

**Paper 16 - Direct Tax Laws and  
International Taxation**

# Answer to MTP\_Final\_Syllabus 2016\_Dec 2023\_Set 1

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## Paper 16 - Direct Tax Laws and International Taxation

Full Marks: 100

Time allowed: 3 hours

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

Working notes should form part of the answer.

All questions relate to the Income Tax Act 1961 and pertains to Assessment Year 2023-24, unless otherwise stated in the questions.

### Section - A

1. Choose the correct alternative and also provide your justification: [10×2=20]

- (i) Every assessee or ecommerce operator, who fails to credit adequate equalisation levy to the account of the Central Government within specified period, shall pay interest:
- (a) Equal to the amount of equalisation levy
  - (b) ₹ 100 for every day during which the failure continues
  - (c) ₹ 100 for every day during which the failure continues subject to maximum of amount failed to pay
  - (d) 1% of such levy for every month or part of a month by which such crediting of the tax is delayed
- (ii) As per sec. 94B, interest expenses claimed by an entity to its associated enterprises shall be restricted to \_\_\_\_\_ of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less :
- (a) 30%
  - (b) 25%
  - (c) 20%
  - (d) 50%
- (iii) MAT Credit can be carried forward and set off for:
- (a) 10 years
  - (b) 15 years
  - (c) 5 years
  - (d) Not available for carried forward
- (iv) In the context of Double Taxation Avoidance Agreements, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on. The term “permanent establishment” does not include:
- (a) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources
  - (b) a workshop

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- (c) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise.
- (d) a farm, plantation or other place where agricultural, pastoral, forestry or plantation activities are carried on.
- (v) X Marine Lines Inc., a Singapore company engaged in shipping business collected ₹ 150 lakh towards carrying goods from Chennai Port. Its presumptive income chargeable to tax in India would be ₹ :
- (a) 15 lakhs  
(b) 11.25 lakhs  
(c) 12 lakhs  
(d) Nil
- (vi) As per section 35DD of the Income-tax Act, the quantum of deduction of expenses incurred in case of amalgamation or demerger will be:
- (a) 1/3rd of expenses so incurred for a period of 3 years commencing from the year in which amalgamation or demerger takes places.  
(b) 1/5th of expenses so incurred for a period of 5 years commencing from the year in which amalgamation or demerger takes places.  
(c) 1/10th of expenses so incurred for a period of 10 years commencing from the year in which amalgamation or demerger takes places.  
(d) 100% of expenses so incurred for a period of 5 years commencing from the year in which amalgamation or demerger takes places.
- (vii) Anonymous donation is taxable in excess of specified limit. The specified limit is higher of:
- (a) 5% of the total donations received or ₹ 50,000  
(b) 1% of the total donations received or ₹ 1,00,000  
(c) 5% of the total donations received or ₹ 1,00,000  
(d) 1% of the total donations received or ₹ 50,000
- (viii) Which of the following can be corrected while processing the return of income under section 143(1)?
- (a) any arithmetical error in the return  
(b) any error in the return of income  
(c) any mistake in the return of income  
(d) any claim by the taxpayer which is against law
- (ix) In case of an application made by the assessee u/s 154, the income-tax authority shall rectify the order/ refuse the rectification within \_\_\_\_\_ from the end of the month in which the application is received by the authority:

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- (a) 4 years  
(b) 2 years  
(c) 1 year  
(d) 6 months
- (x) **Principal Commissioner or Commissioner of Income-tax is empowered to grant relief from penalty to taxpayers in genuine cases. Such power is granted under section 273A and section \_\_\_\_\_:**  
(a) 273B  
(b) 273AA  
(c) 273  
(d) 274

### Answer:

(i)	(d)	Every assessee or ecommerce operator, who fails to credit adequate equalisation levy to the account of the Central Government within specified period, shall pay simple interest @ 1% of such levy for every month or part of a month by which such crediting of the tax is delayed as per section. 170
(ii)	(a)	As per sec. 94B, interest expenses claimed by an entity to its associated enterprises shall be restricted to 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less. This provision is applicable to Indian company, or a permanent establishment of a foreign company in India, being the borrower.
(iii)	(b)	MAT credit that is equivalent to the tax paid in excess of MAT over normal tax liability can be carried forward up to a period of 15 assessment years from the year MAT credit was generated.
(iv)	(d)	What is permanent establishment in double taxation? For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. a farm, plantation or other place where agricultural, forestry, plantation or related activities are carried on.
(v)	(b)	$\text{₹ } 150 \text{ lakh} \times 7.5\% = \text{₹ } 11.25 \text{ lakhs}$
(vi)	(b)	Where an assessee, being an Indian company, incurs any expenditure, on or after the 1st day of April, 1999, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking, the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive previous years beginning with the previous year in which the amalgamation or demerger takes place.
(vii)	(c)	In the case of wholly charitable institutions, anonymous donations shall be taxable only to the extent such donations exceed 5 percent of total

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		donations received by such trust or institution or a sum of ₹. 1 lakh, whichever is more.
(viii)	(a)	The process of examining the return filed by the taxpayer by the Income tax department is termed as assessment. The IT department carries out a preliminary assessment of all the returns filed and informs taxpayers of the result of such preliminary assessment. This assessment primarily includes arithmetical errors, internal inconsistencies, tax calculation and verification of tax payment. The preliminary evaluation process is fully computerised (automated), and is delegated to the Central Processing Centre (CPC).
(ix)	(a)	No order of rectification can be passed after the expiry of 4 years from the end of the financial year in which order sought to be rectified was passed. The period of 4 years is from the date of order sought to be rectified and not 4 years from original order.
(x)	(b)	Apart from enacting penalty provisions, the Income-tax Act also designed provisions empowering the Principal Commissioner of Income-tax or Commissioner of Income-tax to grant relief from penalty to taxpayers in genuine cases. Such power is granted under section 273A and section 273AA.

## Section – B

(Answer any five questions out of seven questions given)

2.(a) Determine the amount of interest u/s 234A in the following cases:

Name of the assessee	A	A Ltd.	B
Due date of furnishing return	31st July	31st October	31st July
Date of filing return	4th December	28th December	Not filed
Date of completion of assessment	1st March	15th April	15th February
Income as per return	₹ 5,80,000	₹ 5,00,000	—
Assessed Income	₹ 6,10,000	₹ 5,50,000	₹ 12,00,000
Advance tax paid	₹ 10,000	₹ 25,000	₹ 80,000
Tax deducted at source	₹ 10,000	₹ 15,000	₹ 80,000
Tax paid along with return	₹ 6,000	₹ 1,50,000	—

Also state interest payable u/s 234A for the purpose of sec.140A. Ignore interest under any other section. [8]

(b) “Fund can be obtained from various sources have different characteristics in terms of risk, cost and control.” — Write about the tax planning in relation to capital structure and lease or buy decision in this context. [8]

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**Answer:**

**2. (a)**

**Computation of interest u/s 234A**

Particulars	Code	A	A Ltd.	B
Period of default	A#	5 months	2 months	7 months
		(Aug. to Dec.)	(Nov. to Dec.)	(Aug. to Feb.)
Assessed Income	B	₹6,10,000	₹5,50,000	₹12,00,000
Tax rate	C	Slab-rate	30%	Slab rate
Tax liability before surcharge	D=B×C	₹34,500	₹1,65,000	₹1,72,500
Rate of Surcharge	E	Nil	Nil	Nil
Surcharge	F=D×E	Nil	Nil	Nil
Tax and surcharge payable	G=D+F	₹34,500	₹1,65,000	₹1,72,500
Health & Education cess	H=G×4%	₹1,380	₹6,600	₹6,900
Tax liability on assessed income	I=G+H	₹35,880	₹1,71,600	₹1,79,400
Less: Advance tax paid & tax deducted at source	J	₹20,000	₹40,000	₹1,60,000
Shortfall	K=I-J	₹15,880	₹1,31,600	₹19,400
Rounded off	L	₹15,800	₹1,31,600	₹19,400
Interest (1% × A × L)		₹790	₹2,632	₹1,358

Note: Tax paid along with return shall not be reduced while computing interest u/s 234A

**Computation of interest u/s 234A for the purpose of Sec.140A**

Name of the assessee	Code	A	A Ltd.
Period of default	A#	5 months	2 months
		(Aug. to Dec.)	(Nov. to Dec.)
Returned Income	B	₹5,80,000	₹5,00,000
Tax rate	C	Slab-rate	30%
Tax liability before surcharge	D = B × C	₹28,500	₹1,50,000
Rate of Surcharge	E	Nil	Nil
Surcharge	F = D × E	Nil	Nil
Tax & surcharge on above	G=D+F	₹28,500	₹1,50,000
Health & Education cess	H=G×4%	₹1,140	₹6,000
Tax liability on assessed income	I=G+H	₹29,640	₹1,56,000
Less: Advance tax paid & tax deducted at source	J	₹20,000	₹40,000
Shortfall	K=I-J	₹9,640	₹1,16,000
Rounded off	L	₹9,600	₹1,16,000
Interest (1% × A × L)		₹480	₹2,320

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# It is to be noted that when interest is calculated on monthly basis, any fraction of the month shall be taken as full month.

Note: In case of B, return has not been filed, hence interest payable u/s 234A at the time of self-assessment cannot be computed.

## 2.(b)

Fund can be obtained from various sources thus their procurement is always considered as a complex problem by a business organisation. Fund procured from different sources have different characteristics in terms of risk, cost and control.

- Capital Structure — the optimum capital structure is a mix of equity capital and debt funds. Following should be considered in this regard:
  1. Interest on debt fund is allowed as deduction as it is a business expenditure. Therefore, it may increase the rate of return on owner's equity.
  2. Dividend on equity fund is not allowed as deduction as it is the appropriation of profit. Further, the company declaring the dividend shall be liable to pay dividend distribution tax.
  3. The cost of raising owner's fund is treated as capital expenditure therefore not allowed as deduction. However, if conditions of sec. 35D is satisfied then such cost can also be amortized.
  4. The cost of raising debt fund is treated as revenue expenditure.
- Lease or Buy — when a person needs an asset for his business purposes, he has to decide whether the asset should be purchased or taken on lease. Following should be considered in this regard:
  1. Lease rental can be claimed as deduction as revenue expenditure. However, depreciation on leases asset is not allowed.
  2. Depreciation on depreciable assets can be claimed as deduction u/s 32.
  3. In case, the asset is purchased from the amount taken on loan, interest paid for the period after the asset is first put to use, the deduction on account of interest shall be claimed as revenue expenditure. However, interest paid for the period before the asset is first put to use shall be capitalized.
  4. Any gain on transfer of capital asset is subject to capital gain. In this regard, it is to be noted that in case of depreciable asset, asset shall be merged in the respective block of asset.

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3. Apple Industries Ltd. provides the following information for the financial year 2022-23:

Net profit as per statement of profit and loss after debiting/crediting the following:	₹ 120 lakh
Proposed dividend	₹ 30 lakh
Profit from unit established in SEZ	₹ 20 lakh
Provision for income-tax	₹ 18 lakh
Provision for deferred tax	₹ 10 lakh
Provision for permanent diminution in value of investments	₹ 3 lakh
Depreciation debited to statement of profit and loss ₹ 10 lakh includes depreciation on revaluation of assets to the tune of	₹ 1 lakh

Brought forward losses and unabsorbed depreciation as per books of the company are as follows:

(Amount in ₹ Lakhs)

Previous Year	Brought Forward Losses	Unabsorbed Depreciation
2019 – 20	1	4
2020 – 21	1	1
2021 – 22	10	5

Compute the book profit of the company as per section 115JB for the assessment year 2023-24. [16]

**Answer:**

3.

**Computation of Book Profit of Apple Industries Ltd. for the A.Y.2023-24**

(₹ In lakhs)

Particulars	Details	Amount
Net profit as per books of accounts		120
Add:		
Proposed Dividend	30	
Provision for income tax	18	
Provision for deferred-tax	10	
Provision for permanent diminution in value of investments	3	
Depreciation	10	71
		191
Less:		
Depreciation (ignoring depreciation on revaluation)	9	
Lower of brought forward loss and unabsorbed depreciation	10	19



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Book Profit

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4.(a) State the provisions regarding Appealable Orders for making an appeal to the Commissioner (Appeal). [8]

(b) M/s. QQ Trading Co. a sole proprietary concern, was converted into a company w.e.f 01-09-2022. Before the conversion, the sole proprietary concern had a block of Plant & Machinery (15%), whose WDV as on 1-4-2022 was ₹ 3,00,000. On 1st April itself, a new plant of the same block was purchased for ₹ 1,20,000. After the conversion, the company has purchased the same type of plant on 1-1-2023 for ₹ 1,60,000. Compute the depreciation that would be allocated between the concern & the company. [8]

Answer:

4.(a)

Provision regarding appeal to the Commissioner (Appeal) are enumerated below:

Appealable Orders	<p>U/s 246A</p> <ul style="list-style-type: none"><li>• Order passed by a Joint Commissioner u/s 115VP(3)(ii);</li><li>• Order against the assessee, where the assessee denies his liability to be assessed under this Act;</li><li>• Intimation u/s 143(1) or 143(1B) or 200A(1) or 206CB(1) or Order of assessment u/s 143(3) [Scrutiny assessment] [except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sec. 144BA(12)] or u/s 144 [Best judgment assessment] in respect of income assessed or tax determined or loss computed or residential status;</li><li>• Order of assessment, reassessment or recomputation u/s 147 [(except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sec. 144BA(12)), 150 &amp; 153A [except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sec. 144BA(12)];</li><li>• Order u/s 154 (Rectification of Mistake) or u/s 155 (other amendments) having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee [except where it is in respect of an order referred to in sec. 144BA(12)]</li><li>• Order u/s 92CD(3)</li><li>• Order u/s 163 treating assessee as an agent of a non-resident;</li><li>• Order u/s 170 relating to assessment on succession;</li><li>• Order u/s 171 refusing to recognize partition of an HUF;</li><li>• Order u/s 201 or 206C(6A) for default of provisions of TDS/TCS;</li></ul>
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	<ul style="list-style-type: none"> <li>• Order u/s 237 relating to refunds or sec. 239A;</li> <li>• Order relating to Penalty;</li> <li>• Order imposing penalty under chapter XXI;</li> <li>• An order of penalty imposed under chapter XXI or an order of imposing or enhancing penalty u/s 275(1A)</li> <li>• Any order made by an Assessing Officer other than a Joint Commissioner, as the Board may direct.</li> </ul> <p>Notes:</p> <p><b>a)</b> Even when reassessment proceedings have been initiated u/s 147, an appeal can still be filed against the original assessment order passed u/s 143(3)</p> <p><b>b)</b> Assessee has the right to appeal against an order of the Assessing Officer which is passed while giving effect to the decision of the appellate authority.</p>
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#### 4. (b)

Computation of depreciation on plant and machinery if there were no succession:

Particulars	Plant & Machinery ₹
W.D.V. as on 1/4/2022	3,00,000
Add: Purchase during the year	1,20,000
	4,20,000
Less: Sale during the year	Nil
	4,20,000
Depreciation @ 15% of ₹ 4,20,000	63,000

Allocation of depreciation between sole proprietary concern and the successor company  
The depreciation of ₹63,000 is to be allocated in the ratio of number of days the assets were used by the sole proprietary concern and the successor company.

Calculation of allowable depreciation to sole proprietary concern:

Particulars	Amount ₹
Plant & machinery of sole proprietary concern used by the successor company from 1/9/2022 to 31/3/2023 i.e. 212 days. Depreciation for such period (₹ 63,000 x 212/365)	36,592
After conversion	
Depreciation in respect of assets purchased by the successor company on 1/1/2023 is fully allowable in the hands of successor company [50% of 15% on ₹ 1,60,000].	12,000
Total depreciation	48,592

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**5.(a) In course of assessment, the Assessing Officer made addition to assessee's income u/s 41(1) in respect of cessation / remission of trading liability of various transporters who transported the minerals for the assessee stating that the assessee had failed to produce these transporters/trade creditors before the authority, despite the summons issued to them. Justify. [8]**

**(b) Voluntary subsidies paid by a holding company, to protect the capital investment, to its loss-making subsidiary is capital receipt in the hands of the recipient. Justify with the help of the case law. [8]**

**Answer:**

**5. (a)**

No cessation of liability even if creditors were untraceable but evidences of payments to them were produced

In course of assessment, the Assessing Officer made addition to assessee's income u/s 41(1) in respect of cessation / remission of trading liability of various transporters who transported the minerals for the assessee stating that the assessee had failed to produce these transporters/trade creditors before the authority, despite the summons issued to them. On further appeal, the Tribunal completely set aside the additions made by the revenue. On further appeal, High Court held that in legal parlance, merely because the creditor could not be traced on the date when the verification was made, same is not a ground to conclude that there was cessation of the liability.

Cessation of the liability has to be cessation in law, of the debt to be paid by the assessee to the creditor. The debt is recoverable even if the creditor has expired, by the legal heirs of the deceased creditor. Under the circumstances, in the present case, it can hardly be said that the liability had ceased. If the liability had not ceased or the benefit was not taken by the assessee in respect of such trade liability, the conditions precedent was not satisfied for invoking sec. 41(1).

Tribunal has clearly recorded the evidence and findings of facts in favour of the respondent-assessee that the assessee has produced the documentary evidence in the form of ledger accounts and proof of payments made through bank channel and PAN numbers also.

Burden of the Revenue to summon such creditors or transporters for establishing that the liability has ceased could not be shifted upon the respondent-assessee.

There is no perversity in the same so as to give rise to any substantial question of law arising in the present case, requiring consideration u/s 260A

**5. (b)**

Voluntary subsidies paid by a holding company, to protect the capital investment, to its loss-making subsidiary is capital receipt in the hands of the recipient.

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The subvention received by the Assessee - Company from its parent company in Germany in a situation where the assessee-company was making losses has been treated to be a revenue receipt by the Assessing Officer. Though the first Appellate Authority and the ITAT has reversed the said finding. However, the High Court has restored the view taken by the Assessing Officer referring the decisions of Apex Court in Sahney Steel & Press Works Ltd., Hyderabad -vs.- CIT (1997) 7 SCC 764 and CIT -vs.- Ponni Sugars and Chemicals Limited (2008) 9 SCC 337.

In these cases, the Apex Court has held that unless the grant-in-aid received by an Assessee is utilized for acquisition of an asset, the same must be understood to be in the nature of a revenue receipt.

However, the aforesaid view tends to overlook the fact that in both Ponni Sugars and Sahney Steel the subsidies received were in the nature of grant-in-aid from public funds and not by way of voluntary contribution by the parent Company as in the present cases. Further, the voluntary payments made by the parent Company to its loss making Indian company can also be understood to be payments made in order to protect the capital investment of the Assessee Company. Thus, it was held that the payments made to the Assessee Company by the parent Company for Assessment Years in question cannot be held to be revenue receipts.

Earlier, the same view has also been held in CIT -vs.- Handicrafts and Handlooms Export Corporation of India Ltd. (Delhi)

**6.(a) A Co. Ltd. of Chennai and Sky Inc. of Singapore are associate enterprises. A Co. Ltd. imported 1000 television sets at ₹ 16,000 per set without any warranty period. A Co. Ltd. also imports similar TV sets from unrelated party Sign Inc. of Japan. It is imported at ₹ 15,000 per set with warranty time of 2 years. The cost of warranty in respect of goods imported from Sky Inc. for a period of 2 years would cost ₹ 2,000. Compute arm's length price and the amount of increase in total income of A Co. Ltd. as per CUP method. [8]**

**(b) What is Foreign Tax Credit in the context of international taxation? State the documents which are required for availment of such credit. [4+4=8]**

**Answer:**

**6.(a)**

(A) Computation of Arm's Length Price

Particulars	Amount ₹
Cost of TV Set acquired from Sign Inc	15,000
Less: Cost of Warranty	2,000
Arm's Length Gross Profit mark-up	13,000

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## (B) Computation of Increase in Total Income

Particulars	Amount ₹
Cost of TV Set acquired from Sky Inc [₹ 16,000 * 1,000]	1,60,00,000
Less: Arm's length Value [₹ 13,000 * 1,000]	1,30,00,000
Therefore, Increase in Total Income	30,00,000

### 6. (b)

An assessee, being a resident shall be allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India, in rule 128

### Meaning of Foreign Tax

In respect of	Foreign Tax
A country or specified territory with which India has entered into an agreement u/s 90 or 90A	Tax covered under the said agreement
Any other country or specified territory	Tax payable under the law of that country or specified territory in the nature of income-tax referred to in the Explanation to sec. 91 (i.e., "income-tax" in relation to any country includes any excess profits tax or business profits tax charged on the profits by the Government of any part of that country or a local authority in that country)

### Documents Required for Credit

Credit of any foreign tax shall be allowed on furnishing the following documents by the assessee within due date of furnishing return of income:

- a statement of income from the country or specified territory outside India offered for tax for the previous year and of foreign tax deducted or paid on such income in Form No.67 and verified in the manner specified therein;
- certificate or statement specifying the nature of income and the amount of tax deducted therefrom or paid by the assessee:
  - a) from the tax authority of the country or the specified territory outside India; or
  - b) from the person responsible for deduction of such tax; or
  - c) signed by the assessee:
- The statement furnished and signed by the assessee shall be valid if it is accompanied by:
  - A. an acknowledgement of online payment or bank counter foil or challan for payment of tax where the payment has been made by the assessee;
  - B. proof of deduction where the tax has been deducted.

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7.(a) What is International Transaction according to sec. 92B of the Income Tax Act? Also, specify some transactions which may be considered as Deemed International Transaction. [4+4=8]

(b) Mr. Ramesh, a resident Indian, has derived the following incomes for the previous year relevant to the A.Y. 2023-24:

1. Income from profession in India	₹ 2,44,000
2. Income from profession in country A (Tax paid in foreign country @ 5%)	₹ 4,50,000

Compute Indian tax liability of the assessee assuming that as per treaty between India and Country A, ₹4,50,000 is taxable in India. However foreign tax can be set off against Indian tax liability. [8]

**Answer:**

7. (a)

- (1) International transaction means a transaction between two or more associated enterprises, either or both of whom are non-residents, in the nature of
- purchase, sale or lease of tangible or intangible property, or
  - provision of services, or
  - lending or borrowing money, or
  - any other transaction having a bearing on the profits, income, losses or assets of such enterprises; & shall include a mutual agreement or arrangement between two or more associated enterprises
    - for the allocation or apportionment of, or
    - any contribution to, any 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 enterprises [Sec. 92B (1)]
- (2) A transaction entered into by an enterprise with a person other than an associated enterprise shall, be deemed to be an international transaction entered into between two associated enterprises,
- if there exists a prior agreement in relation to the relevant transaction between other person and the associated enterprise; or
  - the terms of the relevant transaction are determined in substance between such other person and the associated enterprise where the enterprise or the associated enterprise or both of them are non-residents irrespective of whether such other person is a non-resident or not [Sec. 92B (2)]

International transaction shall include:

- the purchase, sale, transfer, lease or use of tangible property including building, transportation vehicle, machinery, equipment, tools, plant, furniture, commodity or any other article, product or thing;

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- b. the purchase, sale, transfer, lease or use of intangible property<sup>1</sup>, including the transfer of ownership or the provision of use of rights regarding land use, copyrights, patents, trademarks, licences, franchises, customer list, marketing channel, brand, commercial secret, know-how, industrial property right, exterior design or practical and new design or any other business or commercial rights of similar nature;
- c. capital financing, including any type of long-term or short-term borrowing, lending or guarantee, purchase or sale of marketable securities or any type of advance, payments or deferred payment or receivable or any other debt arising during the course of business;
- d. provision of services, including provision of market research, market development, marketing management, administration, technical service, repairs, design, consultation, agency, scientific research, legal or accounting service;
- e. a transaction of business restructuring or reorganisation, entered into by an enterprise with an associated enterprise, irrespective of the fact that it has bearing on the profit, income, losses or assets of such enterprises at the time of the transaction or at any future date;

### 7.(b)

Computation of total income and tax liability of Mr. Ramesh for the A.Y. 2023-24

Particulars	Amount (₹)
Income from profession in India	2,44,000
Income from profession in Country A	4,50,000
Gross Total Income	6,94,000
Less: Deduction u/ch. VIA	Nil
Total income	6,94,000
Tax on above	51,300
Add: Health & Education cess	2,052
Tax and cess payable	53,352
Less: Relief u/s 90 [₹ 4,50,000 x 5%]	22,500
Tax payable in India (Rounded off u/s 288B)	30,850

### 8. Write short note (any four):

[4×4=16]

- (a) **Computation of total undisclosed foreign income and asset as per Black Money and Imposition of Tax Act.**
- (b) **Comparative study of ICDS II with AS 2.**
- (c) **Tonnage Tax Scheme.**
- (d) **Tax on Income from Patent.**
- (e) **Succession of Income-Tax Authority.**

**Answer:**

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8.

**(a) Computation of total undisclosed foreign income and asset as per Black Money and Imposition of Tax Act [Sec. 5]**

- In computing the total undisclosed foreign income and asset of any previous year of an assessee:
  - (+) No deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee, whether or not it is allowable in accordance with the provisions of the Income-tax Act.
  - (+) Any income, —
    - a. which has been assessed to tax for any assessment year under the Income-tax Act prior to the assessment year to which this Act applies; or
    - b. which is assessable or has been assessed to tax for any assessment year under this Act, shall be reduced from the value of the undisclosed asset located outside India, if, the assessee furnishes evidence to the satisfaction of the Assessing Officer that the asset has been acquired from the income which has been assessed or is assessable, as the case may be, to tax.
- The amount of deduction in case of an immovable property shall be the amount which bears to the value of the asset as on the first day of the financial year in which it comes to the notice of the Assessing Officer, the same proportion as the assessable or assessed foreign income bears to the total cost of the asset.

**(b) Comparative study of ICDS II with AS 2.**

Basis of difference	AS 2	ICDS II
Valuation of service inventory	No specific provision	NA
Opening inventory	No specific provision	<ul style="list-style-type: none"> <li>→ Value of opening inventory of a business shall be the same as the value of inventory at the end of the immediately preceding financial year</li> <li>→ In case of commencement of business, Cost of inventory on the day of commencement of business will be opening inventory</li> </ul>
Change in method of inventory valuation	Change permitted if (a) required by statute; (b) required for compliance of AS; (c) change results in more appropriate presentation of financial statements	Method of valuation once adopted shall not be changed without “reasonable cause”



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Inventory valuation in case of certain dissolutions	No specific provision	In case of partnership firm, AOP or BOI inventory on the date of dissolution shall be valued at NRV, whether or not business is discontinued
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## (c) Tonnage Tax Scheme:

To make the Indian shipping industry more competitive, a tonnage tax scheme for taxation of shipping profits was introduced. Some of the basic features of the tonnage tax scheme are as follows: -

It is a scheme of presumptive taxation whereby the notional income arising from the operation of a ship is determined based on the tonnage of the ship.

- The notional income is taxed at the normal corporate rate applicable for the year.
- Tax is payable even if there is a loss in a year.
- A company may opt for the scheme and once such option is exercised, there is a lock in period of 10 years. If a company opts out, it is debarred from re-entry for 10 years.
- Since this is a preferential regime of taxation, certain conditions like creation of reserves, training etc. are required to be met.
- A company may be expelled in certain circumstances.

## (d) Tax on Income from Patent:

Where the total income of an eligible assessee includes any income by way of royalty in respect of a patent developed and registered in India, tax @ 10% shall be payable on such royalty income.

- Eligible Assessee means a person resident in India and who is a patentee;
- Patentee means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee, in accordance with the Patents Act, and includes every such person, being the true and first inventor of the invention, where more than one person is registered as patentee under that Act in respect of that patent.
- Developed means at least 75% of the expenditure incurred in India by the eligible assessee for any invention in respect of which patent is granted under the Patents Act, 1970
- Royalty, in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head “Capital gains” or consideration for sale of product manufactured with the use of patented process or the patented article for commercial use) for the:
  - i. transfer of all or any rights (including the granting of a licence) in respect of a patent; or
  - ii. imparting of any information concerning the working of, or the use of, a patent; or

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- iii. use of any patent; or iv. rendering of any services in connection with the activities referred above
- Lump sum includes an advance payment on account of such royalties which is not returnable.

### (e) Succession of Income-Tax Authority.

- Whenever in respect of any proceeding under this Act an income-tax authority ceases to exercise jurisdiction and another income tax authority exercises jurisdiction.
- The income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

#### Opportunity of being re-heard

The assessee may demand that before -

- Such succeeding authority reopens previous proceeding or any part thereof; or
- any order of assessment is passed against him, he must be given an opportunity of being re-heard.