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**IPCC NOVEMBER 2016 EXAM**

**DIRECT TAX**

**Test Code - I N J1 1 3 4**

**BRANCH - (MUMBAI) (Date :14.08.2016)**

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**Answer-1:**

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.

**(2 Marks)**

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 50 <sup>th</sup> birthday <b>Note:</b> 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)	<u>12,000</u>	<u>8,000</u>
	<b>Gross Total income</b>	<b>1,22,500</b>	<b>1,21,500</b>
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
	<b>Total Income</b>	<b>1,12,500</b>	<b>83,500</b>

**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.
- 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 :****Computation of tax for the Assessment Year 2016-2017.**

- (a) Income tax on the aggregate of non-agricultural income and net agricultural income (i.e. Rs.14,00,000) as if it is the total income.

On the first	2,50,000	Nil	Nil
On the next	2,50,000	10%	25,000
On the next	5,00,000	20%	1,00,000
On the balance	4,00,000	30%	1,20,000
	<b>14,00,000</b>		<b>2,45,000</b>

(4 Marks)

- (b) Income tax on net agricultural income plus the basic exemption limit i.e. Rs. 2,50,000 (i.e. Rs. 4,40,000) as if it is the total income.

On the first	2,50,000	Nil	Nil
On the next	1,90,000	10%	19,000
	<b>4,40,000</b>		<b>19,000</b>

**Net Income Tax : (a) – (b) = Rs. 2,45,000 – 19,000 = 2,26,000**

Add:

(i) Education cess @ 2%	4,520
(ii) SHEC @ 1%	2,260
<b>Tax Payable</b>	<b>2,32,780</b>

(4 Marks)

**Answer-3 :**

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.

(1 Mark)

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

Since it is the 8<sup>th</sup> 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.

$$= \text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}} \times 50\%$$

$$= 40 \text{ lakhs} \times \frac{150 \text{ Lakhs}}{200 \text{ Lakhs}} \times 50\% = 15 \text{ Lakhs}$$

(2 Marks)

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

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

$$= \text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}} \times 100\%$$

$$= 40 \text{ Lakhs} \times \frac{150 \text{ Lakhs}}{200 \text{ Lakhs}} \times 100\% = 30 \text{ Lakhs}$$

(2 Marks)

**Answer-4 :**

The admissible relief under section 89, in respect of bonus paid in the financial year 2015-16 will be computed as under:

Assessment Year	Taxable income and tax liability on "receipt" basis		Taxable income and tax liability on "accrual" basis	
	2016-17 Rs.	1995-96 Rs.	2016-17 Rs.	1995-96 Rs.
Salary	10,70,000	50,000	10,70,000	50,000
Arrears of salary	20,000	-	-	20,000
Gross Salary	10,90,000	50,000	10,70,000	70,000
Less : Standard deduction under section 16 (i)	Nil	12,000	Nil	12,000
Gross Total Income	10,90,000	38,000	10,70,000	58,000
Less : Deduction under section 80C	13,000	Nil	13,000	Nil
Net income	10,77,000	38,000	10,57,000	58,000
Tax on net income	1,53,100	2,000	1,47,000	6,800
Less : Rebate under section 88	Nil	300	Nil	300
Tax	1,53,000	1,700	1,47,000	6,500
Add : Surcharge	Nil	-	Nil	-
Tax and surcharge	1,53,000	1,700	1,47,000	6,500
Add : Education cess	3,062	-	2,942	-
Add : Secondary and higher education cess	1,531	-	1,471	-
Tax liability	1,57,693	1,700	1,51,513	6,500

(8 Marks)

Tax liability of the two Assessment Years on receipt basis 1,59,393

Tax liability of the two Assessment Years on accrual basis 1,58,013

Tax relief under section 89 for the Assessment Year 2016-17 (i.e., Rs.1,59,393 - Rs.1,58,013) 1,380

Tax payable for the Assessment Year 2016 -17 (i.e., Rs.1,57,693,-Rs.1,380) 1,56,313

**Note :** For the Assessment Year 1995 - 96, an assessee, having income under the head "salaries", is eligible

for deduction u/s 16 (1) of a sum equal to  $33\frac{1}{3}\%$  of the salary on Rs.12,000 which ever is less. However,

Section 16 (i) has been omitted by finance Act, 2005.

(2 Marks)

**Answer-5 :**

In case of accommodation provided to the assessee on account of transfer, which is exceeding 15 days cumulatively, such shall be taxable as a perquisite. The company recovered Rs.1,000 from the employee.

**Computation of Taxable Value of Perquisite for Accommodation in a Hotel**

Particulars	Amount (Rs.)
Lower of the followings:	
(i) 24% of Salary paid/payable = 24% of Rs.11,000 = 2,640	
(ii) Actual Charges paid/payable = 6,000	2,640

Less: Amount recovered from the employee 1,000

**Taxable Value of Perquisite** **1,640**

(4 Marks)

**Answer-6 :**

**Computation of total income of Mr. Narendra for A.Y. 2016-17**

Particulars	Rs.	Rs.
Income from Salaries		
Gross salary received during 1.4.2015 to 31.1.2016 @ Rs. 16,000 p.m. (Rs. 16,000 x 10)		1,60,000
Pension for 2 months @ 30% of the basic salary of Rs. 10,000 p.m.		6,000
Leave Salary	75,000	
Less: Exempt under section 10(10AA) (Note1)	<u>50,000</u>	25,000
Gratuity	50,000	
Less: Exempt under section 10(10) (Note2)	<u>25,000</u>	<u>25,000</u>
<b>Total Income</b>		<b>2,16,000</b>

(5 Marks)

**Notes:**

1. Leave encashment is exempt to the extent of least of the following:

Particulars	Rs.
(i) Statutory limit	3,00,000
(ii) Cash equivalent of leave for 30 days for 5 years (Rs. 10,000 ×150/30)	50,000
(iii) 10 months average salary (10 x Rs. 10,000)	1,00,000
(iv) Actual amount received	75,000

Therefore, Rs.50,000 is exempt under section 10(10AA).

(1 Mark)

2. Assuming that the employee is not covered under the Payment of Gratuity Act, 1972, Gratuity is exempt to the extent of least of the following :

Particulars	Rs.
(i) Statutory limit	10,00,000
(ii) Half month's salary for 5 years of service ( 5 x Rs. 5,000)	25,000
(iii) Actual gratuity received	50,000

Therefore, Rs.25,000 is exempt under section 10(10).

(1 Mark)

3. It has been assumed that dearness allowance does not form part of salary for retirement benefits and therefore, not included in "Salary" for the purpose of computation of leave encashment and gratuity.

(1 Mark)

**Answer-7 :**

**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>
<b>Total</b>	<b><u>400 days</u></b>

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>
<b>Total</b>	<b><u>700 days</u></b>

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.

**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.

**(7 Marks)**