

IPCC – November 2017

DIRECT TAXATION

Test Code – 8095

Branch (MULTIPLE) (Date : 03.09.2017)

(50 Marks)



Note: All questions are compulsory.

Question 1(6marks)

Since the assessee is a resident and ordinarily resident in India, her global income would form part of her total income i.e., income earned in India as well as outside India will form part of her total income.

She possesses a self-occupied house at Los Angeles as well as at Chennai. At her option, one house shall be treated as self-occupied, whose annual value will be nil. The other self-occupied house property will be treated as "deemed let out property".

The annual value of the Los Angeles house is ` 12,00,000 and the Chennai flat is ` 3,15,000. Since the annual value of Los Angeles house is obviously more, it will be beneficial for her to opt for choosing the same as self-occupied. The Chennai house will, therefore, be treated as "deemed let out property".

As regards the Bangalore house, arrears of rent will be chargeable to tax as income from house property in the year of receipt under section 25A. It is not essential that the assessee should continue to be the owner. 30% of the arrears of rent shall be allowed as deduction.

Accordingly, the income from house property of Mrs. Rohini Ravi will be calculated as under:

	Particulars		
1.	Self-occupied house at Los Angeles (2 marks)		
	Annual value	Nil	
	Less: Deduction under section 24	Nil	
	Chargeable income from this house property		Nil
2.	Deemed let out house property at Chennai(3 marks)		
	Annual value (Higher of municipal value and fair rent) [4,20,000 x 9/12]		3,15,000
	Less: Municipal Taxes (Property tax + Sewerage tax)		<u>18,000</u>
	Net Annual Value (NAV)		2,97,000
	Less: Deductions under section 24		
	30% of NAV	89,100	
	Interest on borrowed capital (See Note below)	<u>1,91,940</u>	<u>2,81,040</u>
			15,960
3.	Arrears in respect of Bangalore property(Section 25A) (1 mark)		
	Arrears of rent received	60,000	
	Less: Deduction @ 30%u/s 25A(2)	<u>18,000</u>	<u>42,000</u>
	Income chargeable under the head"Income from house property"		<u>57,960</u>

Note : Interest on borrowed capital	
Interest for the current year (₹ 50,800 + ₹ 1,31,300)	1,82,100
Add: 1/5th of pre-construction interest (₹ 49,200 x 1/5)	<u>9,840</u>
Interest deduction allowable under section 24	<u>1,91,940</u>

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: (2 marks)

Particulars	₹
Interest on enhanced compensation taxable under section 56(2)(viii)	5,32,000
Less: 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>

Question 3 (12marks)

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

(one mark for each point)

Particulars	₹
Basic pay [(₹ 25,000×11) + (₹ 27,500×1)] = ₹ 2,75,000 + ₹ 27,500	3,02,500
Dearness allowance [15% of basic pay]	45,375
Bonus [₹ 27,500 × 1.5]	41,250
Employer's contribution to Recognized Provident Fund in excess of 12% (18% - 12% = 6% of ₹ 3,47,875)	20,873
Taxable allowances	
Telephone allowance	12,000
Taxable perquisites	
Rent-free accommodation [See Note 1 below]	60,169
Medical reimbursement (₹ 40,000 - ₹ 15,000) [See Note 2 below]	25,000
Reimbursement of salary of housekeeper [₹ 2,000 × 12]	24,000
Gift voucher [See Note 4 below]	-

Motor car owned and driven by employee, running and maintenance charges borne by the employer [` 36,600 - ` 21,600 (i.e., ` 1,800 × 12)]	15,000
Value of free lunch facility [See Note 5 below]	-
Salary income chargeable to tax	5,46,167

Notes:

1. 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	` 3,02,500
(ii) Dearness allowance	` 45,375
(iii) Bonus	` 41,250
(iv) Telephone allowance	<u>` 12,000</u>
Total	<u>` 4,01,125</u>

15% of salary = ` 4,01,125 × 15/100 = ` 60,169

Value of rent-free house will be

- Actual amount of lease rental paid by employer (i.e. ` 1,80,000) or
 - 15% of salary (i.e., ` 60,169),
- whichever is lower.

Therefore, the perquisite value is ` 60,169.

2. 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 is

exempt to the extent of ` 15,000. Therefore, in this case, the balance of

` 25,000 (i.e., ` 40,000 – ` 15,000) is a taxable perquisite.

3. Medical insurance premium paid by the employer to effect an insurance on the health of the employee is fully exempt.

4. If the value of any gift or voucher or token in lieu of gift received by the employee or by member of his household is less than ` 5,000 in aggregate during the previous year, the perquisite value is Nil. In this case, the gift voucher was received on the occasion of marriage anniversary and the sum is less than ` 5,000. Therefore, the perquisite value of gift voucher, is Nil.

5. Free lunch provided by the employer during office hours is not a perquisite, assuming that the value does not exceed ` 50 per meal.

Question 4(12 marks)

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

Particulars		
Profit and gains of business or profession (8 marks)		
Net profit as per profit and loss account		5,00,000
Add: Excess commission paid to brother disallowed under section 40A(2)	10,000	
Disallowance under section 40A(3) is not attracted since the limit	Nil	

for one time cash payment '35,000 in respect of payment to transport operators. Therefore amount of 33,000 paid in cash to a transport carries is allowable as deduction .		
Salary paid to staff not recorded in the books (Assuming that the expenditure is in nature of unexplained expenditure and hence, is deemed to be income as per section 69C and would be taxable @30% under section 115BBE- no deduction allowable in respect of such expenditure [See Note 1below])	48,000	
Bank term loan interest paid after the due date of filing of return under section 139(1) –disallowed as per section 43B	40,000	
State VAT penalty paid disallowed [See Note 2 below]	5,000	
Depreciation debited to profit and loss account	<u>2,00,000</u>	<u>3,03,000</u>
		8,03,000
Less: Dividend from domestic companies [Exempt under section 10(34)]	15,000	
Income from agriculture [Exempt under section 10(1)]	1,80,000	
Depreciation under the Income tax Act 1961 (As per working note)	<u>2,25,000</u>	<u>4,20,000</u>
		3,83,000
Income from house property (3 marks)		
Annual value of self –occupied property	Nil	
Less: Deduction under section 24(b) –Interest on housing loan	<u>23,000</u>	<u>(23,000)</u>
Gross Total Income		3,60,000
Less: Deduction under section 80C in respect of Principal repayment of housing loan (1 mark)		<u>50,000</u>
Total Income		<u>3,10,000</u>

Working Notes:

Computation of depreciation under the Income-tax Act, 1961

Particulars	
Depreciation @15% on 14 lakh (Opening WDV of 12Lakh plus assets Purchased during the year and used for more than 180 days 2lakh)	2,10,000
Depreciation @7.5% on 2 lakh (Cost of assets used for less than 180 days)	15,000
	<u>2,25,000</u>

Notes (Alternate views):

1. It is also possible to take a view that the salary not recorded in the books of account was an erroneous omission and that the assessee has offered satisfactory explanation for the same. In such a case, the same should not be added back as unexplained expenditure, but would be allowable as deduction while computing profits and gains of business and profession.
2. Where the imposition of penalty is not for delay in payment of sales tax or VAT but for contravention of provisions of the Sales Tax Act (or VAT Act), the levy is not compensatory and therefore, not deductible. However, if the levy is compensatory in nature, it would be

fully allowable. Where it is a composite levy, the portion which is compensatory is allowable and that portion which is penal is to be disallowed.

3. Since the question only mentions "State VAT penalty paid" and the reason for levy of penalty is not given, it has been assumed that the levy is not compensatory and therefore, not deductible. It is, however, possible to assume that such levy is compensatory in nature and hence, allowable as deduction. In such a case, the total income would be ` 3,05,000

Question 5 (5 marks)

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)

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	<u>59,500</u>

(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)

‘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. **(2 ½ marks)**

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. **(2 ½ marks)**
