



CA FINAL
Test Code – JKN-INT-21
(Date: 24-08-2020)

(Marks - 100)

Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi medium. If a candidate who has not opted for Hindi medium, his / her answers in Hindi will not be valued.

The Question Paper comprises five case study questions. The candidates are required to answer any four case study questions out of five.

Answers in respect of Multiple Choice Questions are to be marked on the OMR Answer Sheet only.

Answers to other questions are to be written on the descriptive type answer book.

Answers to Multiple Choice Questions, if written in the descriptive type answer book will not be evaluated.

Candidates may use calculator.

All questions related to Assessment Year 2020-21, unless stated otherwise in the questions / case studies.

Case Study 1

DDAP Limited is a Singapore based company. It rendered the following two types of services to its Indian subsidiary viz. rendering of management support services and technical services (in connection with setting up of internet data centres for BSNL) to its Indian subsidiary and received (i) Management Fee– for which it had deputed its employees in India for 2 days and (ii) Service Fee– for which it had deputed its employees for 171 days. As per India – Singapore DTAA, a service PE is created if employees presence in India, in aggregate, exceeds 30 days. The AO aggregated

: 1 :

employees' stay on account of rendering of both the services and accordingly held service PE constitution since the cumulative period (i.e. 173 days) exceeded the threshold limit of 30 days as provide under Article 5(6) of the India-Singapore DTAA. Before Tribunal, the assessee offered to tax Service Fee as fee for technical services under section 9(1)(vii), taxable @ 10% under section 115A(1)(b). With respect to the Management Fee, the assessee offered to be governed by the DTAA provisions. Since the employees of the assessee had visited India for a period of only 2 days for management support services, the threshold of 30 days was not satisfied and accordingly there was no Service PE in India and thus Management Fee was not taxable in India.

Advance Rulings

1. International Zinc Association, Belgium [IZA] was incorporated on 24.09.1992 under the laws of Belgium, and registered as an “International Non-Profit Association” in Brussels. It is a tax resident of Belgium.
2. IZA helps sustain long-term global demand for Zinc by creating awareness about the key end uses of Zinc, such as corrosion protection for steel, the essentiality of Zinc in human health and crop nutrition/fertilizers. Its main programs are Sustainability & Environment, Technology & Market Development and Communications. Environment and Sustainability program focuses on identifying, understanding and managing environmental issues that may impact the Zinc industry, through regulatory affairs and research programs; and Zinc deficiency issues in human health and crop nutrition. The main aim of Technology and Market development program is to develop usage of zinc through R&D. Communication program ensures that key messages about Zinc are disseminated globally through its websites, publications, newsletters, press releases, interviews, video conferences, seminars and training courses.
3. IZA received the permission of the Reserve Bank of India, to establish a Liaison Office in India, which plays an important role in educating the importance of zinc in fertilizers so that the likelihood of Zinc based fertilizers being subsidized would increase, as Zinc deficiency is a wide spread problem in agricultural soils causing decreased crop productivity and nutritional quality, and this requires change of policy. The LO plays an important role in increasing the level of

knowledge about Zinc deficiency and proper Zinc fertilization techniques. It also promotes Zinc as an agent to galvanize steel to increase the strength of steel. The major projects proposed to be undertaken by the LO in this report, include:

- Spread of knowledge to government sectors and public authorities; Revision of Codes to include and favour galvanized steel solutions; Construction and infrastructure focused galvanizing seminars;
- Zinc First User Engagement and Technical Upliftment; i.e. knowledge development, and awareness and communications
- It will hosting members' information on its website, publish various materials, organizing conferences, representing its members etc.

It seeks ruling from AAR as to whether the representative/liaison office (LO) proposed to be established by IZA in India would be liable to income-tax in India under the provisions of the Act or the provisions of Double Taxation Avoidance agreement between India and Belgium ("India – Belgium DTAA")

Choose the correct alternative for the following MCQs:

(2 x 5=10 Marks)

1.1 Service Permanent Establishment [PE] is a PE recognised only under _____ Model Convention:

- | | |
|--------------------|--------------------------|
| (a) OECD | (b) UN |
| (c) Both the above | (d) Neither of the above |

1.2 Relying on taxation under Income-tax Act for one set of transactions and on Double Taxation Avoidance Agreement [DTAA] for another set of transactions is known as:

- (a) Cherry picking
- (b) Pick and drop approach
- (c) Pick and Choose Approach
- (d) Distortion of law approach

1.3 Following is a correct statement as far as taxability of mutual concerns is concerned:

- 1.7 Alternatively, will the stand of assessee succeed if the stay of employees for management support service was for 32 days? (3 Marks)
- 1.8 Discuss whether IZA has a Permanent Establishment in India? (5 Marks)
- 1.9 What would be your answer if Liaison Office of IZA procured orders on behalf of its parent company in India? (2 Marks)

Case Study 2

Arrangement of ABC and PQR in India

ABC Inc and PQR Inc, both incorporated in the United States, are Associated Enterprises. ABC has two fixed places of business in India, namely L1 and L2. Similarly, PQR has two fixed places of business in India namely L3 and L4. The functions performed by each of the places of business are as under:

- L1: entrusted with the responsibility of displaying the goods of ABC at various trade seminars that take place in India – this results in generation of various sales enquiries which are then forwarded to ABC as it is;
- L2: in charge of maintaining stock of goods in India for ABC and handing over the goods to third party transporters once the sales are concluded;
- L3: acts as a liaising / communication link between the prospective customers and ABC – it simply helps in collecting and passing on information from customers to PQR and vice versa
- L4: responsible for coordinating with third party transporters post conclusion of sales between third party customers and PQR to ensure timely delivery;

Both ABC and PQR claim that their activities are preparatory / auxiliary in nature and therefore, there is no Permanent Establishment in India. Accordingly, they are not liable to tax in India;

Transfer Pricing

XYZ Limited has an Associated Enterprise outside India, LMN Inc. For executing various projects, XYZ sends its employees outside India to the premises of LMN Inc. The TPO is of the opinion that such foreign travel expenses are for the benefit of LMN

Inc and therefore, he disallows the entire foreign travel expenses by computing the Arms Length Price as NIL.

Payer Ltd.

Pride Inc, a company incorporated under the laws of USA. The value of its global assets are Rs.50 crores. The value of assets in India are Rs.25 crores. Its turnover during the P.Y. 2019-20 is US \$ equivalent to INR 90 crores. Out of 10 board meetings held during the F.Y.2019-20, only 4 meetings are held in India. The key management and commercial decisions for conduct of the company's business as a whole are, however, made by the directors located in India at the meetings held in India. Your client, Payer Ltd, an Indian company, wishes to remit an amount towards professional fees to Pride Inc. on which tax is required to be deducted in India.

Note: Assume that India-UK DTAA is in line with UN Model Convention, 2017

Choose the correct alternative for the following MCQs:

(2 x 5=10 Marks)

2.1 Which of the following statements is incorrect with regard to applicability of General Anti Avoidance Rules [GAAR]:

- (a) When GAAR is applied, the treaty benefit can be denied
- (b) GAAR may co-exist along with SAAR [Specific Anti Avoidance Rules]
- (c) When GAAR is applied, location of transaction can be disregarded by the Assessing Officer
- (d) GAAR came into force from 1.04.2012;

2.2 Article 5 Para 4.1 of Model Tax Convention is known as:

- (a) Anti Avoidance Rule
- (b) Anti Fragmentation Rule
- (c) Anti Taxation Rule
- (d) Double Dip approach

2.3 Which is an incorrect statement with regard to Base Erosion Anti-Abusive Tax [BEAT] introduced in USA through The Tax Cuts and Jobs Act, 2017:

- (a) BEAT covers all related party payments;
- (b) BEAT generally applies for payments towards services;

- (c) BEAT was introduced in USA to target payment to foreign related party whether with or without mark-up;
- (d) BEAT does not apply to payments which have suffered withholding tax at the rate of 30%;

2.4 For A.Y.2020-21, under the provisions of the Income-tax Act, 1961, Pride Inc shall be:

- (a) Resident in India
- (b) Non-resident in India, since it is said to be engaged in active business outside India
- (c) Non-resident in India, since majority board meetings are held outside India
- (d) Non-resident in India, due to reasons stated in both (b) and (c) above.

2.5 OECD is contemplating introduction of BIT tax for taxation income generated by websites, which does not have Permanent Establishment in Source Country. In such cases, as suggested by OECD, the tax would be levied based on:

- (a) Threshold turnover generated by the website in source country
- (b) Number of bytes used by the website;
- (c) Proportionate revenue generated in source country as a percentage of total global turnover;
- (d) A flat rate of 5 per cent on all payments received through such websites;

You are required to answer the following issues:

2.6 You are required to discuss whether ABC and PQR have a Permanent Establishment in India by applying OECD Model Tax Convention? Will your answer change, if one looks at UN Model Tax Convention?

(5 Marks)

2.7 Is the TPO in disallowing the entire foreign travel expense by determining Arms Length Price as NIL?

(3 Marks)

2.8 Determine the residential status of Pride Inc. for A.Y.2020-21 under the Income-tax Act, 1961. Advise Payer Ltd as to whether tax on fees for professional services paid to Pride Inc. has to be deducted under section 194J or section 195.
(5 Marks)

2.9 What are the situations when AAR will reject an application seeking ruling?
(2 Marks)

Case Study 3

Assets outside India

Mr. Harsh resident aged 55 years is a partner in a firm registered in British Virgin Islands. Mr. Harsh and Mr. Lie of China are partners sharing profits and losses in the ratio of 60:40. Mr. Harsh has not disclosed this interest in the firm to income tax authorities in India. The balance sheet of firm as on 31st March of the previous year in Euro Millions is given below. You are required to ascertain tax liability to be paid by Harsh under BM Act;

| Liabilities | € | Assets | € |
|----------------------|------------|--|------------|
| Capital and Reserves | | Drawings and Paintings (Market Value – 120) | 50 |
| Harsh | 100 | Building in Hawaii (Market Value – 160) | 30 |
| Lie | 120 | Bank account in HSBC | 10 |
| | | Other Assets (Market Value – 165) | 130 |
| Total | 220 | Total | 220 |

Other Information:

Market value of Drawings and Paintings as on 1st April is 110

Market value of Building as on 1st April is 150

Bank account in HSBC represents total deposits of 112 and total withdrawals of 102 over period of last 7 years since the date of its opening

Exchange rate for Euro = Rs. 95 (on 1st April)

Exchange rate for Euro = Rs. 96 (on 31st March)

Foreign Subsidiary

Ind Limited has a 100 per cent subsidiary outside India viz. US Limited. The said US Limited intends to repatriate its entire net tax profits to India. The US government has recently introduced a 5 per cent BEAT Tax [Base Erosion Anti Abusive Tax] over and above normal corporate tax of 21 per cent. Following profit and loss account is provided to you for the said purposes:

| Particulars | USD in Thousands | Particulars | USD in Thousands |
|--|---------------------|---------------|---------------------|
| Royalty to Related parties | 225 | Gross Revenue | 300 |
| Service charges to related parties (without mark-up) | 20 | Other Income | 20 |
| Fees for technical services to related parties | 10 | | |
| Net profit | 65 | | |
| Total | 320 | Total | 320 |

Assume that USD 1 – Rs. 80. Ind Limited wants to understand the net dividend that may be received from US Limited. It also wants to understand income tax implications of the said receipt in India.

Non-resident Sportsman

Mr. Trump is a non-resident sportsman, who is a resident of Country X. The said sportsman has earned an Income of Rs. 60,00,000 by participating in sports tournaments held in India. As per DTAA between India – Country X, the said income is taxable at the rate of 5 per cent. The sports event was hosted by ABC Limited, India. ABC requires your advise on the rates of withholding tax while making payments to Mr. Trump.

Choose the correct alternative for the following MCQs:

(2 x 5=10 Marks)

- 3.1** In 2013, OECD's Committee on Fiscal Affairs set up a task force on the Taxation under Digital Economy. The said task force provided principles that should apply for taxation in a Digital Economy. Following is NOT one of the principle propounded:
- (a) Efficiency (b) Neutrality
(c) Modernity (d) Flexibility;
- 3.2** Under BM Act, following term is not defined:
- (a) Participant (b) Previous Year
(c) Assessee (d) Financial interest
- 3.3** The rate at which ABC Limited should withhold tax while making payment to Mr. Trump is:
- (a) 5%; (b) 20%;
(c) 20.80%; (d) None of the above;
- 3.4** Which of the following statements is false:
- (a) ABC Limited can be treated as an agent of Mr. Trump by Income-tax authorities;
(b) ABC Limited can be regarded as assessee in default in case it fails to withhold appropriate taxes at source under section 195;
(c) ABC Limited can appeal against the decision of treating it as agent with Commissioner (Appeals);
(d) There is no requirement for Mr. Trump to furnish return of income in India in case appropriate taxes are withheld at source;
- 3.5** A treaty benefit can be denied by tax authorities on certain specified grounds. Which of the following is not a ground for denying treaty benefit
- (a) Assessee does not produce Tax Residency Certificate;
(b) Assessing Officer invokes GAAR;

- (c) Assessee is a tax resident of India and therefore, global income liable to tax under IT Act;
- (d) The source of income is in the same country where assessee is resident;

You are required to answer the following issues:

- 3.6** Determine the net remittable dividend by US Limited to Ind Limited?
(4 Marks)
- 3.7** Discuss the implications for Ind Limited on receipt of dividend?
(1 Mark)
- 3.8** Determine tax liability under BM Act for Mr. Harsh.
(2 Marks)
- 3.9** Determine tax liability of Mr. Trump?
(1 Marks)
- 3.10** Is Mr. Trump required to furnish return in India?
(1 Marks)
- 3.11** Can ABC Limited be regarded as assessee in default in case it withholds tax at source at 5 per cent?
(1 Mark)
- 3.12** You are required to analyse implications of ruling provided by Supreme Court in the case of PILCOM Limited vs. CIT in the light of amendment made under provisions of section 40(a)(i) and 201(1) by Finance [No.2] Act, 2019
(5 Marks)

Case Study 4

Holding Ltd. is the Indian parent company holding group of various multinational companies having diversified business portfolio. Its group companies are spread across Country A, Country B, Country C and Country D:

Holding Ltd undertakes various transactions with its subsidiaries situated in the countries mentioned above at a predetermined profit margin. One of its subsidiaries Beyond Ltd. (Country A) is engaged in the business of manufacturing and trading of Wagons. Holding Ltd purchased a Wagon from Beyond Ltd for \$15,000 which included warranty for 3 months. The identical Wagon was purchased by Holding Ltd by paying \$14,000 from completely unrelated party with 1 year of warranty. Fair value of warranty is \$700 for one year. However Beyond Ltd provided credit of 4 months to Holding Ltd. Arm's length interest rate is 9% p.a. Net profit before tax of Holding Ltd. is Rs. 25,00,000. Assume 1 \$ = Rs. 50.

Mr. Yatish is the employee of the War Ltd. (Country B). War Ltd is the associate enterprise of Holding Ltd. Mr. Yatish, Citizen of Country B came on deputation to Holding company. He first time came to India on 25th April, 2019 and left India on 21th October, 2019. For F.Y. 2019-20, Yatish has earned salary of Rs. 15,00,000 in India and Rs. 23,00,000 on Country B. Out of that Rs. 23,00,000 earned in Country B, Rs. 9,00,000 was received in India and Rs. 14,00,000 was received in Country B.

Elizabeth Ltd (Country C) is one of the subsidiary companies of the Holding Ltd. Elizabeth Ltd. has filed case in Indian Court regarding interpretation of one of the clauses of the India-Country C DTAA and it has made references to the decision given by Supreme Court of Justice Country E regarding the interpretation of the similar matter in Country E – Country F DTAA. However Income-tax department has contended that such reference of Foreign Court decision cannot be made in an Indian Court for interpretation of treaties.

Statue Ltd (Country D) has office in India which maintains stock of goods for storage, display as well as delivery to the Indian customers. This activity is preparatory and all sales orders and contracts are executed by the head office in Singapore.

Ms. Diana, resident and ordinarily resident, and a shareholder of Statue Ltd. did not disclose foreign asset worth Rs. 25 Lakh in income tax return.

Assume that India has a DTAA with Country A, Country B, Country C and Country D in line with OECD Model Tax Convention 2017.

Another Indian company, Signature Ltd. has earned following income in Country Y:

| Income | Date of Accrual of Income |
|-----------------------------|---------------------------------|
| Dividend | 25 th May, 2019 |
| Profit of Shipping Business | 12 th December, 2019 |
| Capital Gain | 31 st March, 2020 |

Based on the above facts, answer the following questions –

Choose the correct alternative for the following MCQs:

(2 x 5=10 Marks)

- 4.1** India-Country B DTAA was signed on 1st July, 2017. However TDS provisions of Goods and Service Tax Act came in force on 1st October, 2018. Whether such provisions will be covered in the India- Country B DTAA?
- (a) Yes, it will be covered
 (b) No, it won't be covered
 (c) Will be covered if India-Vietnam enters into fresh agreement to that effect
 (d) Will be covered if fresh DTAA is made.
- 4.2** Calculate the amount of penalty leviable on Ms. Diana under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 –
- (a) Rs. 25 lakhs
 (b) Rs. 50 lakhs
 (c) Rs. 10 lakhs
 (d) Rs. 1 crore
- 4.3** In the interpretation of the treaty, the provisions shall be interpreted in such a way that it enables provisions of the treaty to work and to have their appropriate effects. Which of the following basic principle suggest the above:
- (a) Purposive Interpretation

- (b) The principle of effectiveness
- (c) Liberal Construction
- (d) Reasonableness and Consistency

4.4 Following details are given for Signature Ltd. in respect of Dividend received by it from Country Y:

TTBR on 30th April, 2019 – Rs. 65/ CYD

TTSR on 30th April, 2019 – Rs. 66/ CYD

TTBR on 25th May, 2019 – Rs. 65/

CYD TTSR on 25th May, 2019 – Rs.
66/ CYD

State the specified date and rate of exchange respectively for conversion of dividend.

- (a) 30th April, 65/CYD
- (b) 30th April, 65.5/CYD
- (c) 25th May, 65/CYD
- (d) 30th April, 66/CYD

4.5 Holding Ltd has advanced loan to non-resident company of Rs. 60 Crores. Is the company required to furnish information in Form 15CA in respect of this transaction and if so, in which part?

- (a) Part B of Form 15CA
- (b) Part C of Form 15CA
- (c) Part D of Form 15CA
- (d) Not required to furnish Form 15CA

You are required to answer the following issues:

4.6 Calculate Holding Ltd.'s profit chargeable to tax after transfer pricing adjustments.

(5 Marks)

4.7 Determine residential status of Mr. Yatish for A.Y. 2020-21 and calculate Mr. Yatish's income which will be chargeable to tax in India. (Double taxation relief may be ignored)

(6 Marks)

4.8 Analyse the correctness of contention made by the income-tax department in the case filed by Elizabeth Ltd.

(2 Marks)

4.9 State whether Statue Ltd.'s office in India will constitute Permanent Establishment in India. Would your answer change if India's DTAA with Country D was in line with UN Model Convention, 2017?

(2 Marks)

Case Study 5

Rio Grande Inc, a notified Foreign Institutional Investor (FII), derived the following incomes for the financial year 2019-20:-

- (1) Interest received on investment in Rupee Denominated Bonds of Cauvery Ltd., an Indian company issued in March, 2019 - Rs. 4,70,000
- (2) Dividend from listed equity shares of Indian companies – Rs. 2,80,000
- (3) Interest on securities – Rs. 15,48,000 (Expenses of Rs. 13,000 has been incurred to earn such income)
- (4) Income from sale of securities and shares:

(i) Bonds of Vaigai Ltd.

[Date of purchase 7th July 2016; Date of sale 5th February, 2020]

Sale proceeds Rs. 58,00,000

Cost of purchase Rs. 29,00,000

Cost Inflation Index: F.Y.2016-17:264; F.Y.2019-20:289

(ii) Listed equity shares of Mahanadi Ltd.**[Date of purchase – 5th June, 2019; Date of sale – 4th January, 2020]**

Sale Consideration Rs. 14,50,000

Purchase cost Rs. 6,00,000

[STT paid both at the time of purchase and sale]

(iii) Unlisted equity shares of Godavari Ltd.**[Date of purchase – 2nd August, 2019; Date of sale – 29th March, 2020]**

Sale Consideration Rs. 7,80,000

Purchase cost Rs. 2,65,000

Rio Grande Inc. wants to know its total income and tax liability for the A.Y. 2020-21. It has no other income during the F.Y.2019-20.

Zara Ltd. is a company resident in Country A. It had set-up a liaison office at Calcutta to receive trade inquiries from customers in India. The work of the liaison office is not only restricted to forwarding of the trade inquiries to Zara Ltd. but the liaison office also negotiates and enters into contracts on behalf of Zara Ltd. with the customers in India. Zara Ltd. wants to know whether setting up of a liaison office would constitute business connection in India.

Based on the above facts, answer the following questions –

Choose the correct alternative for the following MCQs:

(2 x 5=10 Marks)

- 5.1** In respect of interest payable to Rio Grande Inc. on Rupee Denominated Bonds issued outside India by Cauvery Ltd., –
- (a) tax is deductible at source at the rates in force under section 195
- (b) tax is deductible at source@5.2%.
- (c) tax is deductible at source@20.8%
- (d) no tax is deductible at source.
- 5.2** If we assume that Rupee Denominated Bonds were issued outside India by Cauvery Ltd. in March, 2019 and Zara Ltd. has also subscribed to such bonds, then, in respect of interest payable to Zara Ltd. on such rupee denominated bonds,
- (a) tax is deductible at source at the rates in force under section 195
- (b) tax is deductible at source@5.2%.

(c) tax is deductible at source@10.4%

(d) no tax is deductible at source.

5.3 If we assume that Rio Grande Inc. had purchased listed shares of Vaigai Ltd. (STT paid) and not bonds, the date of purchase and sale remaining the same as given in respect of bonds, the entire capital gains arising on sale of such shares would be -

(a) Exempt from tax

(b) taxable@20% with indexation benefit.

(c) taxable@10% without indexation benefit.

(d) None of the above.

5.4 If the liaison office set up in India by Zara Ltd. does not conclude contracts in India but habitually plays the principal role leading to conclusion of service contracts, then, the activities of the liaison office -

(a) would not constitute business connection for attracting deemed accrual provisions under section 9(1)(i), since it does not actually conclude contracts.

(b) would not constitute business connection for attracting deemed accrual provisions under section 9(1)(i), since contract is for provision of services by Zara Ltd. and not purchase and sale of goods

(c) would not constitute business connection due to reasons states in (a) and (b) above

(d) constitutes business connection for attracting deemed accrual provisions under section 9(1)(i) .

5.5 What are the provisions which have been incorporated in Indian tax laws in line with BEPS Action 1 (The same must be relevant for A.Y. 2020-21)?

(a) Expansion of scope of business connection to include activities of an agent who habitually plays a principal role leading to conclusion of contracts

(b) Expansion of scope of business connection to include activities which constitute significant economic presence

- (c) Introduction of equalization levy
- (d) All the above

You are required to answer the following issues:

- 5.6** Compute the total income and tax liability of Rio Grande Inc. for A.Y.2020-21.
(12 Marks)
- 5.7** Would the activities carried out by the liaison office set up in India by Zara Ltd. constitute business connection to attract deemed accrual provisions under section 9(1)?
(3 Marks)