



J.K. SHAH[®]
TEST SERIES
Evaluate Learn Succeed

SUGGESTED SOLUTION
IPCC NOVEMBER 2016 EXAM

DIRECT TAX

Test Code - I N J 1 0 8 5

BRANCH - (MUMBAI) (Date : 26.06.2016)

Head Office : Shraddha, 3rd Floor, Near Chinai College, Andheri (E), Mumbai – 69.

Tel : (022) 26836666

Answer-1 (a) :**Computation of Taxable Salary of Mr. Balaji for A.Y. 2016-17**

Particulars	Rs.
Basic salary [(Rs. 50,000 × 7) + (Rs. 60,000 × 5)]	6,50,000
Dearness Allowance (40% of basic salary)	2,60,000
Bonus (Rs. 50,000 + 40% of Rs. 50,000) (See Note 1)	70,000
Employers contribution to recognised provident fund in excess of 12% of salary = 4% of Rs. 6,50,000 (See Note 4)	26,000
Professional tax paid by employer	2,000
Perquisite of Motor Car (Rs. 2,400 for 5 months) (See Note 5)	<u>12,000</u>
Gross Salary	10,20,000
Less: Deduction under section 16	
Professional tax (See Note 6)	<u>3,000</u>
Taxable Salary	10,17,000

(3 Marks)**Notes:**

- Since bonus was paid in the month of October, the basic salary of Rs. 50,000 for the month of October is considered for its calculation.
- As per Rule 3(7)(vii), facility of use of laptop and computer is an exempt perquisite, whether used for official or personal purpose or both.
- Mr. Balaji can avail exemption under section 10(5) on the entire amount of Rs. 75,000 reimbursed by the employer towards Leave Travel Concession since the same was availed for himself, his wife and three children and the journey was undertaken by economy class airfare. The restriction imposed for two children is not applicable in case of multiple births which take place after the first child. It is assumed that the Leave Travel Concession was availed for journey within India.
- It is assumed that dearness allowance does not form part of salary for computing retirement benefits.
- As per the provisions of Rule 3(2), in case a motor car (engine cubic capacity exceeding 1.60 liters) owned by the employer is provided to the employee without chauffeur for personal as well as office use, the value of perquisite shall be Rs. 2,400 per month. The car was provided to the employee from 01.11.2015, therefore the perquisite value has been calculated for 5 months.
- As per section 17(2)(iv), a "perquisite" includes any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee. Therefore, professional tax of Rs. 2,000 paid by the employer is taxable as a perquisite in the hands of Mr. Balaji. As per section 16(iii), a deduction from the salary is provided on account of tax on employment i.e. professional tax paid during the year.

Therefore, in the present case, the professional tax paid by the employer on behalf of the employee Rs. 2,000 is first included in the salary and deduction of the entire professional tax of Rs. 3,000 is provided from salary.

(6 x 0.5 = 3 Marks)**Answer-1 (b) :****Assessee**

As per section 2(7), assessee means a person by whom tax or any other sum of money is payable under the Income-tax Act, 1961.

In addition, the term includes –

- Every person in respect of whom any proceeding under the Act has been taken for the assessment of –
 - his income; or
 - the income of any other person in respect of which he is assessable; or
 - the loss sustained by him or by such other person; or
 - the amount of refund due to him or to such other person.
- Every person who is deemed to be an assessee under any provision of this Act;
- Every person who is deemed to be an assessee in default under any provision of this Act.

(3 Marks)

Deemed Assessee

Assessee includes every person who is deemed to be an assessee under the provisions of the Act. For example, section 160(1) defines "Representative assessee". Section 160(2) states that, every representative assessee shall be deemed to be an assessee for the purposes of the Act.

(1 Mark)**Assessee in default**

A person is said to be an assessee in default if he fails to comply with the duties imposed upon him under the Income-tax Act, 1961. Suppose an employer who pays salary or other person who pays interest, commission, professional fees etc. but does not deduct tax at source and deposit into government treasury, then, he shall be deemed to be an assessee in default. Likewise, under section 218, if a person does not pay advance tax, then, he shall be deemed to be an assessee-in-default.

(2 Marks)**Answer-2 :****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>	
	<u>2,00,000</u>	
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		1,71,850

(6 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	11,27,800
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-3 :

In this case, Nisha has more than one house property for self-occupation. As per section 23(4), Nisha can avail the benefit of self-occupation (i.e., benefit of "Nil" Annual Value) only in respect of one of the house properties, at her option. The other house property would be treated as "deemed let-out" property, in respect of which the annual letting value would be the gross annual value. Nisha should, therefore, consider the most beneficial option while deciding which house property should be treated by her as self-occupied.

OPTION 1 [House I – Self-occupied and House II – Deemed to be let out]

If House I is opted to be self-occupied, Nisha's income from house property for A.Y.2016-17 would be –

Particulars	Amount in Rs.
House I (Self-occupied) [Annual value is Nil]	Nil
House II (Deemed to be let-out) [See Working Note below]	<u>54,060</u>
Income from house property	<u>54,060</u>

(2 Marks)

OPTION 2 [House I – Deemed to be let out and House II – Self-occupied]

If House II is opted to be self-occupied, Nisha's income from house property for A.Y.2016-17 would be –

Particulars	Amount in Rs.
House I (Deemed to be let-out) [See Working Note below]	70,000
House II (Self-occupied) [Annual value is Nil, but interest deduction would be available, subject to a maximum of Rs. 30,000. In case of money borrowed for repair of self-occupied property , the interest deduction would be restricted to Rs. 30,000, irrespective of the date of borrowal].	<u>(30,000)</u>
Income from house property	<u>40,000</u>

(2 Marks)

Since Option 2 is more beneficial, Nisha should opt to treat House - II as Self occupied and House I as Deemed to be let out, in which case, her income from house property would be Rs. 40,000 for the A.Y. 2016-17.

Working Note:

Computation of income from House I and House II assuming that both are deemed to be let out

Particulars	Amount in Rupees	
	House I	House II

Gross Annual Value (GAV)

Annual Letting Value (ALV) is the GAV of house property

ALV = Higher of Municipal Value and Fair Rent but restricted to

Standard Rent	1,00,000	1,65,000
Less: Municipal taxes (paid by the owner during the previous year)	Nil	9,200
Net Annual Value (NAV)	1,00,000	1,55,800
Less: Deductions under section 24		
(a) 30% of NAV	30,000	46,740
(b) Interest on borrowed capital (allowed in full in case of deemed let out property)	-	55,000
Income from deemed to be let-out house property	70,000	54,060

(6 Marks)

Answer-4 :

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	100 days
Total	400 days

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 x 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	100 days
Total	700 days

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.

(6 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.

(2 Marks)

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

Answer-5 (a) :

- (i) **False:** Exemption under section 10(26AAA) is available to a Sikkimese individual not only in respect of the said income, but also in respect of income by way of dividend or interest on securities.
- (ii) **True:** As per section 12AA(4), the Commissioner or the Principal Commissioner has power to cancel the registration of the trust, by passing a written order, where it is noticed that, inter alia, the income of the trust is applied for the benefit of specified persons, including the author of the trust. However, the registration shall not be cancelled if the trust proves that there was reasonable cause for application of income in such manner.
- (iii) **False:** The obligation under section 13A to maintain proper details of voluntary contributions in excess of Rs. 20,000 is over and above the obligation to maintain such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom.

- (iv) **True:** Section 10(18) exempts any income by way of pension received by individual who has been awarded Param Vir Chakra or Maha Vir Chakra or Vir Chakra or such other gallantry award as the Central Government, may, by notification in the Official Gazette, specify in this behalf.
- (v) **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, Rs. 10,000 should not be included in Mr. A's chargeable income.
- (vi) **False:** As per section 10(10D)(c), any sum received under an insurance policy issued on or after 1.4.2003 but before 31.03.2012, in respect of which the premium payable for any year during the term of the policy exceeds 20% of actual capital sum assured, shall not be exempt from tax. Hence, the contention of Mr. Roy is not correct since the one-time premium of Rs. 10 lakh paid by him is in excess of 20% of the sum assured [i.e. it exceeds Rs. 3 lakh, being 20% of Rs. 15 lakh]. Further, tax is deductible @2% under section 194DA on such sum paid to Roy, since the same is not exempt under section 10(10D).
- (vii) **False:** Section 2(24) defining the term income includes voluntary contributions received by any trust, university or educational institution. Hence, the statement is not correct.
- (viii) **False :** As per section 10(10BC), any amount received or receivable as compensation by an individual or his/her legal heir on account of any disaster from the Central Government, State Government or a local authority is exempt from tax. However, the exemption is not available to the extent such individual or legal heir has already been allowed a deduction under this Act on account of such loss or damage caused by such disaster.
- (ix) **False:** As per section 10(34), only income by way of dividend referred to in section 115-O shall be exempt in the hands of shareholders. Corporate dividend tax under section 115-O is not leviable on deemed dividend under section 2(22)(e) and hence, such deemed dividend is not exempt under section 10(34).

(6 Marks)

Answer-5 (b) :

As per section 10AA, in computing the total income of MNO Ltd. from its unit located in a Special Economic Zone (SEZ), which begins to manufacture or produce any article or thing on or after 1.04.2005, there shall be allowed a deduction of 100% of the profit derived from export of such article or thing for the first five year period commencing from the year of manufacture or production of articles or things by the Unit in SEZ and 50% of such profits for further five years subject to fulfillment of other conditions specified in section 10AA.

(i) If Unit in SEZ were set up and began manufacturing from 25-07-2008:

Since it is the 8th year of operation of the eligible unit, it shall be eligible for deduction upto 50% of the profit of such unit assuming all the other conditions specified in section 10AA are fulfilled.

$$\begin{aligned}
 &= \text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}} \times 50\% \\
 &= 40 \text{ lakhs} \times 1 \times \frac{150 \text{ lakhs}}{200 \text{ lakhs}} \times 50\% = 15 \text{ lakhs}
 \end{aligned}$$

(2 Marks)

(ii) If Unit in SEZ were set up and began manufacturing from 10.04.2012:

Since it is 4th year of operation of the eligible unit, it shall be eligible for deduction upto 100% of profit of such unit.

$$\begin{aligned}
 &= \text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}} \times 100\% \\
 &= 40 \text{ lakhs} \times 1 \times \frac{150 \text{ lakhs}}{200 \text{ lakhs}} \times 100\% = 30 \text{ lakhs}
 \end{aligned}$$

(2 Marks)