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SUGGESTED SOLUTION

INTERMEDIATE MAY 2019 EXAM

SUBJECT- DT

Test Code – CIM 8174

BRANCH - () (Date :)

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Answer 1:

(1) D **(1 mark)**

(2) C **(1 mark)**

(3) D **(1 mark)**

(4 D **(1 mark)**

(5) D **(1 mark)**

(6) A **(1 mark)**

(7) C **(1 mark)**

(8) B **(1 mark)**

(9)

(i) True : Section 139A(2) provides that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person ,whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed. **(1 mark)**

(ii) **False:** Section 140(b)provides that where the Karta of a HUF is absent from India, the return of income can be verified by any other adult member of the family; such member can be a male or female member. **(1 mark)**

(10) D **(1 mark)**

(11)

Assessee	Circumstance	Authorised Persons
Hindu Undivided Family	(i) in circumstances not covered under (ii) and (iii) below	- the karta
Company	(i) in circumstances not covered under (ii) to (v) below	- the managing director of thecompany
	(ii) (a) where for any unavoidable reason such managing director is not able to verify the return;or (b) where there is no managing director	- any director of the company - any director of the company
	(iii) where the company is not resident in India	a person who holds a valid power of attorney from such company to do so (such power of attorney should be attached to the return).

	(iv) (a) Where the company is being wound up (whether under the orders of a court or otherwise);or (b) where any person has been appointed as the receiver of any assets of thecompany	- Liquidator - Liquidator
	(v) Where the management of the company has been taken over by the Central Government or any State Government under any law	- the principal officer ofthe company
Firm	(i) in circumstances not covered under (ii) below	- the managing partnerof the firm
	(ii) (a) where for any unavoidable reason such managing partner is not able to verify the return;or (b) where there is no managing partner.	- any partner of thefirm, not being a minor - any partner of thefirm, not being a minor

(1 mark * 3 = 3 marks)

(12) A **(1 mark)**

Answer 2:

Assessee: Mr. Y **Previous Year : 2018 – 2019** **Assessment Year : 2019 - 2020**

Computation of Taxable Income and Tax Liability

Particulars			**Rs.**
1. Profits and Gains of Business or Profession	**Deduction from P ft**	**Addition to Profi t**	
Net Profit as per Profit & Loss A/c.		1,11,20,000	
Dividend Received from UTI (considered under "Income from Other Sources")	2,20,000		
Interest on Debentures (considered under "Income from Other Sources")	1,75,000		
Winning form Races (considered under "Income from Other Sources")	1,50,000		
Opening Stock (Earlier omitted, to be included)	80,000		
Closing Stock (Earlier omitted, to be included)		1,20,000	
Amount paid to Approved University u/s 35(1)(ii) = Eligible at 150% of the Amount donated [(Rs. 10,00,000 × 150%)] – Rs. 10,00,000 (Amount already debited in Income and Expenditure A/c)	5,00,000		
Salary to Brother [unreasonable or excess amount disallowed u/s 40A(2)]		25,000	
Car Expenses disallowed to the extent of Personal use (78,000 × ¼)		1,95,000	
Depreciation as per Books		5,50,000	
Depreciation as per IT Act	7,50,000		
Drawings disallowed being personal in Nature		1,00,000	

Investment in NSC		1,50,000	
Sub – Total	**18,75,000**	**1,22,60,000**	**1,03,85,000**
2. Income from Other Sources			
Dividend from UTI (Dividend from UTI is exempt u/s 10(35). So it is not taxable under IFOS.)		Exempt	
Interest on Debentures		1,75,000	
Winnings from Races		1,50,000	**3,25,000**
GROSS TOTAL INCOME			**1,07,10,000**
Less : Deduction under Chapter VI – A -			
U/s 80C – Investment in NSC (restricted to Rs. 1,50,000)			(1,50,000)
TOTAL INCOME			**1,05,60,000**
Tax thereon :			
Special Rate of Tax : For winnings from Horse Races [Rs. 1,50,000 × 30%]		45,000	
Normal Rate of Tax : [((Rs. 1,05,60,000 – Rs. 1,50,000 Races income) – Rs. 10,00,000) × 30% + Rs. 1,12,500]		29,35,500	29,80,500
Add : Surcharge @ 15% **(see Note 3)**			4,47,075
Tax including Surcharge			34,27,575
Add : HEC @ 4%			1,37,103
Tax Liability (Rounded off)			**35,64,678**

(7 marks)

Notes :

1. As per **Sec. 40 A (3)**, any payment in Cash made to any Transporter for the purpose of plying, hiring or leasing **goods carriage** shall be disallowed if it **exceeds Rs. 35,000 on any day**. In the given case, the assessee makes a payment of Rs. 30,000 in cash to A & Co., a Transport Operator on 31.01.2019. It is an allowable expenditure.
2. Advertisement Expense is incurred for the purpose of Business and hence allowed u/s 37. So, no adjustment is required to be made for the same.
3. When the **Total Income of the Assessee exceeds Rs. 1 Crore**, Tax Payable shall be increased by a **Surcharge @ 15%.**

(3 Marks)

Answer 3:

(A)

(i) Since the **annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012**, the maturity proceeds of Rs. 4.50 lakhs are not exempt under section 10(10D) in the hands of Mr. X. Therefore, tax is required to be deducted @1% under section 194DA on the maturity proceeds of Rs. 4.50 lakhs payable to Mr. X.

(ii) Since the **annual premium is less than 20% of sum assured in respect of a policy taken before 1.4.2012,** the sum of Rs. 2.75 lakhs due to Mr. Y would be exempt under section 10(10D) in his hands. Hence, no tax is required to be deducted at source under section 194DA on such sum payable to Mr. Y.

(iii) Even though the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, and consequently, the maturity proceeds of Rs. 95,000 would be exempted under section 10(10D). In the hands of Mr. Z, the tax deduction provisions under section 194DA are not attracted since the **maturity proceeds are less than Rs. 1 lakh.** **(2 marks * 3 = 6 marks)**

(B)

Computation of Gross Total Income of Mr. Batra for the A.Y. 2019-20

Particulars	Rs.	Rs.
Salaries	1,00,000	
Less: Current year loss from house property	(40,000)	60,000
Profit and gains of business or profession		
Income from textile business	50,000	
Less: Loss from textile business brought forward from A.Y. 2011-12	60,000	
Balance business loss of A.Y. 2011-12**[See Note 1]**	(10,000)	NIL
Income from the activity of owning and maintaining race horses	15,000	
Less: Loss from activity of owning and maintaining race horses brought forward from A.Y. 2016-17	25,000	
Loss to be carried forward to A.Y. 2020-21 **[See Note 2]**	(10,000)	NIL
Capital Gain		
Short term capital gain		1,40,000
Long term capital gain on sale of land	30,000	
Less: Long term capital loss on sale of unlisted shares	1,00,000	
Loss to be carried forward to A.Y. 2020-21 **[See Note 3]**	(70,000)	NIL
Gross Total Income		**2,00,000**

(4 marks)

Losses to be carried forward to A.Y. 2020-21

Particulars	Rs.
Current year loss from speculative business **[See Note-4]**	60,000
Current year long term capital loss on sale of unlisted shares	70,000
Loss from activity of owning and maintaining of race horse pertaining to A.Y.2016-17	10,000

(2 marks)

Notes:-

(1) As per section72(3), **business loss can be carried forward for a maximum of eight assessment years** immediately succeeding the assessment year for which the loss was first computed. Since the eight year period for carry forward of business loss of A.Y. 2011-12 expired in the A.Y. 2019-20, the balance unabsorbed business loss of Rs. 10,000 cannot be carried forward to A.Y.2020-21.

(2) As per section 74A(3), the **loss incurred on maintenance of race horses** cannot be set-off against income from any source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of **4 assessment years**.

(3) **Long-term capital loss on sale of unlisted shares can be set-off against long- term capital gain on sale of land**. The balance loss of Rs.70,000 cannot be set- off against short term capital gain

or against any other head of income. The same has to be carried forward for set-off against long-term capital gain of the subsequent assessment year. Such long-term capital loss can be carried forward for a maximum of eight assessment years.

(4) **Loss from speculation business** **cannot be set-off against any income other than profit and gains of another speculation business.** Such loss can, however, be carried forward for a **maximum of four years** as per section 73(4) to be set- off against income from speculation business. **(2 marks)**

Answer 4:

(A)

Assessee: Mr. Surinder **Previous Year : 2018 – 2019** **Assessment Year : 2019 – 2020**

Computation of Capital Gain on Sale of Inherited property

Particulars		**Rs.**
Sale Consideration Received		75,00,000
Less : Expenses on Transfer		(50,000)
Net Sale Consideration		74,50,000
Less : Indexed Cost of Acquisition = Cost of Acqn × $\frac{CII\ of\ Year\ of Transfer}{100}$ = Rs. 15,00,000 × $\frac{280}{100}$		(42,00,000)
Less : Indexed Cost of improvement $\left[\frac{CII\ of\ Year\ of\ Transfer}{CII\ of\ Year\ of\ Improvement} = \left(Rs. 10,00,000 \times \frac{280}{148}\right)\right] =$		(18,91,892)
Long Term Capital Gains		**13,58,108**
Less : Exemption u/s 54 = Least of the following		
Long Term Capital Gains	13,58,108	
Cost of New House acquired (given situation)	20,00,000	(13,58,108)
Taxable Long Term Capital Gains		**NIL**

(3 marks)

Working Notes :

1. **Nature of Capital Gain :** Residential House Property held from Dec. 2006 to 10.05.2018, i.e. more than 2 years. Hence, Long Term Capital Asset, and consequent Gain is LTCG.
2. **Cost :** Since Mr. Surinder inherited the property, **indexation benefit for Cost of Acquisition can be availed from the date of original acquisition by his father.** [CIT vs Manjula J. Shah 204 Taxmann 691(Bom.)]
3. If Cost of New House is Rs. 12,00,000, **exemption u/s 54 will be least of Rs. 13,58,108 and Rs. 12,00,000**, i.e. Rs. 12,00,000. Hence, Taxable Capital Gains will be Rs. 1,58,108, in such case.

(1.5 marks)

Computation of Short Term Capital Gain on Sale of Property within 1 year from date of acquisition (in Rs.)

Particulars			**Case (a)**	**Case (b)**
Sale Consideration			30,00,000	30,00,000
Less : Expenses on Transfer			NIL	NIL
Net Sale Consideration	Case (a)	Case (b)	30,00,000	30,00,000
Less : Cost of Acquisition : Original Cost	20,00,000	12,00,000		
Less : Exemption already claimed u/s 54	(13,58,108)	(4,00,000)	(6,41,892)	(Nil)
Short Term Capital Gain			**23,58,108**	**20,00,000**

(2 marks)

Note :

1. **U/s 54**, the **newly acquired property** shall be held by the Assessee for a period of **3 years** from the date of acquisition or completion of construction.
2. If the new property is being **transferred within 3 years**, then the Short Term Capital Gain on the newly acquired property shall be calculated by reducing the amount of Capital Gains exempted u/s 54 from the cost of the newly acquired property. **(1.5 Marks)**

(B)

(i) Tax is to be collected at source@1% on sale consideration of a motor vehicle exceeding Rs.10lakhs .It is applicable to **each sale and not to aggregate value of sale** made during theyear.

(ii) The provisions of TCS on sale of motor vehicle exceeding Rs. 10 lakhs is **not dependent on mode of payment.** Any sale of motor vehicle exceeding Rs. 10 lakhs would attract TCS@1%.

(iii) **Section 194J** provides for deduction of tax at source @10% from any sum paid by way of any remuneration or fees or commission, by whatever name called, to a resident director, **which is not in the nature of salary** on which tax is deductible under section 192. The **threshold limit of ` 30,000 upto which the provisions of tax deduction at source are not attracted in respect of every other payment covered under section 194J is, however, not applicable in respect of sum paid to a director**.

Therefore, tax@10% has to be deducted at source under section 194J in respect of the sum of ` 19,000 paid by ABC Ltd. to its director.

(1 mark * 3 = 3 marks)