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SUGGESTED SOLUTION
IPCC NOVEMBER 2016 EXAM

DIRECT TAX

Test Code - I N J 1 0 6 1

BRANCH - (MUMBAI) (Date :12.06.2016)

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Answer-1 (a) :

In the instant case, it is an application of income and in the nature of foregoing of salary. According to the Supreme Court judgment in CIT v. L.W. Russel (1964) 52 ITR 91, the salary which has been foregone after its accrual in the hands of the employee is taxable. Hence, the amount paid by the employer to a charity as per the employee's directions is taxable in the hands of the employee.

(2 Marks)**Answer-1 (b) :**

The residential status of Mrs. Geetha and Mrs. Leena has to be determined on the basis of the number of days of their stay in India. Since Mrs. Geetha is settled in Malaysia since 1986, she would be a non-resident for A.Y.2016-17. Her visit to India for a month every year would not change her residential status. However, Mrs. Leena would be resident and ordinarily resident for A.Y.2016-17, since she is settled in India permanently since 1994.

Based on their residential status, the total income of Mrs. Geetha and Mrs. Leena would be determined as follows:

Computation of total income of Mrs. Geetha & Mrs. Leena for the A.Y. 2016-17

S. No.	Particulars	Mrs. Geetha (Non-Resident) (Rs.)	Mrs. Leena (Resident) (Rs.)
1.	Income from profession in Malaysia (set up in India) received there (Note 1)	-	-
2.	Profit from business in Delhi, but managed directly from Malaysia (Note 1)	40,000	-
3.	Rent (computed) from property in Malaysia deposited in a Bank at Malaysia, later on remitted to India through approved banking channels (Note 1)	-	-
4.	Dividend from PQR Ltd. an Indian Company [Exempt under section 10(34)]	-	-
5.	Dividend from Malaysian Company received in Malaysia (Note 1)	-	8,000
6.	Cash gift received from a friend on Mrs. Leena's 50th birthday Note: As per section 56(2)(vii), cash gifts received from a non-relative would be taxable, if the amount exceeds Rs. 50,000 in aggregate during the previous year.	-	51,000
7.	Agricultural income from land in Maharashtra [Exempt under section 10(1), both in the hands of non-resident and resident].	-	-
8.	Past foreign untaxed income brought to India [Not taxable, since it does not represent income of the P.Y.2015-16].	-	-
9.	Fees for technical services rendered in India, but received in Malaysia (Note 1)	25,000	-
10.	Income from a business in Pune (Mrs. Geetha receives 50% of the income in India) (Note 2)	12,000	15,000
11.	Interest on debentures in an Indian company (Mrs. Geetha received the same in Malaysia) (Note 2)	18,500	14,000
12.	Short-term capital gain on sale of shares of an Indian company (Note 2)	15,000	25,500
13.	Interest on savings account with SBI (Note 2)	12,000	8,000
	Gross Total income	1,22,500	1,21,500
Less:	Deductions under Chapter VIA		
	- Section 80C [Life insurance premium paid] [Assuming that premium paid is within the specified percentage (10% /20%, as the case may be) of capital sum assured]	-	30,000
	- Section 80TTA (In case of an individual, interest upto Rs. 10,000 from savings account with, inter alia, a bank is allowable as deduction under section 80TTA)	10,000	8,000
	Total Income	1,12,500	83,500

Notes:

- (1) As per section 5(1), global income is taxable, in case of a resident. However, as per section 5(2), only the following incomes are chargeable to tax, in case of a non-resident:
- Income received or deemed to be received in India; and
 - Income accruing or arising or deemed to accrue or arise in India.

Therefore, income from profession in Malaysia, rent from property in Malaysia and dividend from Malaysian company received in Malaysia by Mrs. Geetha, a non-resident, would not be taxable in India, since both the accrual and receipt are outside India.

However, profit from business in Delhi would be taxable in India in the hands of Mrs. Geetha, even though it is managed directly from Malaysia.

(2 Marks)

Further, by virtue of section 9(1)(vii), fees for technical services rendered in India would also be taxable in the hands of Mrs. Geetha, since it is deemed to accrue or arise in India.

- (2) The income referred to in S. No. 10, 11, 12 and 13 are taxable in the hands of both Mrs. Geetha and Mrs. Leena due to their accrual/deemed accrual in India, even though a part of income from business in Pune and the entire interest on debentures in Indian company is received by Mrs. Geetha outside India.

(1 Mark)

Answer-2 (a) :**Computation of business income of Nathan Aviation Ltd.**

Particulars	Rs. (in lacs)
Total profit derived from Units S & N (Rs. 13 lacs + Rs. 4 lacs)	17
Less: Exemption under section 10AA [See Working Note below]	<u>12</u>
	5
Less: Brought forward business loss	<u>2</u>
	<u>3</u>

(4 Marks)

Working Note**Computation of exemption under section 10AA in respect of Unit S located in a SEZ**

Particulars	Rs. (in lacs)
Domestic turnover of Unit S	10
Export turnover of Unit S	<u>120</u>
Total turnover of Unit S	<u>130</u>
Profit derived from Unit S	13
Exemption under section 10AA	
Profit of Unit S $\times \frac{\text{Export Turnover of unit S}}{\text{Total turnover of Unit S}} = 13 \times \frac{120}{130} =$	12

(4 Marks)

Answer-2 (b) :

Under section 13A, a political party registered under section 29A of the Representation of the People Act, 1951, can claim exemption under the following heads - Income from house property, capital gains and income from other sources. Income by way of voluntary contributions received by such political party is also exempt under section 13A.

These exemptions are subject to the following conditions:-

- The political party must keep and maintain such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom.
- The political party should keep and maintain a record of each such voluntary contribution in excess of Rs. 20,000 and the names and addresses of such contributors, the date of receipt and such other details as may be relevant or appropriate.
- The accounts of the political party must be audited by a chartered accountant.

- (iv) A report under section 29C(3) of the Representation of People Act, 1951 has to be submitted by the treasurer of such political party or any other person authorised by the political party in this behalf for every financial year.

(4 x 1 = 4 Marks)

Answer-3 :

Computation of taxable income of Mr. Harish for the A.Y. 2016-17

Particulars	Rs.	Rs.
Basic salary (Rs. 50,000 x 12)		6,00,000
Dearness allowance @ 40% of basic salary		2,40,000
Transport allowance (Rs. 3,000 x 12)	36,000	
Less : Exemption under section 10(14) (Rs. 1,600 x 12)	<u>19,200</u>	16,800
Motor car running & maintenance charges paid by employer (See Note-1)		28,800
Expenditure on accommodation in hotels while touring on official duty is not a perquisite in the hands of employee and hence not chargeable to tax		Nil
Loan from recognized provident fund – not chargeable to tax		Nil
Value of lunch provided during office hours	24,000	
Less: Exempt under Rule 3(7)(iii) (See Note-2)	<u>15,000</u>	9,000
Computer provided in the residence of employee by the employer – not chargeable to tax [Rule 3(7)(vii)]		<u>Nil</u>
Gross Salary		8,94,600
Less : Deduction under Chapter VI-A		
Deduction under section 80D in respect of medical insurance premium paid by cheque amounting to Rs.25,700 but restricted to Rs.25,000 (See Note-3)		<u>25,000</u>
Taxable income		<u>8,69,600</u>

(5 Marks)

Notes:

- As per Rule 3(2), if the motor car (whose engine cubic capacity is above 1.60 litres) is owned by the employer and is used for both official and personal purpose by the employee, then, the value of perquisite for use of motor car would be Rs. 2,400 per month. Therefore value of perquisite for use of motor car would be Rs. 2,400 x 12 = Rs. 28,800
- As per Rule 3(7)(iii), lunch provided by the employer during office hours is not considered as perquisite upto Rs.50 per meal. Since, the number of working days is not given in the question, it is assumed to be 300 days during the F.Y. 2015-16. Therefore, Rs. 15,000 (i.e. 300 x Rs. 50) would be exempt and the balance Rs. 9,000 (i.e. Rs. 24,000 - Rs. 15,000) would be taxable.
- Medical insurance premium paid in cash of Rs. 4,800 is not allowable as deduction under section 80D. Further, deduction for medical insurance premium paid through cheque is restricted to Rs.25,000, which is the maximum deduction allowable.

(1 Mark)

Answer-4 :

Computation of Total Income of Mrs. Lakshmi for A.Y. 2016-17

Particulars	Rs.	Rs.
Income from salary		
Basic salary		6,00,000
Dearness allowance		2,40,000
Bonus		1,00,000
Commission (calculated as percentage of turnover)		1,50,000
Entertainment allowance		30,000
Children's hostel allowance	15,000	
Less : Exemption (Rs. 300 x 12 x 2)	<u>7,200</u>	7,800
Interest credited to recognized provident fund account (exempt)		-
Rent free unfurnished accommodation		

(Refer Working Note 1)		70,000
Excess contribution to PF by employer		
(Refer Working Note 2)		<u>1,81,200</u>
Gross salary		13,79,000
Less : Deduction under section 80C		
Life insurance premium paid for insurance of major son	15,000	
Contribution to recognized provident fund	<u>3,00,000</u>	
	<u>3,15,000</u>	
Restricted to	1,50,000	
Deduction under section 80CCC in respect of LIC pension fund	<u>50,000</u>	
	2,00,000	
Deduction limited to Rs. 1,50,000 as per section 80CCE		1,50,000
Deduction under section 80D		<u>12,000</u>
Total income before deduction under section 80G		12,17,000
Deduction under section 80G :		
50% of Rs. 1,21,700 (10% total income)(Refer Working Note 3)		<u>60,850</u>
Total income		<u>11,56,150</u>
Tax on total income [20,000 + 1,00,000 + (11,56,150 - 10,00,000) x 30%]		1,66,845
Add : Education cess @ 2%		3,337
Add : Secondary and higher education cess @ 1%		<u>1,668</u>
Total tax liability		<u>1,71,850</u>

(8 Marks)

Working Notes:

1. Value of rent free unfurnished accommodation

Particulars	Rs.
Basic salary	6,00,000
Dearness allowance	2,40,000
Bonus	1,00,000
Commission @ 0.1% of turnover	1,50,000
Entertainment allowance	30,000
Children's hostel allowance	<u>7,800</u>
Gross Salary	<u>11,27,800</u>
15% of salary	1,69,170
Actual rent paid by the company	70,000
The least of the above is chargeable perquisite.	

(2 Marks)

2. Employer's contribution to P.F. in excess of 12% of salary

Employer's contribution	Rs. 3,00,000
Less : 12% of basic salary, dearness allowance & commission	12% of Rs. 9,90,000
	<u>Rs. 1,18,800</u>
	<u>Rs. 1,81,200</u>

(1 Mark)

3. No deduction shall be allowed under section 80G in respect of any sum exceeding Rs. 10,000 unless such sum is paid by any mode other than cash. Here, since the donation of Rs.2,00,000 is made by cheque, the same is allowed.

(1 Mark)

Answer-5 :

Determination of Residential Status of Mr. Brett Lee for the A.Y. 2016-17:-

Period of stay during previous year 2015-16 = 100 days.

Calculation of period of stay during 4 preceding previous years (100 x 4=400 days)	2014-15	100 days
	2013-14	100 days
	2012-13	100 days
	2011-12	<u>100 days</u>
Total		<u>400 days</u>

Mr. Brett Lee has been in India for a period more than 60 days during previous year 2015-16 and for a period of more than 365 days during the 4 immediately preceding previous years. Therefore, since he satisfies one of the basic conditions under section 6(1), he is a resident for the assessment year 2016-17.

Computation of period of stay during 7 preceding previous years = $100 \times 7 = 700$ days

2014-15	100 days
2013-14	100 days
2012-13	100 days
2011-12	100 days
2010-11	100 days
2009-10	100 days
2008-09	<u>100 days</u>
Total	<u>700 days</u>

Since his period of stay in India during the past 7 previous years is less than 730 days, he is a not-ordinarily resident during the assessment year 2016-17. (See Note below)

Therefore, Mr. Brett Lee is a resident but not ordinarily resident during the previous year 2015-16 relevant to the assessment year 2016-17.

(4 Marks)

Note: A not-ordinarily resident person is one who satisfies any one of the conditions specified under section 6(6), i.e.,

- (i) If such individual has been non-resident in India in any 9 out of the 10 previous years preceding the relevant previous year, or
- (ii) If such individual has during the 7 previous years preceding the relevant previous year been in India for a period of 729 days or less.

In this case, since Mr. Brett Lee satisfies condition (ii), he is a not-ordinary resident for the A.Y. 2016-17.

(2 Marks)