:		Unit Y	900
Unit X	400	Unit Z	1,200
Unit Y	600	Other Assets:	
Unit Z	1,050	Unit X	650
		Unit Y	750
		Unit Z	800
	5,000		5,000

From the information given below compute the capital gain arising from slump sale of Unit X: 8

- (i) Cost inflation index for the financial year 2007-08 is 129 being the year in which the Unit X was established. The cost inflation index for the financial year 2018-19 is 280.
- (ii) The lump sum consideration received for transfer of Unit X is ₹ 1,100 lakhs. Unit X owes ₹ 100 lakhs to the buyer Amin Ltd. in respect of raw materials purchased by it. This amount would be foregone by the buyer. In other words, the sale consideration is after set off of ₹ 100 lakhs.
- (iii) The fixed assets of Unit X includes a vacant land which was purchased in the financial year 2007-08 for ₹ 50 lakhs and it was revalued at ₹ 100 lakhs in the year 2018-19.
- (iv) Other fixed assets reflected in the balance sheet ₹ 600 (₹ 700 lakhs less value of land) represents WDV of the assets as per books of account. The WDV of these assets under the Income-tax Act is ₹ 200 lakhs.

5. In the light of decided case laws, answer 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) Mr. Dhanapal, a resident individual, sold a house plot purchased 48 months back for ₹ 70 lakhs and invested the net sale proceeds in purchase of a residential house within 6 months from the date of sale. He does not own any other residential house. The new house, however, is in the name of his wife. The Assessing Officer refuses to grant exemption under section 54F on the ground that the new residential house is not in the name of the assessee.

Is the rejection justified?

- (b) "Ghosh Group of Educational Institutions", running three famous colleges in Kolkata, claimed exemptions under section 10(23C). In all these three colleges, there is a net surplus after meeting all its expenses. The Assessing Officer (AO) rejected the claim for exemption on the ground that the presence of net surplus leads to the inference that the assessee-institution does not exist solely for educational purposes.

Is the rejection of the AO justified in law?

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- (c) Anustup Chandra Textiles Ltd., had borrowed a sum of ₹ 2 crores from a bank during the period when its business was being set up. From the surplus funds, it made short-term deposits and earned interest of ₹ 3 lakhs. The assessee claimed that it was not a revenue receipt but a capital receipt, since the interest was earned prior to commencement of business and in any case, the interest received would be offset by the interest paid on the loan borrowed. The Assessing officer negative the claim of the assessee.

Is the AO justified in his action?

- (d) Vishal Hotels Ltd., runs a famous restaurant. Customers frequenting the same, add tips to be given to the servers in the food bill while making the payment. The tips so collected by the hotel is pooled and distributed to all the employees. The Assessing Officer of the TDS Ward has issued a notice stating that the assessee should deduct tax at source from the tips distributed to the employees, since the same is nothing but payment of salaries. Assessee seeks your advice.

6. (a) Vishnu Polymers Ltd., is an Indian company having transactions which are subject to transfer pricing regulations. In June, 2018, the assessments for assessment years 2017-18 and 2018-19 were concluded after the due process under law:

In both the years, in respect of the transactions with its associated enterprises, the ALP had been determined in Euro. For the assessment year 2017-18, the primary adjustment, as translated into INR was ₹ 90 lakhs (for transactions with N Inc., Singapore) and for the AY 2018-19, the same being ₹ 2.4 crores (for transactions with PK Inc., Melbourne). The assessment order was passed on 12.06.2018. The assessee is inclined to accept the same and not prefer any appeal.

You are required to answer the following in the light of above:

- (i) How will the quantum of primary adjustment be treated in the books of the assessee vis-à-vis secondary adjustment? How will the aforesaid completed assessments impact the assessee?
- (ii) What steps are to be taken to prevent the secondary adjustment? Will there be any secondary adjustment in the hands of the assessee if the required steps are not taken? You are required to outline the concept involved.

- (b) Ramesh (age 61) an individual resident in India furnishes you particulars of income for the previous year 2018-19. He earned income in country M and India has not entered into double taxation avoidance agreement with that country.

Income from house property in country M	₹ 2,50,000
Business income in India	₹ 8,00,000
Dividend from company in country M	₹ 1,00,000
Royalty income country M (see note below)	₹ 4,00,000
Business income in country M	₹ 2,00,000
Income from house property in India	₹ 5,00,000
Donation to Prime Minister's National Relief Fund	₹ 50,000
Incurred medical expenses for his mother aged 85	₹ 60,000
Rate of tax in country M (no basic exemption limit)	20%
Note : Ramesh disputed royalty income in country M but paid the tax on that income in June, 2019 after the appeal was decided by the appellate authority. The royalty income is charged to tax at concessional rate of 15% in country M.	

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7. (a) A Co. Ltd. is an Indian company at Pune. It provides software development service to various customers and also to its associated enterprise B Co. Ltd. of Mumbai. It billed ₹ 2 crores for the software development services rendered to B Co. Ltd. during the year 2018-19. The total costs (direct and indirect) incurred for executing the work was ₹ 175 lakhs. In the case of unrelated parties for similar services A Co. Ltd. earned a gross profit of 50% on costs.

The following distinguishing features are observed between the transaction with the related party (i.e.) B Co. Ltd. and other unrelated parties:

- B Co. Ltd. provided technology support to A Co. Ltd. in the software development project assigned by it. In the case of unrelated parties the value of technology support expenditure for similar project would be ₹ 17,50,000.
- A Co. Ltd. gave discount of 10% to B Co. Ltd. and this benefit is not given to outside customers.

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- (iii) A Co. Ltd. carried out marketing functions in respect of transaction with B Co. Ltd. and incurred ₹ 13,12,500. This marketing function is not normally provided by A Co. Ltd. to outside parties.
- (iv) A Co. Ltd. provided extended credit period and the cost of credit period is estimated at 2.5% of its cost. This extended credit period is given only because B Co. Ltd. is its associated enterprise.

State the most appropriate method to be adopted for determination of ALP and compute the arm's length gross profit mark up and how much of income has to be increased or decreased in the hands of A Co. Ltd. for the transactions carried out for B Co. Ltd.

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(b) State whether the following transaction attract transfer pricing regulations: 2×4=8

- (i) Bear Ltd., Delhi has 12 directors of which 7 directors are appointed by Lion Trade SA of France along with its subsidiaries located in US and Europe.
- (ii) DEF LLP, United Kingdom holds 28% voting power in PQR Ltd., Kolkata from 01.04.2019 though there were transactions exceeding ₹ 5 crores between them in the previous year 2018-19.
- (iii) Dizzy Ltd., Chennai exported semi-finished goods to its subsidiary company Tom Co. Ltd. of Colombo. The subsidiary Tom Co. Ltd. completed the processing and after packing them dispatched goods back to Dizzy Ltd. During the financial year 2018-19, the total value of goods dispatched by Dizzy Ltd. to Tom Co. Ltd. was ₹ 3 crores and processing charges paid was ₹ 50 lakhs.
- (iv) Karun (HUF) consists of Shir. Karun, two sons and a daughter. It is carrying on business at Kanpur. Both the sons are in USA owning share capital exceeding 50% in 2 companies. The HUF purchased raw materials in India and exported the same to both the companies in USA of sons of Karun.

8. Write short notes:

4×4=16

- (a) Significance of the PE in transactions governed by the Double Taxation Avoidance Agreements (DTAA)
 - (b) Tax Residency Certificate (TRC)
 - (c) Binding effect of Advance Pricing Agreement (APA)
 - (d) Scope and disclosure requirement for Revenue Recognition — ICDS IV
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