

Suggested Answer_Syl12_Dec2017_Paper_7

INTERMEDIATE EXAMINATION GROUP I (SYLLABUS 2012)

SUGGESTED ANSWERS TO QUESTIONS DECEMBER 2017

Paper-7: DIRECT TAXATION

Time Allowed : 3 Hours

Full Marks : 100

*The figures in the margin on the right side indicate full marks.
Wherever required, the candidate may make suitable assumption(s) and
state the same clearly in the answer.*

All the questions relate to the Assessment Year 2017-18, unless otherwise stated.

Section A

Answer Question No. 1, which is compulsory and any four from Question Nos. 2 to 6.

1. (a) Fill up the blanks: 1×10=10
- (i) When an Indian citizen leaves India for the purpose of employment his residential status is resident and ordinarily resident if he had stayed in India during the year for _____ days during that previous year.
 - (ii) Transport allowance for the purpose of commuting between the place of residence and place of duty is exempt up to ₹ _____ in the case of an employee who is blind or deaf and dumb.
 - (iii) When tax is not deducted at source _____ % of expenditure is liable for disallowance under section 40(a) (ia).
 - (iv) When a company pays commission of ₹30,000 to a person in March, 2017, it has to deduct tax at source at _____%.
 - (v) An educational institution existing solely for education is exempt from tax when the aggregate annual receipt does not exceed ₹ _____.
 - (vi) Royalty received for a patent is eligible for deduction under section 80RRB up to ₹ _____.
 - (vii) When a professional has aggregate fee receipt of ₹30 lakhs his presumptive income under section 44ADA shall be ₹ _____.
 - (viii) Electoral trust must distribute _____% of donation received by it during the year.
 - (ix) Expenditure on amalgamation or demerger is eligible for amortization in _____ annual installments under section 35DD.
 - (x) The monetary limit for deduction in respect of family pension is ₹ _____.

Suggested Answer_Syl12_Dec2017_Paper_7

- (b) Choose the most appropriate alternative: 1×5=5
- (i) When copyright is acquired for ₹50 lakhs on 10.11.2016 and used from 01.12.2016, the amount of depreciation under section 32 would be _____.
- (A) Nil
(B) ₹ 12,50,000
(C) ₹ 6,25,000
(D) ₹ 15,00,000
- (ii) Mr. Raj (age 62) is Karta of HUF which is engaged in textile trade. The total income of the HUF is ₹ 3,40,000. The tax liability of the HUF would be _____.
- (A) ₹ 9,270
(B) ₹ 4,120
(C) Nil
(D) ₹ 1,05,060
- (iii) Interest on Post Office SB joint account is exempt up to _____.
- (A) ₹ 3,500
(B) ₹ 7,000
(C) ₹ 10,000
(D) ₹ 20,000
- (iv) Mr. A retired from a public sector company under voluntary retirement scheme of the company. The monetary limit for exemption under section 10(10C) is _____.
- (A) ₹ 10,00,000
(B) ₹ 7,00,000
(C) ₹ 5,00,000
(D) ₹ 3,50,000
- (v) when cash is deposited into saving bank account, quoting of PAN is mandatory when the amount of deposit is _____ or more.
- (A) ₹ 20,000
(B) ₹ 50,000
(C) ₹ 1,00,000
(D) ₹ 2,00,000

- (c) Match the following: 1×5=5

(i) Rate of depreciation on goodwill	(a) ₹1,50,000
(ii) Tax rate applicable for LLP	(b) 75%
(iii) Monetary limit of deduction of entertainment allowance of Government employee	(c) 25%
(iv) % of advance tax payable before 15 th December	(d) ₹5,000
(v) Maximum deduction under section 80C	(e) 30%

Answer: 1

- (a) (i) 182
(ii) 3,200
(iii) 30
(iv) 5
(v) 100 lakhs
(vi) 3 lakhs
(vii) 15 lakhs

Suggested Answer_Syl12_Dec2017_Paper_7

- (viii) 95%
- (ix) 5
- (x) 15,000

Answer: 1 (b)

- (i) (C) ₹ 6,25,000
- (ii) (A) ₹ 9,270
- (iii) (B) ₹ 7,000
- (iv) (C) ₹ 5,00,000
- (v) (B) ₹ 50,000

Answer: 1 (c)

(i) Rate of depreciation on goodwill	(c) 25%
(ii) Tax rate applicable for LLP	(e) 30%
(iii) Monetary limit of deduction of entertainment allowance of Government employee	(d) ₹5,000
(iv) % of advance tax payable before 15 th December	(b) 75%
(v) Maximum deduction under section 80C	(a) ₹1,50,000

2. (a) Mr. Ram a resident of India during the previous year 2016 – 17 furnishes you the following details:

Sl. No.	Particulars	₹
1	Rental income from property at Madurai (computed)	2,10,000
2	Salary earned in United Kingdom for 6 months deputed by employer in Bangalore	6,00,000
3	Salary income in India (for balance 6 months)	4,50,000
4	Interest from public provident fund	40,000
5	Agricultural income from land held in Malaysia	2,00,000
6	Interest on fixed deposit with SBI	50,000

Find out the total income of Mr. Ram for the Assessment Year 2017–18. Also compute his total income if he was resident but not ordinarily or non- resident. 9

(b) State with brief reasons whether the following are chargeable to tax: 6

- (i) Share income from HUF received by a female member ₹ 50,000.
- (ii) Cash gift of ₹ 60,000 received by Mr. John on the occasion of 50th Birthday from his father in-law.
- (iii) Amount received on maturity of LIC policy by Mr. Ranga ₹ 6 lakhs. The annual premium on the policy was ₹ 40,000 paid from the year 2004-05. The capital sum assured is ₹ 4 lakhs and the balance represents bonus.
- (iv) Vacant site acquired by Mr. Robert from Mr. Rahim for ₹ 2,50,000 when the stamp duty valuation is ₹ 4 lakhs. Discuss the chargeability for Mr. Robert only.
- (v) Educational scholarship of ₹ 75,000 received by Mr. Arun from a charitable trust registered under section 12AA for meeting the cost of education of engineering study.
- (vi) Subsidy of ₹ 2 lakhs received by Singh & Co. for purchase of generator from

Suggested Answer_Syl12_Dec2017_Paper_7

State Government. The cost of generator was ₹ 8 lakhs and the subsidy represents 25%.

Answer: 2 (a)

Computation of Total Income of Mr. Ram for the Asst. Year 2017 – 2018

S. No	Particulars	Resident and ordinarily resident	Resident but not ordinarily resident	Non resident
1	Income from property	2,10,000	2,10,000	2,10,000
	Income from salary			
2	Earned in United Kingdom	6,00,000	6,00,000	Not taxable
3	Earned in India	4,50,000	4,50,000	4,50,000
	Income from other sources			
4	Interest from PPF a/c	Exempt	Exempt	Exempt
5	Agricultural income in Malaysia	2,00,000	Not taxable	Not taxable
6	Interest on fixed deposit with SBI	50,000	50,000	50,000
	Total income	15,10,000	13,10,000	7,10,000

Answer: 2 (b)

- (i) As per section 10(2), any sum received by an individual as a member of HUF and where the sum has been paid out of the income of the family, it is exempt from tax.
- (ii) Exempt. Father in law of Mr. John is lineal ascendant of the spouse of the individual (Mr. John) and hence falls in the category of "relative".
- (iii) The amount received is exempt under section 10(10D). As the premium paid on policy did not exceed 20% of the actual sum assured (the policy was taken before 01.04.2012).
- (iv) Taxable. The difference between the stamp duty value and apparent consideration is taxable under the head 'other sources' in the hands of Mr. Robert.
- (v) Exempt. Educational scholarship to meet the cost of education is exempt under section 10(16).
- (vi) Not taxable. The subsidy will go to reduce the actual cost of asset in the hands of Singh & Co for the purpose of depreciation. This is as per Explanation 10 to section 43(1).

3. (a) CMA Vani is employed as a Cost Controller in Steel India Ltd. at a consolidated salary of ₹ 50,000 per month. The company provides her the following facilities without any charge:

- (i) A furnished accommodation owned by the employer in Chennai. Cost of furniture provided by the employer is ₹ 1,00,000.
- (ii) A motor provided by the employer for commuting between home and office. Cost to the employer for this purpose is ₹ 10,000 per month.
- (iii) Free supply of gas for ₹ 1,500 per month. The gas connection is in the name of the employee.

Suggested Answer_Syl12_Dec2017_Paper_7

(iv) Service of a cook appointed by the company at ₹ 1,600 per month.

(v) Health insurance premium of ₹ 8,000 per annum paid by the company.

Compute income of CMA Vani under the head 'Salary' for Assessment Year 2017-18. 7

(b) State with brief reasons whether the following transactions attract liability to tax on account of capital gain: 2×4=8

(i) Sale of shares of unlisted companies held as stock-in-trade.

(ii) Sale of land held as capital asset by X Ltd. to its wholly owned subsidiary company, Y Ltd. which is incorporated in France.

(iii) Transfer of capital assets by A Ltd., an Indian company, amalgamating company to B Ltd., an amalgamated company, which is an Indian company.

(iv) Receipt of compensation from insurance company for destruction of a capital asset due to earthquake.

Answer 3(a)

Computation of income CMA Vani under the head "Salary" for Assessment year 2017 – 2018

Particulars	₹	₹
Salary (₹ 50,000 × 12)		6,00,000
Add: Value of Perquisites		
Rent – free furnished accommodation:		
15% of salary (as the accommodation is in Chennai)	90,000	
10% of cost of furniture (10% of ₹ 1,00,000)	10,000	
		1,00,000
Use of car facility for commuting between office and home is tax – free perquisite		Nil
Free gas supply (₹ 1,500 × 12)		18,000
Free service of cook (₹ 1,600 × 12)		19,200
Health insurance premium paid (not a perquisite under section 17(2))		Nil
Income under the head "Salary"		7,37,200

Answer 3(b):

- i. As per section 2(14), capital asset does not include asset held as stock-in-trade. Therefore, profit on sale of shares of unlisted companies shall not attract capital gains tax liability. Rather such profit is taxed as business income.
- ii. Where a company transfers any capital asset to its wholly owned subsidiary company, which is an Indian company, such transfer is an exempted transfer under section 47(iv) and shall not attract tax on capital gain subject to certain conditions. In the instant case, the transferee company (wholly owned) is a foreign company. Therefore, exemption under section 47(iv) will not be available and tax liability on capital gain will arise.
- iii. As per section 47(vi) transfer of capital assets, in a scheme of amalgamation, by the amalgamating company to the amalgamated company is exempted transfer, provided the amalgamated company is an Indian company. In the given case, the amalgamated company, B. Ltd. Is an Indian company. Hence, there will be no tax liability on capital gain.

Suggested Answer_Syl12_Dec2017_Paper_7

- iv. As per section 45(1A), where any person receives any money or other assets under an insurance from the insurer on account of damage or destruction of capital assets due to natural calamity like earthquake, cyclone, Flood, Typhoon, Hurricane, Riot, or civil Disturbance, Accident fire, or explosion, Action by enemy or action taken in combating an enemy, any profit arising from receipt of such money or other assets shall be chargeable to tax under the head "capital gains and shall be deemed to be income of the previous year in which such money or assets are received.

In view of the above provision, receipt of insurance compensation will attract tax on capital gain.

4. (a) In May, 2016, Mr. Aakarsh recovered rent of ₹ 17,000 from Ms. Gunjan, to whom he had let out his house from June 2010 to August 2012. He could not realise two months rent of ₹24,000 from her and to that extent his actual rent was reduced while computing income from house property for A.Y. 2013-14.

From September 2012 to November 2015, he had let out his property to Mr. Sahil. In October, 2014, he had increased the rent from ₹ 13,000 to ₹ 15,000 per month and the same was a subject matter of dispute. The house remained vacant for three months from December 2015 to February 2016. In April, 2016 the matter was finally settled and Mr. Aakarsh received ₹28,000 as arrears of rent for the period October, 2014 to November, 2015. However, in March 2016, Mr. Aakarsh had already sold this residential house property to Mr. Sagar.

Mr. Aakarsh contends that the amount recovered as unrealised rent and arrears of rent in the P.Y. 2016-17 would not be taxable in his hands in that year, since he had sold such house property in the previous year 2015-16 itself. Is the contention of Mr. Aakarsh correct? If not, under what head would such income be taxable and compute the income taxable under that head for A.Y. 2017-18? 5

- (b) State, with reasons, the allowability of the following expenses under the Income-tax Act, 1961, as deduction, while computing income from business or profession for the Assessment Year 2017-18: 10

- (i) XYZ Credit Corporation, a non-banking finance company, made provision for bad and doubtful debts in the books of account for the year ended 31.3.2017.
- (ii) On 14.05.2017, ABC Ltd. paid ₹ 45,000 to the Indian Railways for the use of railway assets pertaining to previous year 2016-17.
- (iii) MNO Ltd. paid ₹55,000 as tax on non-monetary perquisite provided to an employee.
- (iv) ₹32,000 paid by S Ltd. in cash on 28.3.2017 to a transporter (owning 8 goods carriages throughout the previous year) for carriage of goods, without deduction of tax at source.
- (v) P Ltd. paid ₹ 80,000 in cash for purchase of wheat from a farmer on a banking day.

Answer: 4 (a)

Since the unrealised rent was recovered in the P.Y.2016-17, the same would be taxable in the A.Y.2017-18 under section 25A, irrespective of the fact that Mr. Aakarsh was not the owner of the house in that year. Further, the arrears of rent was also received in the P.Y.2016-17, and hence the same would also be taxable in the A.Y.2017-18 under section 25A, even though Mr. Aakarsh was not the owner of the house in that year. Both unrealised rent and arrears of rent would be taxable under the head "Income from house property". A deduction of 30% of unrealised rent

Suggested Answer_Syl12_Dec2017_Paper_7

recovered and arrears of rent would be allowed while computing income from house property of Mr. Aakarsh for A.Y. 2017-18.

Computation of income from house property of Mr. Aakarsh for A. Y. 2017 – 2018

Particulars	₹
(i) Unrealized rent recovered	17,000
(ii) Arrears of rent received	28,000
	45,000
Less: Deduction @ 30%	13,500
Income from house property	31,500

Answer: 4 (b)

- (i) **Allowable as deduction:** As per section 36(1)(viii)(d), deduction is allowed to a non-banking financial company on account of provision for bad and doubtful debts of an amount not exceeding 5% of total income (before making any deduction under section 36(1)(viii) and Chapter VI-A). Accordingly, XYZ Credit Corporation, a non-banking finance company would be eligible for deduction in respect of provision for bad and doubtful debt provided such amount does not exceed 5% of total Income (before making any deduction under section 36(1)(viii) and Chapter VI-A).
- (ii) **Allowable as deduction:** As per section 43B, the allowability of deduction in respect of any sum payable by an assessee to the Indian Railways for use of Railway Assets is subject to actual payment of such sum on or before the due date of filing return of income under section 139(1). Thus, in the present case, ₹45,000 paid by ABC Ltd. to Indian Railways for use of railway assets would be allowed as deduction while computing the business Income for the previous year 2016-17, since such payment is made on or before the due date for filing return of income for the previous year 2016-17, being the year in which such liability incurred.
- (iii) **Not allowable as deduction:** Income-tax paid by the employer in respect of non-monetary perquisites provided to its employees is exempt in the hands of the employee under section 10(10CC). As per section 40(a)(v), such income-tax paid by the employer is not deductible while computing business income. Therefore, income-tax of ₹55,000 paid by the MNO Ltd. in respect of non-monetary perquisites provided to an employee would not be allowed as deduction while computing its business income.
- (iv) **Allowable as deduction:** The limit for attracting disallowance under section 40A(3) for payment otherwise than by way of account payee cheque or account payee bank draft is ₹ 35,000 in case of payment made for plying, hiring or leasing goods carriage to a transporter. Therefore, in the present case, no disallowance under section 40A(3) would be attracted in the hands of S Ltd. in respect of payment of ₹ 32,000 made in cash for carriage of goods to a transporter. Further, disallowance under section 40(a)(ia) for non-deduction of tax at source would also not be attracted, since the provisions for deduction of tax at source under section 194C are not applicable, in case of a transporter owning not more than 10 goods carriages at any time during the previous year.

Suggested Answer_Syl12_Dec2017_Paper_7

- (v) **Allowable as deduction:** As per Rule 6DD, in case the payment is made for purchase of agricultural produce directly to the cultivator, grower or producer of such agricultural produce, no disallowance under section 40A(3) is attracted even if the cash payment for the expense exceeds ₹ 20,000.

Therefore, disallowance under section 40A(3) would not be attracted in this case, since cash payment for purchase of wheat is made directly to the farmer.

5. (a) **During the previous year 2016-17, Mr. Gagan received ₹ 5,32,000 towards interest on enhanced compensation from State Government in respect of compulsory acquisition of his land effected during the financial year 2011-12.**

The above amount of interest include interest relating to the following financial years:

F.Y. 2013-14:	₹ 1,58,000
F.Y. 2014-15:	₹ 1,78,000
F.Y. 2015-16:	₹ 1,96,000

He incurred ₹75,000 by way of legal expenses in the F.Y. 2016-17 to receive the interest on such enhanced compensation.

Determine how much of interest on enhanced compensation would be chargeable to tax for the assessment year 2017-18? Can he claim deduction in respect of legal expenses from the amount of interest on enhanced compensation chargeable to tax?

6

- (b) **Compute the gross total income of Mr. Abhinav and his wife Mrs. Suhaani from the following information:**

9

	Particulars	₹
(a)	Salary income (computed) of Mrs. Suhaani.	3,25,000
(b)	Income from business of Mr. Abhinav.	4,15,000
(c)	Income of minor son Chetan from fixed deposit.	25,000
(d)	Income of minor daughter Shreya from music concerts given by her.	28,000
(e)	Interest from bank received by Shreya on deposit made out of income derived from music conceits.	7,000
(f)	Gift received by Shreya on 4.10.2016 from friend of Mrs. Suhaani.	5,500

Answer: 5 (a)

Section 145A provides that interest ma received by the assesses on enhanced compensation shall be deemed to be the income of the assesses of the year in which it is received, irrespective of the method of accounting followed by the assessee and irrespective of the financial year to which it relates.

Section 56(2)(viii) states that such income shall be taxable as 'Income from other sources'.

50% of such income shall be allowed as deduction by virtue of section 57(iv) and no other deduction, shall be permissible from such Income.

Therefore, he cannot claim deduction in respect of legal expenses incurred to receive the interest on enhanced compensation from such income.

Computation of interest on enhanced compensation taxable as "Income from other sources" for the A.Y 2017-18:

	Particulars	₹
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Suggested Answer_Syl12_Dec2017_Paper_7

Interest on enhanced compensation taxable under section 56(2)(viii)	5,32,000
Less: Deduction under section 57(iv) (50% × ₹ 5,32,000)	2,66,000
Taxable interest on enhanced compensation	2,66,000

Answer: 5 (b)

As per the provisions of section 64(1 A) of the Income-tax Act, 1961, all the income of a minor child has to be clubbed in the hands of that parent whose total income (excluding the income of the minor) is greater. The income of Mr. Abhinav is ₹4,15,000 and income of Mrs. Suhaani is ₹3,25,000. Since the income of Mr. Abhinav is greater than that of Mrs. Suhaani, the income of the minor children have to be clubbed in the hands of Mr. Abhinav. It is assumed that this is the first year when clubbing provisions are attracted.

Income derived by a minor child from any activity involving application of his/her skill talent, specialised knowledge and experience is not to be clubbed. Hence, the income of minor child minor child Shreya from giving music concerts will not be included in the hands of either parent.

However, interest from bank deposit has to be clubbed even when deposit is made out of income arising from application of special talent.

The Gross Total Income of Mrs. Suhaani is ₹ 3,25,000. The gross total income of Mr. Abhinav giving effect to the provisions of section 64(1A) is as follows:

Computation of gross total income of Mr. Abhinav for the A. Y. 2017 – 2018

Particulars	₹	₹
Income from business		4,15,000
Income of minor son Chetan from fixed deposit	25,000	
Less: Exemption under section 10(32)	1,500	23,500
Income of minor daughter Shreya		
(i) From music concerts [From special talent - not to be clubbed]	-	
(ii) Interest from bank	7,000	
(iii) Gift of ₹5,500 received from a non-relative is not taxable under section 56(2)(vii) being less than the aggregate limit of ₹50,000	Nil	
	7,000	
Less : Exemption under section 10(32)	1,500	5,500
Gross Total Income		4,44,000

6. (a) State the provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in case of amalgamation of an Indian company owning an industrial undertaking with another company, which is an Indian company.
- (b) At what rate of tax is to be deducted at source from payee who fails to furnish his Permanent Account Number?
- (c) Explain the provisions for filing revised return of income. 8+3+4= 15

Answer 6 (a)

As per section 72A, business loss (except speculation loss) of amalgamating company owning an industrial under taking shall be allowed to be carried forward and set off in

Suggested Answer_Syl12_Dec2017_Paper_7

the hands of the amalgamated company for fresh 8 years subject to certain conditions.

Likewise, unabsorbed depreciation of amalgamating company shall be allowed to be carried forward indefinitely and set off in the hands of the amalgamated company.

Following conditions are to be satisfied by the amalgamating company:

1. The amalgamating company has been engaged in the business, in which the accumulated loss occurred or depreciation remain; unabsorbed, for 3 years or more.
2. The amalgamating company has held continuously as on the date of amalgamation at least 75% of the book value of fixed assets held by it for 2 years prior to the date of amalgamation.

Following conditions are to be satisfied by the amalgamated company:

1. The amalgamated company holds continuously for a minimum period of 5 years from the date of amalgamation at least 75% of the book value of fixed assets if the amalgamating company acquired in the scheme of amalgamation.
2. The amalgamating company continues the business of the amalgamating company for a period of 5 years from the date of amalgamation.
3. The amalgamated company fulfils such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.

if the above conditions to be fulfilled by the amalgamated company are not complied with, then the consequences are as follows:

1. The set off of loss or unabsorbed depreciation made in any previous year in the hands of the amalgamated company, shall be *deemed* to be the income of the amalgamated company chargeable to tax for the year in which such non-compliance takes place.
2. The balance of accumulated loss and unabsorbed depreciation remaining to be set off shall not be allowed to be carried forward and set off.

Answer 6 (b)

As per section 206AA, If the payee fails to furnish his PAN, the payer has to deduct tax at source at the at the higher of the following rates:

- (i) Rate specified in the relevant provision of the Income-tax Act
- (ii) Rate or rates in force
- (iii) 20%

Answer 6 (c)

As per section 139(3), if an assessee, after furnishing return of income under section **139(1)** (i.e. return filed within the prescribed time limit) or section **139(4)** (i.e. belated return), he can file a revised return of income on discovery of any omission or any wrong statement in the return filed.

Revised return of income can be filed at any time before expiry of one year from the end of the relevant assessment year or before completion of assessment, whichever is earlier.

The word "assessment" used in section 139(5) means regular assessment under section 143(3) or best judgment assessment under section 144.

Return processed under section 143(1) is not considered as assessment for this purpose. Therefore, return can be revised even after service of intimation under section 143(1).

Suggested Answer_Syl12_Dec2017_Paper_7

Even a revised return can also be further revised, provided the time limit for filing revised return has not expired.

Section B (International Taxation and Transfer Pricing)

Answer Question No. 7, which is compulsory, and any one from Question Nos. 8 and 9.

7. State, whether true or false with reference to the following in the context of transfer pricing provisions: 1×5=5
- (i) If transaction between two enterprises where such enterprises are resident in India, such transaction shall not be called as international transaction.
 - (ii) Arm's length price means a price at which the transaction would be carried out in uncontrolled conditions.
 - (iii) The tolerance band for arm's length price for wholesale trading notified by the Central Government is 5%.
 - (iv) When the transfer price declared by the assessee is accepted by Income-tax authorities in international transactions, it is called as safe harbour rule.
 - (v) Audit report in respect of specified domestic transactions in terms of section 92E must be given in Form No. 3CD.

Answer 7:

- (i) True
 - (ii) True
 - (iii) False
 - (iv) True
 - (v) False
8. (a) Mrs. Chhaya a resident (age 42) being a cine actress derived income of ₹15 lakhs from guest shows performed outside India. Tax at 25% was deducted at source in the country where she performed the guest shows. India does not have any agreement with that country for avoidance of double taxation. Her income from property let out at Mumbai for the financial year 2016-17 is ₹10 lakhs (computed). She deposited ₹ 1,50,000 in Public Provident Fund account on 20.03.2017. Compute the income-tax payable for the assessment year 2017-18. 5
- (b) State the presumptive rate applicable for determination of income of non-residents in the following cases: 5
- (i) Income from shipping business conducted in India.
 - (ii) Royalty income of non-resident from an Indian concern based on agreement executed after 31.03.2003.
 - (iii) Interest from Non-Resident (External) Account.
 - (iv) Foreign company carrying out civil construction contract approved by the Central Government.
 - (v) Income from the business of operation of aircraft in India.
- (c) An Indian Citizen but non-resident made deposits in Indian companies and also subscribed for shares in listed Indian companies by remitting foreign exchange. For the year 2016-17, his investment income from deposits in Indian companies is ₹2 lakhs and long term capital gain on transfer of shares was ₹1 lakh. He has no other

Suggested Answer_Syl12_Dec2017_Paper_7

income in India. He wants to opt for Chapter XII-A of the Act. State the rate of tax applicable for the incomes referred above and whether he must file his return of income? In case the assessee becomes resident later, state whether he can opt for Chapter XII-A of the Act? **5**

Answer 8:

(a) Computation of taxable income and tax payable after relief under section 91

Indian income from let out property (computed)	10,00,000
Income earned outside India	15,00,000
Gross Total Income	25,00,000
Less : Deduction U/s. 80 C in respect of PPF deposit	1,50,000
Total Income	23,50,000
Tax on total income	5,30,000
Add: Cess @ 3%	15,900
	5,45,900
Average rate at which income is charged to tax	
$5,45,900 \times 100 / 23,50,000 = 23.23\%$	
Average rate at which Income earned abroad is charged to tax in that country = 25%	
Less : Relief U/s 91 @ 23.23% on the income earned outside India of ₹15,00,000	3,48,450
Balance tax payable after relief under section 91	1,97,450

(b)

- (i) In the case of non- resident carrying on shipping business in India, 7.5% of the amounts received for carrying passengers and goods at any port in India is chargeable to tax. [Section 44B]
- (ii) It is not liable for presumptive income determination. [Section 44DA]
- (iii) Interest income on Non Resident (External) Account is exempt under section 10(4).
- (iv) 10% of the amount paid or payable shall be deemed to be the profits and gains chargeable to tax. [Section 44BBB]
- (v) 5% of the amounts received on account of carriage of passengers and goods shall be deemed to be the profits and gains chargeable to tax. [Section 44BBA]

(c) In the case of Individual being a citizen of India and non- resident, the provisions of Chapter XX- A could be applied.

The rate of tax applicable for the above incomes are for investment income 20% and for long term capital gain 10%.

There is no basic exemption limit when the tax payer opts for Chapter XII-A of the Act.

If the tax has been deducted at source on such incomes, the non-resident need not file his return of income when he has no other income chargeable to tax in India.

As per section 115H even after becoming resident, he can opt for the applicability of Chapter XII-A of the Act and in that case it will apply till the assets are converted into money.

9. (a) State the applicability of TDS provisions in the following cases:

5

Suggested Answer_Syl12_Dec2017_Paper_7

- (i) Interest payable to a non-resident by infrastructure debt fund referred to in section 10(47).
- (ii) Interest paid to foreign institutional investor (being a qualified foreign investor) on certain bonds and Government Securities.
- (iii) Interest paid by a domestic company to a non-resident ₹50,000 (30%).
- (iv) Rent paid by a public sector bank to a non-resident ₹1,20,000 @ 10,000 per month.
- (v) Amount paid to non-resident sportsmen for participation in showroom inauguration ₹5 lakhs. (20%)
- (b) ABC Ltd., India exported semi-finished garments to its parent company BSC Inc. USA. The exports are made at \$ 20 per piece besides freight and insurance of \$ 5 per piece incurred separately. The BSC Inc. completes the process by incurring \$ 10 per piece and markets the same at \$ 49 per piece. Compute the profit per piece chargeable to tax in the hands of ABC Ltd. by applying profit split method. 5
- (c) State the quantum of penalty applicable for international transactions in the following cases: 5
- (i) Penalty for under reported income.
- (ii) Penalty for failure to keep and maintain information and documents in respect of international transaction of the value of ₹ 10 crores.
- (iii) Failure to furnish audit report from a chartered accountant under section 92E.
- (iv) Delay in furnishing a report in respect of international group by 22 days.
- (v) Penalty for misreporting of income.

Answer 9: (a)

- (i) Interest payable to non-resident by infrastructure fund is liable for tax deduction at source at 5% under section 194LB.
- (ii) Interest payable to fail is liable for tax deduction at source at 5% under section 194LD.
- (iii) Interest paid by domestic company to non-resident ₹50,000 liable for tax deduction @ 30% in view of section 195.
- (iv) Rent paid to a nonresident is also liable for tax deduction at 30% under section 195. Though the rent paid is less than ₹1,80,000 under section 194-I, it is liable for tax deduction.
- (v) Amount paid to non-resident sportsmen is liable for tax deduction at 20% as per section 194E.

Answer 9: (b) Computation of ALP under Profit Split Method

	\$	\$
Sale price per piece		49
Less: Cost incurred by ABC Ltd	20	
Cost incurred by BSC Inc.	10	
		30
		19
Less: Freight and insurance		5
Profit per piece		14

Suggested Answer_Syl12_Dec2017_Paper_7

Apportionment of profit on the basis of direct cost incurred		
ABC Ltd $14 \times 25/35$		10
BSC Inc. $14 \times 10/35$		4
For ABC Ltd a profit of \$ 10 per piece shall be treated as arm's length price for the transaction, entered into between the associated enterprises		

Answer 9: (c)

- (i) Under section 270A penalty shall be equal to 50% of the amount of tax payable on the under-reported income.
- (ii) As per section 271AA, 2% of the value of each international transaction shall be the quantum of penalty. That is ₹20 lakhs.
- (iii) As per section 271BA, for failure to furnish audit report under section 92E, the penalty is ₹1lakh.
- (iv) As per section 271GB penalty for not furnishing report in respect of international group is ₹5,000 per day where the delays is not more than a month. Hence the penalty would be ₹ 10 lakh.
- (v) Penalty for misreporting of income shall be equal to 200% of the amount of tax payable on the income misreported.