

PAPER – 7 : DIRECT TAXATION

SUGGESTED ANSWERS

PART A

1. (a)

- (i) (A/B/C/D)
- (ii) (A)
- (iii) (C)
- (iv) (B)
- (v) (A)
- (vi) (B)
- (vii) (A)
- (viii) (B)
- (ix) (B)
- (x) (B)

1. (b)

- (i) (C)
- (ii) (E)
- (iii) (D)
- (iv) (A)
- (v) (B)

1. (c)

- (i) True
- (ii) True
- (iii) False
- (iv) True
- (v) True

1. (d)

- (i) 78
- (ii) 5
- (iii) NIL
- (iv) ₹ 50,000
- (v) 5

PART B

2. (a)

Tax treatment / consequence of certain transactions

- (i) The amount paid by way of maintenance to divorced wife is not a diversion of income by overriding title.
- (ii) When a building is covered by insurance policy against natural calamities, insurance claim is meant for restoring the building to its previous stage. The claim may be adequate or inadequate for restoring the building to its level before such natural calamity.
- The amount so received by a person employed in a private sector in respect of residential building is a capital receipt and not chargeable to tax.
- Alternative: Under section 45(1A) the amount received from insurance company is taxable as capital gain in the year of receipt,
- (iii) Gift of asset to daughter is not liable for clubbing in the hands of the transferor. Therefore, the income from the transferred let out property is taxable in the hands of Uma.
- The rental income liable to tax would be ₹ 2,10,000 after deduction of 30% under section 24.
- (iv) Royalty accrues at the place where it is used. Since the patent is used by Sky (P) Ltd in India the royalty income accrues or arises in India.
- Therefore, the royalty income of Danish LLC of Canada is taxable in India.

2. (b)

Income from house property of Vignesh for A.Y.2023-24 ₹ 1,38,800

3. (a)

Computation of salary income of Srivatsan for the Asst. Year 2023-24

Particulars		₹.
Basic salary		18,00,000
Dearness allowance		12,00,000
Reimbursement of actual medical expenditure of the employee's family – it is a taxable perquisite		60,500
Gymkhana club membership fee paid by the employer – it is a taxable perquisite		39,500
Rent-free accommodation at Delhi owned by the employer:	3,60,000	
Add: Furniture hire charges paid by the employer	90,000	
	4,50,000	
Less: Amount recovered from employee	1,35,000	
		3,15,000
Motor car owned by the employer used both for official and personal use:		
Motor car with cubic capacity up to 1.6 litres:		
Perquisite value	16,200	
Perquisite value	24,300	
OR		
Motor car with cubic capacity above 1.6 litres		
Perquisite value	21,600	
Perquisite value	29,700	

3. (b)

Agricultural income or otherwise

- (i) Interest on arrears of rent in respect of leased agricultural land has no connection to the agricultural activity. Therefore, such interest income is not agricultural income.
- (ii) Income from cultivation of any crop whether cash crop or otherwise if entails basic and subsequent operations it is agricultural income. In this case cultivation of jute is agricultural income.
- (iii) Agricultural produce including grass if grown spontaneously, there is no human effort involved in it. Sale of grass which grow spontaneously is not agricultural income.
- (iv) Income from fishery is not related to basic and subsequent operations on land. Therefore, income from fishery is not agricultural income.
- (v) Income from sale of saplings and seedlings grown in nursery requires efforts akin to basic and subsequent operations. Therefore, income from nursery is agricultural income.
- (vi) Producing salt by flooding sea water does not have the essential features of basic and subsequent operations. Therefore, income from salt produced by flooding land with seawater is not agriculture.

4. (a)

Capital gain of Anantharaman for the Assessment Year 2023-24 ₹ 10,23,700 or ₹ 6,73,700

4. (b)

Eligibility of deduction in certain cases

- (i) When the amount of expenditure claimed as deduction is waived such amount is liable to tax under section 41(1).
- (ii) When a firm makes contract payment to a company it has to deduct tax at source @ 2%. However, if a single contract value (₹ 22,000) is less than ₹ 30,000 it would not attract provisions of section 194C. Therefore, the expenditure is eligible for deduction without any disallowance.
- (iii) When an amount due from a customer is written off it is eligible for deduction. The assessee need not have to prove that the debt has become bad.
- (iv) As per section 35DD one-fifth of demerger expenses is eligible for deduction in 5 successive previous years beginning with the previous year in which the demerger takes place.
- (v) Salary to wife of director to the extent it is excessive to her qualification and experience is liable for disallowance under section 40A(2)(a).
- (vi) As per section 36(1)(va) PF recovered from employees when not remitted before the 'due date' under the relevant statutory requirement, it is liable for disallowance. Therefore, ₹ 4,50,000 is liable for disallowance.
- (vii) Donation to scientific research association is eligible for deduction @100% as per further proviso to section 35(1)(ii).

5. (a)

Income from business or profession of RGP & Co Prop: Jaishankar, Assessment year 2023-24 ₹ 13,72,800

5. (b)

Amount of income liable to tax in the hands of Anandhi ₹ 2,06,471

6. (a)

Total Income of Prakash for the assessment year 2023-24 ₹ 7,25,000

6. (b)

Total income of Balaji Mills for the Asst. Year 2023-24 ₹ 10,00,000

7. (a)

Total income of Suresh for the assessment year 2023-24 ₹ 21,24,100

7. (b)

Applicability and quantum of TDS / TCS

- (i) It is covered by section 194A as the amount exceeds ₹ 5,000 and TDS@ 10% is attracted.
- (ii) Since the aggregate amount exceeds ₹ 1,00,000, it is liable for TDS under section 194C @2% being ₹ 2,560.
- (iii) As the amount exceeds ₹ 15,000 it is liable for TDS under section 194H @5% being Rs 1,000.
- (iv) No TDS is attracted under section 194-I as the aggregate rent does not exceed ₹ 2,40,000.
- (v) When scrap is purchased for manufacture of another product by the buyer Sakura &Co, it is not liable for TCS under section 206C.
- (vi) Income from lottery winnings is liable for TDS @ 30%. The quantum of TDS being ₹ 90,000.

8. (a)

Updated return under section 139(8A)

1. Who can file updated return?

Any person whether or not has furnished a return under sections 139(1) or 139(4) or 139(5) for an assessment year, may furnish an updated return of his income or the income of any other person in respect of which he is assessable under the Act.

2. Who cannot file updated return?

An updated return cannot be filed if the updated return is (a) a return of loss; or (b) has the effect of decreasing the total tax liability determined on the basis of return already furnished under sections 139(1) or 139(4) or 139(5). In nutshell, a person cannot reduce his tax liability by filing updated return.

Persons not eligible to furnish an updated return:

- 3. Where a search has been initiated under section 132 or books of account or other documents or any assets are requisitioned under section 132A in the case of a person, such person is not eligible to furnish an updated return.
- 4. Where a survey under section 133A (other than section 133A(2A)) in the case of a person when conducted, such person is not eligible to furnish an updated return.
- 5. Where a notice has been issued to the effect that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or under section 132A in the case of any other person which belongs to such person, he is not eligible to furnish an updated return.
- 6. Where a notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 132 or section 132A, in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, such person then such person is not eligible to furnish an updated return.
- 7. All the above said persons are not eligible to furnish updated return for the assessment year relevant to the financial year in which such search or survey is conducted or requisition is made and any assessment year preceding such assessment year.

No updated return shall be furnished by any person for the relevant assessment year in the following cases:

- 8. Where an updated return has already been furnished by the assessee for the relevant assessment year;
- 9. Where any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment year in his case;

10. Where the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 or the Prohibition of Benami Property Transactions Act, 1988 or the Prevention of Money Laundering Act, 2002 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 and the same has been communicated to him (assessee), prior to the date of furnishing of return under this sub-section.
11. Where information for the relevant assessment year has been received under an agreement referred to in sections 90 or 90A in respect of such person and the same has been communicated to him (assessee), prior to the date of furnishing of return under this sub-section.
12. Where any prosecution proceedings under Chapter XXII have been initiated for the relevant assessment year in respect of such person, prior to the date of furnishing of return;
13. Where he is such person or belongs to such class of persons, as may be notified by the Board in this regard.
14. If any person has sustained a loss in any previous year and has furnished a return of loss in the prescribed form within the time allowed under section 139(1) and verified in the prescribed manner and containing such other particulars as may be prescribed, he shall be allowed to furnish an updated return where such updated return is a return of income.
15. If the loss or any part thereof carried forward or unabsorbed depreciation carried forward or tax credit carried forward under section 115JAA or under section 115JD is to be reduced for any subsequent previous year as a result of furnishing of updated return for a previous year, an updated return shall be furnished for each such subsequent previous year.
16. Time limit for filing updated return: At any time within 24 months from the end of the relevant assessment year

8. (b)

Return of loss [Section 139(3)]

An assessee except a few is not compulsorily required to furnish a return of loss. However, the following losses cannot be carried forward if the return of loss is not furnished within the time allowed under section 139(1).

- (i) Business loss (speculative or otherwise);
- (ii) Capital loss
- (iii) Loss from the activity of owning and maintaining race horse races;
- (iv) Loss from business specified in section 35AD;

Loss declared in belated return cannot be carried forward.

However, set off of losses of current year is not prohibited while computing the total income, even if the return of loss is filed after the due date.

Delay in filing of return of loss may be condoned in certain cases.

Unabsorbed depreciation under section 32 and loss under the head 'income from house property' can be carried forward even if the loss return is filed after the due date under section 139(1).

Although the loss of the current year cannot be carried forward unless the return of loss is submitted before the due date but the loss of earlier assessment years is eligible for carry forward if the return of loss of those assessment year or years was submitted within the due date.

8. (c)

Best Judgment Assessment under section 144

This section empowers the Assessing Officer to make an assessment to the best of his judgment after considering all relevant materials which he has gathered.

In the assessment, the Assessing Officer cannot reduce the tax liability of the assessee.

Similarly, a refund cannot be granted in a best judgment assessment made under section 144.

In the following situations assessment under section 144 shall be made:

- (i) If a person fails to file the return under section 139(1), 139(4) or section 139(5) or an updated return under section 139(8A);
- (ii) If a person fails to comply with the terms of a notice issued under section 142(1);
- (iii) If a person fails to comply with the direction under section 142(2A) requiring him to get his accounts audited;
- (iv) If a person fails to comply with the terms of notice issued under section 143(2), requiring his presence or production of evidence or documents;

In the above four situations the Assessing Officer is under an obligation to make an assessment under section 144. In other words, best judgment assessment is not a discretionary power of the Assessing Officer but mandatory in nature.

Assessment under section 144 can only be made after giving the assessee a reasonable opportunity of being heard. Such an opportunity shall be given by serving a show cause notice calling upon the assessee to show cause on a date and time specified in the notice, why the assessment should not be completed to the best of his judgment.

Such opportunity of being heard need not be given where a notice under section 142(1) has already been issued.

8. (d)

Deduction under section 80EEB in respect of purchase of electric vehicle

This section is applicable to individual assesseees (both resident and non-resident).

The following conditions are to be satisfied for allowance of deduction under this section:

- (i) The assessee has taken loan for purchase of electric vehicle from any financial institution. Financial institution includes a banking company to which the banking regulation act applies;
- (ii) The loan has been sanctioned by the financial institution during 01.04.2019 and 31.03.2023.

The quantum of deduction is as under:

The quantum of deduction is the minimum of the following:

- (i) Interest on loan payable for the previous year;
- (ii) Monetary limit of ₹ 1,50,000;