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Taxation

Test Code – INJ4007

BRANCH - (MUMBAI) (Dt.: 28.05.2017)

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Answer:1

Computation of Gross Total Income of Mr. X for A.Y. 2017-18

Particulars	₹
Basic Salary = ₹ 20,000 x 10	2,00
Dearness Allowance = 50% of basic salary	1,00
Gift Voucher (See Note - 1)	6,00
Transfer of car (See Note - 2)	56,0
Gratuity (See Note - 3)	80,7
Leave encashment (See Note - 4)	1,30
Uncommuted pension (₹ 5000 x 2)	10,0
Commuted pension (See Note - 5)	
Taxable Salary /Gross Total Income	

Notes:

- (1) As per Rule 3(7)(iv), the value of any gift or voucher or token in lieu of gift received by the employee or by member of his household not exceeding ₹ 5,000 in aggregate during the previous year is exempt. In this case, the amount was received on his retirement and the sum exceeds the limit of ₹ 5,000.

Therefore, the entire amount of ₹ 6,000 is liable to tax as perquisite.

Note - An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable in view of the language of Circular No.15/2001 dated 12.12.2001 that such gifts upto ₹ 5,000 in the aggregate per annum would be exempt, beyond which it would be taxed as a perquisite. As per this view, the value of perquisite would be ₹ 1,000 and gross taxable income would be ₹ 7,27,769.

- (2) **Perquisite value of transfer of car:** As per Rule 3(7)(viii), the value of benefit to the employee, arising from the transfer of an asset, being a motor car, by the employer is the actual cost of the motor car to the employer as reduced by 20% of such cost for each completed year during which such motor car was put to use by the employer on a written down value basis. Therefore, the value of perquisite on transfer of motor car, in this case, would be:

Particulars	₹
Purchase price (1.2.2014)	5,00,000
Less: Depreciation @ 20%	<u>1,00,000</u>
WDV on 31.1.2015	4,00,000
Less: Depreciation @ 20%	<u>80,000</u>
WDV on 31.1.2016	3,20,000
Less: Depreciation @ 20%	<u>64,000</u>
WDV on 31.1.2017	2,56,000
Less: Amount recovered	<u>2,00,000</u>
Value of perquisite	<u>56,000</u>

The rate of 15% as well as the straight line method adopted by the company

for depreciation of vehicle is not relevant for calculation of perquisite value of car in the hands of Mr. X.

(3) Taxable gratuity

Particulars	₹
Gratuity received	6,00,000
Less : Exempt under section 10(10) - Least of the	
(i) Notified limit = ₹ 10,00,000	0,00,000
(ii) Actual gratuity = ₹ 6,00,000	
(iii) $15/26 \times 30,000 \times 30 =$ ₹ 5,19,231	
Taxable Gratuity	<u>5,1</u>

(1) Taxable leave encashment

Particulars	₹
Leave Salary received	3,30,000
Less : Exempt under section 10(10AA) - Least of the	
(i) Notified limit ₹ 3,00,000	
(ii) Actual leave salary ₹ 3,30,000	
(iii) 10 months x ₹ 20,000	
2,00,000	
(assuming that dearness allowance does not	
(iv) Cash equivalent of leave to his credit	
2,20,000	
(330/30 X 20000)	
Taxable Leave encashment	<u>2,00,000</u>

Note – It has been assumed that dearness allowance does not form part of salary for retirement benefits. In case it is assumed that dearness allowance forms part of pay for retirement benefits, then, the third limit for exemption under section 10(10AA) in respect of leave encashment would be ₹ 3,00,000 (i.e. $10 \times ₹ 30,000$) and the fourth limit

₹ 3,30,000, in which case, the taxable leave encashment would be ₹ 30,000 (₹ 3,30,000

- ₹ 3,00,000). In such a case, the gross total income would be ₹ 6,32,769.

(2) Commuted Pension

Since Mr. X is a non-government employee in receipt of gratuity, exemption under section 10(10A) would be available to the extent of 1/3rd of the amount of the pension which he would have received had he commuted the whole of the pension.

Particulars	₹
Amount received	3,00,000
Exemption under section 10(10A) = $1/3 \times (3,00,000 \times 3/2)$	<u>1,50,000</u>
Taxable amount	<u>1,50,000</u>

The taxability provisions under section 56(2)(vii) are not attracted in respect of television received from colleagues, since television is not included in the definition of property therein.

(10 Marks)

Answer:2

In this case, Nisha has more than one house property for self-occupation. As per section 23(4), Nisha can avail the benefit of self-occupation (i.e., benefit of "Nil" Annual Value) only in respect of one of the house properties, at her option. The other house property would be treated as "deemed let-out" property, in respect of which the Expected rent would be the gross annual value. Nisha should, therefore, consider the most beneficial option while deciding which house property should be treated by her as self-occupied.

OPTION 1 [House I – Self-occupied and House II – Deemed to be let out]

If House I is opted to be self-occupied, Nisha's income from house property for A.Y.2017-18 would be –

Particulars	Amount
House I (Self-occupied) [Annual value is Nil]	Nil
House II (Deemed to be let-out) <i>[See Working Note]</i>	54,060
Income from house property	54,060

OPTION 2 [House I – Deemed to be let out and House II – Self-occupied]

If House II is opted to be self-occupied, Nisha's income from house property for A.Y.2017-18 would be –

Particulars	Amount in `
House I (Deemed to be let-out) <i>[See Working Note]</i>	70,000
House II (Self-occupied) [Annual value is Nil, but interest deduction would be available, subject to a maximum of `30,000. In case of money borrowed for repair of self-occupied property , the interest deduction would be	(30,000)
Income from house property	40,000

Since Option 2 is more beneficial, Nisha should opt to treat House - II as Self-occupied and House I as Deemed to be let out, in which case, her income from house property would be ` 40,000 for the A.Y. 2017-18

Working Note:

Computation of income from House I and House II assuming that both are deemed to be let out

Particulars	Amount in	
	Ho	Hou
Gross Annual Value (GAV)		
Expected rent is the GAV of house property		
Expected rent = Higher of Municipal Value and Fair Rent but restricted to Standard Rent	1,00,000	1,65,000
Less: Municipal taxes (paid by the owner during the previous year)	Nil	9,200
Net Annual Value (NAV)	1,00,000	1,55,800

L	Deductions under section 24		
	(a) 30% of NAV	30,00	46,7
	(b) Interest on borrowed capital (allowed in full in case of deemed)	-	55,0
	Income from deemed to be let-out house	70,00	54,0

(8 Marks)

Answer:3

- (i) As per *Explanation 3* to section 40(b), "book profit" shall mean the net profit as per the profit and loss account for the relevant previous year computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to the partners of the firm if the same has been already deducted while computing the net profit.

In the present case, the net profit given is before deduction of depreciation on plant and machinery, interest on capital of partners and salary to the working partners. Therefore, the book profit shall be as follows:

Computation of Book Profit of the firm under section 40(b)

Particulars		
Net Profit (before deduction of depreciation, salary and interest)		7,00,000
Less: Depreciation under section 32	1,50,000	
Interest @ 12% p.a. [being the maximum allowable as per section 40(b)] (5,00,000 × 12%)	<u>60,000</u>	<u>2,10,000</u>
Book Profit		<u>4,90,000</u>

- (ii) Salary actually paid to working partners = ₹ 20,000 × 2 × 12 = ₹ 4,80,000.

As per the provisions of section 40(b)(v), the salary paid to the working partners is allowed subject to the following limits -

On the first ₹ 3,00,000 of book profit or in case of loss	₹ 1,50,000 or 90% of book profit, whichever is more
On the balance of book profit	60% of the balance book profit

Therefore, the maximum allowable working partners' salary for the A.Y. 2017-18 in this case would be:

Particulars	
On the first ₹ 3,00,000 of book profit [(₹ 1,50,000 or 90% of ₹ 3,00,000) whichever is more]	2,70,000
On the balance of book profit [60% of (₹ 4,90,000 - ₹ 3,00,000)]	<u>1,14,000</u>
Maximum allowable partners' salary	<u>3,84,000</u>

Hence, allowable working partners' salary for the A.Y. 2017-18 as per the provisions of section 40(b)(v) is ₹ 3,84,000.

(8 Marks)

Answer:4 (A)

S	Taxable/Not	Reason
.		

1	Taxable	Since ABC Private Limited, a closely held company, issued 10,000 shares at a premium (i.e., issue price exceeds the face value of shares), the excess of the issue price of the shares over the fair market value would be taxable under section 56(2)(viib) in its hands under the head "Income from other sources". Therefore, ₹ 1,00,000 [10,000 × ₹ 10 (₹ 130 – ₹ 120)] shall be taxable as income in the hands of ABC Private Limited under the head "Income from other sources".
2	Taxable	Any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset would be chargeable to tax under the head "Income from other sources", if such amount is forfeited and the negotiations do not result in transfer of such capital asset [Section 56(2)(ix)]. Therefore, the amount of ₹ 50,000 received as advance would be chargeable to tax in the hands of Mr. A under the head "Income from other sources", since it is forfeited on account of cancellation of contract for transfer of house, being a capital asset, due to non-payment of installment in time.
3	Not Taxable	As per section 56(2)(vii), immovable property received without consideration by a HUF from its relative is not taxable. In the present case, since Mr. N is a member of his father's HUF, he is a relative of the HUF. Hence, ₹ 10 lakhs, being the stamp duty value of house property received by HUF, without consideration,
4	Not Taxable	Car is not included in the definition of "property", for the purpose of taxability under section 56(2)(vii), in the hands of the recipient under the head "Income from other sources". Further, the same has been received by Sunil from his mother's brother, who falls within the definition of "relative". Hence, ₹ 5,00,000, being the fair market value of car received without consideration from a relative is not taxable in the hands of Sunil, even though its value exceeds ₹ 50,000.

(4 X 1.5Marks= 6 Marks)

Answer :4 (B)

Any payment by a company, other than a company in which the public are substantially interested, of any sum by way of advance or loan to an equity shareholder, being a person who is the beneficial owner of shares holding not less than 10% of the voting power, is deemed as dividend under section 2(22)(e), to the extent the company possesses accumulated profits.

- (i) The provisions of section 2(22)(e), however, will not apply where the loan is given by a company in which public are substantially interested. In such a case, the loan would not be taxable as deemed dividend in the hands of Rahul.
- (ii) However, if the loan is taken from a private company (i.e. a company in which the public are not substantially interested), which is a manufacturing company and not a company where lending of money is a substantial part of the business of the company, then, the provisions of section 2(22)(e) would be attracted, since Rahul holds more than 10% of the equity shares in the company.

The amount chargeable as deemed dividend cannot, however, exceed the accumulated profits held by the company on the date of giving the loan. Therefore, the amount taxable as deemed dividend in the hands of Rahul would be limited to the accumulated profit i.e., ₹ 4,00,000 and not the amount of loan which is ₹ 5,00,000.

Answer:5(A)

**Statement showing computation of depreciation allowable
to Sai Ltd. & Shirdi Ltd. for A.Y. 2017-18**

Particular	`
Written down value (WDV) as on 1.4.2016	40,00,00
Addition during the year (used for less than 180 days)	<u>14,40,00</u>
Total	<u>54,40,00</u>
Depreciation on ` 40,00,000 @ 15%	6,00,000
Depreciation on ` 14,40,000 @ 7.5%	<u>1,08,000</u>
Total depreciation for the year	<u>7,08,000</u>
Apportionment between two companies:	
(a) Amalgamating company, Sai Ltd.	
` 6,00,000 × 275/365	4,52,055
` 1,08,000 × 61/151	<u>43,629</u>
	<u>4,95,684</u>
(b) Amalgamated company, Shirdi Ltd.	
` 6,00,000 × 90/365	1,47,945
` 1,08,000 × 90/151	<u>64,371</u>
	<u>2,12,316</u>

Notes:

The aggregate deduction, in respect of depreciation allowable to the amalgamating company and amalgamated company in the case of amalgamation shall not exceed in any case, the deduction calculated at the prescribed rates as if the amalgamation had not taken place. Such deduction shall be apportioned between the amalgamating company and the amalgamated company in the ratio of the number of days for which the assets were used by them.

(4 Marks)

Answer:5 (B)

Assessee: Zara Previous Year: 2016-2017 Assessment Year: 2017-2018
Computation of Tax Payable

Particulars	`	`
Total Income of the Assessee	6,30,000	
Add: Agricultural Income	1,50,000	7,80,00
Tax on the above Income		
➤ At 20% on Long Capital Gains (`90,000 × 20%)	18,000	
➤ At 30% on Winning from Lotteries (`60,000 × 30%)	18,000	
➤ At 15% on Short Term Capital Gain u/s 111A (`30,000 × 15%)	4,500	
➤ Balance Income at Normal Rates (`7,80,000 – `90,000 – `60,000 – `30,000) [`25,000 + (`6,00,000 – `5,00,000) × 20%]	45,000	85,500
Less: Rebate for Agricultural Income		
➤ Agricultural Income + Basic Exception (`1,50,000 + `2,50,000)	4,00,000	

➤ Tax on above (₹4,00,000 – ₹2,50,000) × 10%		(1,500)
Net Tax Payable		70,500
Add: Education Cess 2%		1,410
Add: Secondary and Higher Education Cess at 1%		705
Net Tax Payable (Rounded Off)		72,620

Answer:5(C)

	Payer	Reasoning	Taxable Amt
1	Government	Royalty paid by Govt, is deemed to accrue or arise in India.	₹50,000
2	Close up Ltd (Resident Indian Company)	Technical Knowhow Fees paid by Resident is deemed to accrue or arise in India.	₹1,00,000
(3)	Mouthen Co. (Resident) for use in its business in Singapore & Malaysia.	Technical Knowhow Fees paid for usage of drawings outside India is not deemed to accrue or arise in India.	Not Taxable

(4)	Kishan (Non-Resident)	Technical Knowhow Fees paid by Non-resident for using the same in business in India is deemed to accrue or arise in India.	₹50,000
(5)	Mr. Yash (Non-Resident)	Amount paid by a Non-Resident for use of drawings outside India , is not deemed to accrue or arise in India.	Not Taxable