



## IPCC – November 2017

DIRECT TAXATION

Test Code – 8066

Branch (MULTIPLE) (Date : 23.07.2017)

(50 Marks)

**Note: All questions are compulsory.**

### Question 1(6marks)

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>

**(3 marks)**

### Question 2 (6 marks)

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.

- 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. **(2 marks)**
- 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. **(3 marks)**

**Question 3 (6marks) (2 Marks each)**

- (a) Since the rent paid for hire of machinery by Trip Ltd. to Mr. Kartik exceeds ` 1,80,000, the provisions of section 194-I for deduction of tax at source are attracted.

The rate applicable for deduction of tax at source under section 194-I on rent paid for hire of plant and machinery is 2%, assuming that Mr. Kartik has furnished his permanent account number to Trip Ltd.

Therefore, the amount of tax to be deducted at source: = ` 2,50,000 x 2% = ` 5,000.

**Note:** In case Mr. Kartik has not furnished his permanent account number to Trip Ltd., tax shall be deducted @ 20% on ` 2,50,000, by virtue of provisions of section 206AA.

- (b) As per the provisions of section 194J, a Hindu Undivided Family is required to deduct tax at source on fees paid for professional services only if it is subject to tax audit under section 44AB in the financial year preceding the current financial year.

However, if such payment made for professional services is exclusively for the personal purpose of any member of Hindu Undivided Family, then, the liability to deduct tax is not attracted.

Therefore, even if Verma (HUF) is liable to tax audit in the immediately preceding financial year, the liability to deduct tax at source is not attracted in this case since, the fees for professional service to Dr. Sarthak is paid for a personal purpose i.e. the surgery of a member of the family.

- (c) 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 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, in this case, tax@10% has to be deducted at source under section 194J in respect of the sum of ` 29,000 paid by XYZ Ltd. to its director. Thus, tax of ` 2,900 has to be deducted at source.

**Question 4(6 marks) (2 Marks each)**

- (i) **False:** A proviso has been inserted in section 80CCD(3) to provide that the amount received by the nominee, on closure of NPS account on the death of the assessee, shall not be deemed to be the income of the nominee.

Therefore, ` 9 lakhs, being the amount received by Mrs. Leena, widow of Mr. Sahitya as a nominee on closure of NPS account on his death would not be deemed as income in herhands.

- (ii) **False,** as per section 80GG, least of the following is allowed as deduction:

- (a) Actual rent paid less 10% of total income

$$96,000 \text{ minus } \frac{(10 \times 3,80,000)}{100}$$

= 58,000

(b) 25% of total income  
$$\frac{25 \times 3,80,000}{100} = ₹ 95,000$$

(jj) Amount calculated at ₹ 5,000 p.m. = ₹ 60,000

Thus, Mr. Gopal is eligible to claim deduction of only ₹ 58,000 under section 80GG and not a flat deduction of ₹ 60,000.

- (iii) **False:** Mr. Anay has to pay ₹ 2,64,000 ( $₹ 32,00,000 \times 11\% \times 9/12$ ) towards interest on housing loan during the previous year 2016-17. He would be eligible to claim ₹ 2,00,000 as deduction under section 24(b) under the head "Income from House Property". In addition, he can claim deduction of ₹ 50,000 under section 80EE from gross total income, in respect of the balance amount of ₹ 64,000 ( $₹ 2,64,000 - ₹ 2,00,000$ ) during the P.Y. 2016-17.

**Question 5 (4 marks)(1 mark each)**

- (a) **False:** Any payment from an approved superannuation fund made by way of transfer to the account of an employee under a notified pension scheme referred to in section 80CCD is exempt under section 10(13). Since Atal Pension Yojana is a notified pension scheme under section 80CCD, the payment of ₹ 12 lakhs made by T Ltd. by way of transfer from an approved superannuation fund to Mr. S wayam's account under such scheme is exempt under section 10(13).
- (b) **False:** Section 10(2) exempts any sum received by an individual as a member of a HUF where such sum has been paid out of the income of the family. Therefore, ₹ 12,000 would not be included in Mr. Arpit's taxable income.
- (c) **False:** As per section 115BBDA, dividend in excess of ₹ 10 lakhs would be chargeable to tax @10% in the hands of, *inter alia*, an individual, resident in India. Section 10(34) exempts dividend distributed by domestic companies in the hands of the recipient, since the same has been subject to dividend distribution tax under section 115-O in the hands of the company. However, the amount of dividend which is chargeable to tax under section 115BBDA would not be exempt under section 10(34). Accordingly, dividend received upto ₹ 10 lakh would be exempt under section 10(34) in the hands of Ms. Arpita. However, dividend in excess of ₹ 10 lakh i.e., ₹ 2 lakhs, would be taxable@10% in her hands.
- (d) **False:** Exemption under section 10(26AAA) is available to a Sikkimese individual not only in respect of income from any source in the state of Sikkim, but also in respect of income by way of dividend or interest on securities.

**Question 6 (6 marks)**

**Computation of Gross Total Income of Ms. Geeta for the Assessment Year 2017-18 (4 Marks)**

Particulars	
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<b>Profits and gains of business and profession</b>		
Salary received as a partner from a partnership firm is taxable under the head "Profits and gains of business and profession"		7,50,000
Less: Brought forward business loss of Assessment Year 2016-17 to be set-off against business income		<u>7,50,000</u>
		Nil
<b>Capital Gains</b>		
Long term capital gain on sale of land (See Note 2)		5,00,000
<b>Income from other sources</b>		
Cash gift received from friends - since the value of cash gift exceeds ` 50,000, the entire sum is taxable	51,000	
Dividend received from a domestic company is exempt under section 10(34)	Nil	51,000
<b>Gross Total Income</b>		<u><b>5,51,000</b></u>

**Notes :**

1. Balance brought forward business loss of assessment year 2016-17 of ` 5,00,000 has to be carried forward to the next year. **(1 Mark)**
2. Long-term capital loss on sale of shares cannot be set-off against long-term capital gain on sale of land since loss from an exempt source cannot be set-off against profit from a taxable source. Since long-term capital gain on sale of listed shares on which STT is paid is exempt under section 10(38), loss on sale of listed shares is a loss from an exempt source. So, it cannot be set-off against long-term capital gain on sale of land, which is a profit from a taxable source. **(1 Mark)**

**Question 7 (4 marks)**

Since Mr. Vardaan has income only under the heads "Salaries", "Income from house property" and "Income from other sources", he does not fall under the category of a person whose accounts are required to be audited under the Income -tax Act, 1961 or any other law in force. Therefore, the due date of filing return for A.Y.2017 -18 under section 139(1), in his case, is 31<sup>st</sup> July, 2017. Since Mr. Vardaan had submitted his return of income only on 30.11.2017, the said return is a belated return under section 139(4). **(2 marks)**

Section 139(5) now permits a return furnished under section 139(1) as well as a belated return furnished under section 139(4) to be revised. Thus, a belated return under section 139(4) can also be revised. The time limit for filing a revised return is one year from the end of the relevant assessment year. In this case, the time limit would expire only on 31.3.2019. He has discovered the mistake in May 2018 itself. Therefore, Mr. Vardaan can revise the belated return of income filed by him to claim deduction under section 80C, since the time limit of one year from the end of the relevant assessment year has not elapsed. **(2 marks)**

**Question 8 (6 marks)**

**Computation of Taxable Income of Mr. Shiv for the A.Y. 2017-18**

Particulars	Rs.	Rs.
<b>Salaries (1 Mark)</b>		
Income from Salary (Rs. 50,000 × 12)	6,00,000	

Less: Loss from house property in respect of which Mr. Shiv is the deemed owner to be set off against his salary income as per section 71(1) [See Note 1] <b>(1 Mark)</b>	<u>90,000</u>	5,10,000
<b>Capital Gains</b>		
Long term capital gain	70,000	
Less: Brought forward short term capital loss of A.Y. 2014-15 set off against current year long-term capital gain as per section 74(1) & (2) [See Note 2] <b>(1 Mark)</b>	<u>70,000</u>	Nil
Balance short-term capital loss of Rs. 29,000 (Rs. 99,000 – Rs. 70,000) of A.Y.2014-15 to be carried forward to A.Y. 2018-19 [See Note 2] <b>(1 Mark)</b>		
<b>Income from Other Sources</b>		
Interest on fixed deposit with SBI (Rs. 72,000 × 100/90) <b>(1 Mark)</b>	80,000	
Less: Business loss incurred by wife includible in Mr. Shiv's hands set off against interest income as per section 71(1) [See Notes 3 & 4] <b>(1/2 Mark)</b>	<u>80,000</u>	Nil
Balance business loss of Rs. 1,70,000 (Rs. 2,50,000 – Rs. 80,000) to be carried forward to A.Y. 2018 -19 <b>(1/2 Mark)</b>		
<b>Taxable Income</b>		<u>510000</u>

**Notes:**

- (1) As per section 27(i), Mr. Shiv is the deemed owner of the house transferred to his minor son without adequate consideration. Hence, the income from house property would be assessable in Mr. Shiv's hands. Since there is a loss from house property transferred to minor son without adequate consideration, Mr. Shiv can set-off the same against salary income, since he is the deemed owner of such property.
- (2) As per section 74(1) and 74(2), brought forward short-term capital loss can be set-off against long-term capital gains. Unabsorbed short-term capital loss can be carried forward for a maximum of eight assessment years (upto A.Y.202 2-23, in this case) for set-off against capital gains.
- (3) As per section 64(1)(iv), income from funds gifted to spouse by an individual and invested in business by the spouse is includible in the hands of the individual. As per *Explanation 2* to section 64, income includes "loss". Hence, in the given case, loss arising out of the business carried on by Mr. Shiv's wife is to be included in the income of Mr. Shiv, as she has carried on business with the funds gifted to her by Mr. Shiv.

- (4) As per section 71(2A), business loss cannot be set-off against salary income. However, the same can be set-off against income from other sources (consisting of interest on fixed deposit).

**Question 9 (6 marks)**

In the given case, Mr. Rakesh gifted a sum of Rs. 5 lacs to his brother's minor daughter on 16.4.2016 and simultaneously, his brother gifted debentures worth Rs. 6 lacs to Mr. Rakesh's wife on 18.4.2016. Mr. Rakesh's brother's minor daughter invested the gifted amount of Rs. 5 lacs in fixed deposit with Bank of India.

These transfers are in the nature of cross transfers. Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted<sup>1</sup>.

As per section 64(1A), all income of a minor child is includible in the hands of the parent, whose total income, before including minor's income is higher. Accordingly, the interest income arising to Mr. Rakesh's brother's daughter from fixed deposits would be included in the total income of Mr. Rakesh's brother, assuming that Mr. Rakesh's brother's total income is higher than his wife's total income, before including minor's income. Mr. Rakesh's brother can claim exemption of Rs. 1,500 under section 10(32). **(2 Marks)**

Interest on debentures arising in the hands of Mrs. Rakesh would be taxable in the hands of Mr. Rakesh as per section 64(1)(iv). **(1 Mark)**

This is because both Mr. Rakesh and his brother are the indirect transferors of the income to their spouse and minor daughter, respectively, with an intention to reduce their burden of taxation. **(1 Mark)**

In the hands of Mr. Rakesh, interest received by his spouse on debentures of Rs. 5 lacs alone would be included and not the entire interest income on the debentures of Rs. 6 lacs, since the cross transfer is only to the extent of Rs. 5 lacs.

Hence, only proportional interest (i.e.,  $\frac{5}{6}$ <sup>th</sup> of interest on debentures received) Rs. 37,500 would be includible in the hands of Mr. Rakesh. **(2 Marks)**

The provisions of section 56(2)(vii) are not attracted in respect of sum of money transferred or value of debentures transferred, since in both the cases, the transfer is from a relative.

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