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SUGGESTED SOLUTION
IPCC NOVEMBER 2016 EXAM
DIRECT TAXATION
Test Code - I N J 1 0 7 3
BRANCH - (MUMBAI) (Date : 04.09.2016)

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Answer-1 (a) :

(i) Any sum of money received by an individual on the occasion of the marriage of the individual is exempt. This provision is, however, not applicable to a cash gift received during a wedding function celebrated on completion of 60 years of age.

The gift of Rs. 51,000 received from a non-relative is, therefore, chargeable to tax under section 56(2)(vii) in the hands of Mrs. Hemali.

(1 Mark)

(ii) The provisions of section 56(2)(vii) are not attracted in respect of any sum of money or property received from a relative. Thus, the gift of diamond necklace received from her sister is not taxable under section 56(2)(vii), even though jewellery falls within the definition of "property".

(1 Mark)

(iii) To be exempt from applicability of section 56(2)(vii), the property should be received on the occasion of the marriage of the individual, not that of the individual's son or daughter. Therefore, this exemption provision is not attracted in this case.

Any sum of money received without consideration by an individual is chargeable to tax under section 56(2)(vii), if the aggregate value exceeds Rs. 50,000 in a year. "Sum of money" has, however, not been defined under section 56(2)(vii).

Therefore, there are two possible views in respect of the value of fixed deposit assigned in favour of Mrs. Hemali –

(1) The first view is that fixed deposit does not fall within the meaning of "sum of money" and therefore, the provisions of section 56(2)(vii) are not attracted. It may be noted that fixed deposit is also not included in the definition of "property".

(2) However, another possible view is that fixed deposit assigned in favour of Mrs. Hemali falls within the meaning of "sum of money" received.

(2 Marks)**Income assessable as "Income from other sources"**

If the first view is taken, the total amount chargeable to tax as "Income from other sources" would be Rs. 51,000, being cash gift received from a friend on her Shastipatha Poorthi.

As per the second view, the provisions of section 56(2)(vii) would also be attracted in respect of the fixed deposit assigned and the "Income from other sources" of Mrs. Hemali would be Rs. 1,02,000 (Rs. 51,000 + Rs. 51,000).

Answer-1 (b) :

Section 64(1)(iv) of the Income-tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets (other than house property) transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration or in connection with an agreement to live apart.

(2 Marks)

In this case, Mr. Vaibhav received a gift of Rs. 5,00,000 on 1.4.2015 from his wife Mrs. Vaishaly, which he invested in his business immediately. The income to be clubbed in the hands of Mrs. Vaishaly for the A.Y. 2016-17 is computed as under:

Particulars	Mr. Vaibhav's capital contribution (Rs.)	Capital contribution out of gift from Mrs. Vaishaly (Rs.)	Total (Rs.)
Capital as on 1.4.2015	3,00,000 (5,00,000 – 2,00,000)	5,00,000	8,00,000
Profit for P.Y.2015-16 to be apportioned on the basis of capital employed on the first day of the previous year i.e. as on 1.4.2015 (3:5)	1,50,000 $\left(4,00,000 \times \frac{3}{8}\right)$	2,50,000 $\left(4,00,000 \times \frac{5}{8}\right)$	4,00,000

Therefore, the income to be clubbed in the hands of Mrs. Vaishaly for the A.Y.2016-17 is Rs. 2,50,000. In case Mrs. Vaishaly gave the said amount of Rs. 5,00,000 as a bona fide loan, then, clubbing provisions would not be attracted.

(4 Marks)

Answer-2 (a) :

Computation of total income and tax liability of Mr. A for the A.Y. 2016-17 Particulars

	Rs.
Income from retail trade – as per books (See Note 1 below)	1,50,000
Income from plying of vehicles – as per books (See Note 2 below)	<u>3,20,000</u>
	4,70,000
Less : Set off of brought forward depreciation relating to A.Y. 2015-16	<u>1,00,000</u>
Gross total income	3,70,000
Less: Deduction under section 80C – Contribution to PPF and bank FD	<u>1,00,000</u>
Taxable income	<u>2,70,000</u>
Tax liability	2,000
Less: Rebate under section 87A	<u>2,000</u>
Tax Payable/Refundable	<u>Nil</u>

(4 Marks)

Note :

1. Income from retail trade: Presumptive business income under section 44AD is Rs. 1,73,600 i.e., 8% of turnover of Rs. 21,70,000. However, the income computed as per books is Rs. 1,50,000 which is to be further reduced by the amount of unabsorbed depreciation of Rs. 1,00,000. Since the income computed as per books is lower than the income deemed under section 44AD, the assessee can adopt the income as per books.

However, for claiming lower profits, he has to maintain the books of accounts under section 44AA and get them audited and furnishes an audit report under section 44AB.

(0.5 Mark)

2. Income from plying of vehicles: Income calculated under section 44AE(1) would be Rs. 7,500 x 12 x 5 which is equal to Rs. 4,50,000. However, the income from plying of vehicles as per books is Rs. 3,20,000, which is lower than the presumptive income of Rs. 4,50,000 calculated as per section 44AE(1). Hence, the assessee can adopt the income as per books i.e. Rs. 3,20,000, provided he maintains books of account as per section 44AA and gets his accounts audited and furnishes an audit report as required under section 44AB.

(0.5 Mark)

It is to be further noted that in both the above cases, had presumptive income provisions been opted, all deductions under sections 30 to 38, including depreciation would have been deemed to have been given full effect to and no further deduction under those sections would be allowable.

If the assessee opted for income to be assessed on presumptive basis, his total income would be as under:

Particulars	Rs.
Income from retail trade under section 44AD [Rs. 21,70,000 @ 8%]	1,73,600
Income from plying of vehicles under section 44AE [Rs. 7,500 x 12 x 5]	<u>4,50,000</u>
	6,23,600
Less: Set off of brought forward depreciation – not possible and it is deemed that it has been allowed and set off	<u>Nil</u>
Gross total income	6,23,600
Less: Deduction under section 80C - Contribution to PPF and bank FD	<u>1,00,000</u>
Taxable income	<u>5,23,600</u>
Tax thereon	29,720
Add : Education cess @ 2% and Secondary and higher education cess @ 1%	<u>892</u>
Total tax liability	<u>30,612</u>
Total tax liability (rounded off)	<u>30,610</u>

(3 Marks)

Answer-2 (b) :

Computation of eligible deduction under Chapter VI-A of Ms. Roma for Assessment Year 2016-17

Particulars	Rs.	Rs.
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Deduction under section 80C

- Life insurance premium paid Rs. 35,000 (deduction restricted to 20% of the sum assured since the policy was taken before 1.4.2012) Rs. 1,50,000 x 20%	30,000
- Public Provident Fund	1,50,000
- Repayment of housing loan to Bhartiya Mahila Bank, Bangalore	<u>20,000</u>
	<u>2,00,000</u>

Restricted to a maximum of Rs. 1,50,000

1,50,000

Deduction under section 80CCC for payment towards LIC pension fund

1,40,000

2,90,000

As per section 80CCE, aggregate deduction under, inter alia, section 80C and 80CCC, is restricted to

1,50,000

Deduction under section 80D

- Payment of medical insurance premium of Rs. 30,000 towards medical policy taken for self, wife and dependent children restricted to	25,000
- Medical insurance premium paid Rs. 32,000 for parents, being senior citizen, restricted to	<u>30,000</u>

5,000

Eligible deduction under Chapter VI-A

2,05,000

(6 Marks)

Answer-3 (a) :

(a) 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 Rs. 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 Rs. 19,000 paid by ABC Ltd. to its director.

(2 Marks)

(b) Section 194-IA requires every person, being a transferee, responsible for paying any sum as consideration for transfer of any immovable property (other than agricultural land), to deduct tax@1% of such sum, at the time of credit of such sum to the account of the resident transferor or at the time of payment of such sum to a resident transferor, whichever is earlier. Such tax is required to be deducted at source where the consideration for transfer of immovable property is Rs. 50 lakhs or more. In this case, since the consideration for transfer of house exceeds Rs. 50 lakhs, Mr.Y is liable to deduct tax at source@1% under section 194-IA on the consideration of Rs. 60 lakhs payable for transfer of house to Mr. X.

(2 Marks)

Answer-3 (b) :

Taxable Income from Business

Profit for the year		16,00,000
Add: Amount not deductible		
Income tax paid	20,000	
Advance income-tax	1,00,000	
Rent	30,000	
Medical expenses	30,000	
Drivers salary	15,000	
Repairs of car	7,500	
Depreciation on car	<u>30,000</u>	<u>2,32,500</u>
		18,32,500
Less: Amount considered separately		
Gift from father	1,00,000	
Sale of car	1,70,000	

Income tax refund	<u>30,000</u>	<u>3,00,000</u>
Income from business		<u>15,32,500</u>

No depreciation shall be charged on car as it is sold in the same year in which it is bought. However, short term capital loss of Rs.30,000 on transfer of car will be carried forward. Gift from father is exempt as it is received from the relative.

(4 Marks)

Answer-4 :

Computation of total income of Mr. Rajiv for the assessment year 2016-17

Particulars	Rs.	Rs.	Rs.
Income from house property			
Self-occupied			
Annual value	Nil		
Less: Deduction under section 24(b)			
Interest on housing loan			
50% of Rs. 88,000 = 44,000 but limited to	<u>30,000</u>		
Loss from self occupied property		(30,000)	
Let out property			
Annual value (Rent receivable has been taken as the annual value in the absence of other information)	60,000		
Less: Deductions under section 24			
(a) 30% of Net Annual Value	18,000		
(b) Interest on housing loan (50% of Rs. 88,000)	<u>44,000</u>	<u>62,000</u>	<u>(2,000)</u>
Loss from house property			(32,000)
Profits and gains of business or profession			
Fees from professional services		9,38,000	
Less: Expenses allowable as deduction			
Staff salary, bonus and stipend	1,50,000		
Other administrative expenses	48,000		
Office rent	30,000		
Motor car maintenance (10,000 x 4/5)	8,000		
Car loan interest – not allowable (since the same has not been paid and the assessee follows cash system of accounting)	<u>Nil</u>	<u>2,36,000</u>	
		7,02,000	
Less: Depreciation			
Motor car Rs. 4,25,000 x 7.5% x 4/5	25,500		
Books being annual publications @ 100%	20,000		
Furniture and fittings @ 10% of Rs. 60,000	6,000		
Plant and machinery @ 15% of Rs. 80,000	12,000		
Computer @ 60% of Rs. 50,000	30,000		
Computer (New) Rs. 30,000 @ 60% x ½ thereon	<u>9,000</u>	<u>1,02,500</u>	<u>5,99,500</u>
Gross Total income			5,67,500
Less: Deduction under Chapter VI-A			
Deduction under section 80C			
Housing loan principal repayment	1,00,000		
PPF subscription	20,000		
Life insurance premium	<u>24,000</u>		
Total amount of Rs. 1,44,000 is allowed as deduction since it is within the limit of Rs. 1,50,000		1,44,000	

Deduction under section 80D

Medical insurance premium paid Rs. 18,000	<u>18,000</u>	<u>1,62,000</u>
Total income		4,05,500

(10 Marks)**Answer-5 :**

Section 64(1) of the Income-tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration. In this case Smt. Rani received a gift of Rs. 2,00,000 from her husband which she invested in her business. The income to be clubbed in the hands of Smt. Rani's husband for A.Y.2016-17 is computed as under:

(2 Marks)

Particulars	Smt. Rani's Capital Contribution Rs.	Capital Contribution Out of gift from husband Rs.	Total Rs.
Capital as at 1.4.2014	3,00,000	—	3,00,000
Investment on 10.04.2014 out of gift received from her husband	<u>3,00,000</u>	<u>2,00,000</u>	<u>2,00,000</u>
	3,00,000	2,00,000	5,00,000
Profit for F.Y. 2014-15 to be apportioned on the basis of capital employed on the first day of the previous year i.e., on 1.4.2014	<u>1,50,000</u>	<u> </u>	<u>1,50,000</u>
Capital employed as at 1.4.2015	<u>4,50,000</u>	<u>2,00,000</u>	<u>6,50,000</u>
Profit for F.Y.2015-16 to be apportioned on the basis of capital employed as at 1.4.2015 (i.e., 45 : 20)	2,70,000	1,20,000	3,90,000

(6 Marks)

Therefore, the income to be clubbed in the hands of Smt. Rani's husband for A.Y.2016-17 is Rs. 1,20,000.

-X-X-X-