



IPCC – November 2017

DIRECT TAXATION

Test Code – I N J 8034

Branch (MULTIPLE) (Date : 25.06.2017)

(50 Marks)

Note: All questions are compulsory.

Question 1(6marks)

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 recovered and arrears of rent would be allowed while computing income from house property of Mr. Aakarsh for A.Y.2017-18. (3 marks)

Computation of income from house property of Mr. Aakarsh for A.Y.2017-18

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

(3 marks)

Question 2 (5 marks)

Section 145A provides that interest received by the assessee on enhanced compensation shall be deemed to be the income of the assessee 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. (1 mark)

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

(1 mark)

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. (1 mark)

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

Particulars	
Interest on enhanced compensation taxable under section 56(2)(viii)	5,32,000
<i>Less:</i> Deduction under section 57(iv) (50% x ` 5,32,000)	<u>2,66,000</u>
Taxable interest on enhanced compensation	<u>2,66,000</u>

(2 marks)

Question 3 (12marks)

Computation of taxable salary of Mr. X for A.Y. 2017-18

Particulars	
Basic pay [(` 20,000×9) + (` 21,000×3)] = ` 1,80,000 + ` 63,000 (1 mark)	2,43,000
Dearness allowance [10% of basic pay] (1 mark)	24,300
Bonus (1 mark)	21,000
Employer's contribution to Recognized Provident Fund in excess of 12% (15%- 12% =3% of ` 2,67,300) [See Note 1 below] (2 marks)	8,019
Taxable allowances	
Telephone allowance (1mark)	6,000
Taxable perquisites	
Rent-free accommodation [See Note 1 & 2 below] (2marks)	44,145
Medical reimbursement (` 25,000 - ` 15,000) [See Note 4 below] (2marks)	10,000
Reimbursement of salary of housekeeper (1 mark)	12,000
Gift voucher [See Note 6 below] (1mark)	<u>10,000</u>
Salary income chargeable to tax	<u>3,78,464</u>

Notes:

1. It has been assumed that dearness allowance forms part of salary for retirement benefits and accordingly, the perquisite value of rent-free accommodation and employer's contribution to recognized provident fund have been worked out.
2. Where the accommodation is taken on lease or rent by the employer, the value of rent-free accommodation provided to employee would be actual amount of lease rental paid or payable by the employer or 15% of salary, whichever is lower.

For the purposes of valuation of rent free house, salary includes:

- (i) Basic salary i.e., ` 2,43,000
- (ii) Dearness allowance (assuming that it is included for calculating retirement benefits) i.e. ` 24,300
- (iii) Bonus i.e., ` 21,000
- (iv) Telephone allowance i.e., ` 6,000

Therefore, salary works out to 2,43,000 + 24,300 + 21,000 +6,000 = 2,94,300.

15% of salary = $2,94,300 \times 15/100 = 44,145$

Value of rent- free house = Lower of rent paid by the employer (i.e. ` 1,20,000) or 15% of salary (i.e., ` 44,145).

Therefore, the perquisite value is ` 44,145.

3. Facility of use of laptop is not a taxable perquisite.
4. Clause (v) of the proviso to section 17(2) exempts any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family to the extent of ` 15,000. Therefore, in this case, the balance of ` 10,000 (i.e., ` 25,000 – ` 15,000) is a taxable perquisite. Medical insurance premium paid by employer is exempt.
5. Conveyance allowance is exempt since it is based on actual reimbursement for official purposes.
6. The value of any gift or voucher or token in lieu of gift received by the employee or by member of his household below ` 5,000 in aggregate during the previous year is exempt. In this case, the gift voucher was received on the occasion of marriage anniversary and the sum exceeds the limit of ` 5,000.

Therefore, the entire amount of ` 10,000 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 ` 5,000.)

7. Premium of ` 5,000 paid by the company for personal accident policy is not liable to tax.

Question 4(12 marks)

Computation of business income of Mr. Om for the A.Y. 2017-18

Particulars	Rs.	Rs.
Net Profit as per profit and loss account		50,000
<i>Add:</i> Inadmissible expenses / losses		
Under valuation of closing stock (1mark)	18,000	
Salary paid to brother – unreasonable [Section 40A(2)] (1 mark)	2,000	
Printing and stationery paid in cash [Section 40A(3)] (1 mark)	23,200	
Depreciation (considered separately) (1mark)	1,05,000	
Short term capital loss on shares (1 mark)	8,100	
Donation to public charitable trust (1 mark)	2,000	<u>1,58,300</u>
		2,08,300
<i>Less:</i> Deductions items:		
Under valuation of opening stock (1mark)	9,000	
Income from UTI [Exempt under section 10(35)] (1mark)	2,400	<u>11,400</u>
Business income before depreciation		1,96,900

<i>Less:</i> Depreciation (See Note 1) (2marks)	<u>66,000</u>
Profits or Gains from business or profession	<u>1,30,900</u>

Computation of business income as per section 44AD – (2marks)

As per section 44AD, the business income would be 8% of turnover i.e., $1,17,11,500 \times 8 / 100 = \text{Rs. } 9,36,920$

The business income under section 44AD is **Rs. 9,36,920.**

In this case, Mr. Om is eligible to opt for presumptive taxation under section 44AD, since his turnover does not exceed Rs. 2 crore in the P.Y.2016-17. However, in his case, business income as per the normal provisions of the Act is lower than the presumptive income of Rs. 9,36,920 computed under section 44AD. Therefore, it is beneficial for him to compute business income as per the normal provisions of the Act. However, since his turnover exceeds Rs. 1 crore, he has to get his books of accounts audited under section 44AB, if he does not opt to declare his income as per the presumptive tax provisions of section 44AD.

Further, if he declares income as per presumptive tax provisions of section 44AD this year i.e., P.Y.2016-17, and he does not opt for presumptive taxation in any of the five succeeding previous years (i.e., from P.Y.2017-18 to P.Y.2021-22), say, for instance, in P.Y.2017-18, then he will not be eligible to opt for presumptive taxation for five assessment years succeeding the A.Y. 2018-19 relevant to the P.Y. 2017-18.

Notes:

1. Calculation of depreciation

Particulars	Rs.
WDV of the block of plant & machinery as on 1.4.2016	4,20,000
<i>Add:</i> Cost of new plant & machinery	70,000
	4,90,000
<i>Less:</i> Sale proceeds of assets sold	50,000
WDV of the block of plant & machinery as on 31.3.2017	4,40,000
Depreciation @ 15%	66,000
No additional depreciation is allowable as the assessee is not engaged in manufacture or production of any article.	

2. Since sales-tax liability has been paid before the due date of filing return of income under section 139(1), the same is deductible.

In this case, the voyage is undertaken by an Indian ship engaged in the carriage of passengers in international traffic, originating from a port in India (i.e., the Chennai port) and having its destination at a port outside India (i.e., the Singapore port). Hence, the voyage is an eligible voyage for the purposes of section 6(1). Therefore, the period beginning from 6th June, 2016 and ending on 9th December, 2016, being the dates entered into the Continuous Discharge Certificate in respect of joining the ship and signing off from the ship by Mr. Anand, an Indian citizen who is a member of the crew of the ship, has to be excluded for computing the period of his stay in India. Accordingly, 187 days [25+31+31+30+31+30+9] have to be excluded from the period of his stay in India. Consequently, Mr. Anand's period of stay in India during the P.Y.2016-17 would be 178 days [i.e., 365 days – 187 days]. Since his period of stay in India during the P.Y.2016-17 is less than 182 days, he is a non-resident for A.Y.2017-18.

(Note - Since the residential status of Mr. Anand is "non-resident" for A.Y.2017-18 consequent to his number of days of stay in P.Y.2016-17 being less than 182 days, his period of stay in the earlier previous years become irrelevant.)

Question 6 (5 marks)(1 mark for each sub- question)

Computation of gross total income of Mr. Suhaan for the A.Y. 2017-18

	Particulars	Resident & ordinarily resident	Resident but not ordinarily resident	Non-Resident
		R`	`	`
(a)	Income earned from business in France which is controlled from Mumbai, out of which ` 65,000 is received in India	90,000	90,000	65,000
(b)	Pension for services rendered in India but received in France	14,000	14,000	14,000
(c)	Dividend received in France from a Titanium Inc., a French company	25,000	-	-
(d)	Rent from property in France deposited in a bank in France	59,500	-	-
(e)	Dividend from Sunset Ltd., an Indian Company	-	-	-
Gross Total Income		1,88,500	1,04,000	79,000

Notes:

(a) As per section 5(1), global income is taxable in case of a resident. However, as per section 5(2), in case of a non-resident, only the following incomes are chargeable to tax in India:

- (i) Income received or deemed to be received in India; and
- (ii) Income accruing or arising or deemed to accrue or arise in India.

Further, the income which accrues or arise outside India would be chargeable to tax in case of resident but not ordinarily resident in India, only if such income is derived from a business controlled in India.

Accordingly, the entire income earned from business in France which is controlled from Mumbai would be chargeable to tax in the hands of Mr. Suhaan if he is a resident in India or resident but not ordinarily resident. However, if he is non-resident then only that part of income which is received in India would be taxable in his hands.

- (b) Pension for services rendered in India but received in France would be taxable in all cases, since it has accrued or arisen in India.
- (c) Dividend received in France from a French company would be taxable in the hands of Mr. Suhaan, only if he is resident and ordinarily resident in India. If he is a resident but not ordinarily resident or a non-resident, the same would not be taxable in his hands in India since it has neither accrued or arisen in India nor is it received in India.
- (d) Likewise, rental income from property in France would also be taxable only if he is resident in India. It has been assumed that the rental income is the gross annual value of the property. Therefore, deduction @30% under section 24, has been provided and the net income so computed is taken into account for determining the gross total income of a resident and ordinarily resident.

Rent received (assumed as gross annual value)	85,000
Less: Deduction under section 24 (30% of ` 85,000)	25,500
Income from house property	59,500

- (e) Dividend from Indian company is exempt under section 10(34), whether the recipient is a resident, resident but not-ordinarily resident or non-resident.

Question 7 (5 marks)

Write short note on “Income accruing” and “Income due”. Can an income which has been taxed on accrual basis be assessed again on receipt basis ?

Solution:

‘Accrue’ refers to the right to receive income, whereas ‘due’ refers to the right to enforce payment of the same. For e.g. salary for work done in December will ‘accrue’ throughout the month, day to day, but will become ‘due’ on the salary bill being passed on 31st December or 1st January. Similarly, on Government securities, interest payable on specified dates arise during the period of holding, day to day, but will become ‘due’ for payment on the specified dates.

Income which has been taxed on accrual basis cannot be assessed again on receipt basis, as it will amount to double taxation. For example, when interest on bank deposit is offered on accrual basis, amounts received on maturity of such deposit including interest thereon cannot be treated as income again.
