

Paper 16 - Direct Tax Laws and International Taxation

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Full Marks: 100

Time allowed: 3 hours

**The figures in the margin on the right side indicate full marks.
Working notes should form part of the answer.**

Section - A

- 1. Choose the correct alternative and also provide your justification: [10×2=20]**
- (i) As per sec. 94B, interest expenses claimed by an entity to its associated enterprises shall be restricted to ____ of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less.
- (a) 30%
 - (b) 25%
 - (c) 20%
 - (d) 50%
- (ii) Every assessee, who fails to credit adequate equalisation levy to the account of the Central Government within specified period, shall pay interest:
- (a) Equal to the amount of equalisation levy
 - (b) ₹ 100 for every day during which the failure continues
 - (c) ₹ 100 for every day during which the failure continues subject to maximum of amount failed to pay
 - (d) 1% of such levy for every month or part of a month by which such crediting of the tax is delayed
- (iii) To consider a transaction as transfer for the purpose of capital gain in case where a sole proprietary concern sells or otherwise transfers any capital asset to a company, which of the following is one of the conditions is to be satisfied?
- (a) Proprietor must hold at least 51% of the total voting power of the company.
 - (b) Proprietor must hold at least 50% of the total voting power of the company.
 - (c) Proprietor must hold at least 25% of the total voting power of the company.
 - (d) Proprietor must hold at least 10% of the total voting power of the company.
- (iv) In respect of a resident applicant seeking advance ruling in relation to a transaction undertaken or proposed to be undertaken by him with a non-resident, he may make an application stating the question on which the advance ruling is sought in:
- (a) Form No. 34C
 - (b) Form No. 34D
 - (c) Form No. 34DA
 - (d) Form No. 34E
- (v) Anonymous donation is taxable in excess of specified limit. The specified limit is higher of:
- (a) 5% of the total donations received or ₹ 50,000
 - (b) 1% of the total donations received or ₹ 1,00,000
 - (c) 5% of the total donations received or ₹ 1,00,000
 - (d) 1% of the total donations received or ₹ 50,000

- (vi) Which of the following cost formulae is not recognised by ICDS II (Valuation of Inventories)?
- (a) Simple Average Method
 - (b) Specific Identification Method
 - (c) First-in-First-Out Method (FIFO)
 - (d) Weighted Average Method
- (vii) In the context of Double Taxation Avoidance Agreements, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. The term "permanent establishment" does not include:
- (a) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources
 - (b) a workshop
 - (c) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise.
 - (d) a farm, plantation or other place where agricultural, pastoral, forestry or plantation activities are carried on
- (viii) Berry ratio is used in conducting an arm's length analysis of service-oriented industries such as limited risk distributor, advertising, marketing and engineering services. The ratio measures:
- (a) the return on operating expenses
 - (b) amount of EBIT per rupee of asset invested
 - (c) ability of a company to cover its operating expenses through operating revenue
 - (d) None of the above.
- (ix) As per section 35DD of the Income-tax Act, the quantum of deduction of expenses incurred in case of amalgamation or demerger will be:
- (a) 1/3rd of expenses so incurred for a period of 3 years commencing from the year in which amalgamation or demerger takes places.
 - (b) 1/5th of expenses so incurred for a period of 5 years commencing from the year in which amalgamation or demerger takes places.
 - (c) 1/10th of expenses so incurred for a period of 10 years commencing from the year in which amalgamation or demerger takes places.
 - (d) 100% of expenses so incurred for a period of 5 years commencing from the year in which amalgamation or demerger takes places.
- (x) As per section 270A(8) of the Income-tax Act, the quantum of penalty in case of under-reported income which is in consequence of any misreporting thereof by any person, will be:
- (a) 50% of the amount of tax payable on under-reported income
 - (b) 100% of the amount of tax payable on under-reported income
 - (c) 200% of the amount of tax payable on under-reported income
 - (d) 150% of the amount of tax payable on under-reported income.

Section – B

(Answer any five questions out of seven questions given)

2.(a) Determine the amount of interest u/s 234A in the following cases:

	Mr. A (25 years old individual)	Mr. B (63 years old individual)
Due date of filing return for the assessment year 2019-20	31.07.2019	31.07.2019
Date of filing return	Not filed	05.10.2019
Date of payment of self-assessment tax	Not paid	10.09.2019
Date of completion of assessment	10.01.2020	15.10.2019
Income declared	—	9,50,000
Income assessed	7,25,000	9,65,200
Advance tax paid during 2018-19	20,500	21,430
Tax deducted or collected at source	6,000	5,600

[8]

(b) "Fund can be obtained from various sources have different characteristics in terms of risk, cost and control." — Write about the tax planning in relation to capital structure and lease or buy decision in this context.

[8]

3. Prayash Ltd. is engaged in the business of manufacture of garments.

	₹
Sale proceeds of goods (domestic sale)	22,23,900
Sale proceeds of goods (export sale)	5,76,100
Amount withdrawn from general reserve (reserve was created in 1996-97 by debiting P&L A/c)	2,00,000
Amount withdrawn from revaluation reserve	<u>1,50,000</u>
Total	31,50,000
Less : Expenses	
Depreciation (normal)	6,16,000
Depreciation (extra depreciation because of revaluation)	2,70,000
Salary and wages	2,10,000
Wealth-tax	20,000
Income-tax	3,40,000
Outstanding customs duty (not paid as yet)	17,500
Proposed dividend	60,000
Consultation fees paid to a tax expert	21,000
Other expenses	<u>1,39,000</u>
Net profit	14,56,500

For tax purposes the company wants to claim the following:

- Deduction under section 80-IB (30 per cent of ₹ 14,56,500).
- Depreciation under section 32 (₹ 5,36,000)

The company wants to set off the following losses/allowances:

	For tax purposes (₹)	For accounting
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		purposes (₹)
Brought forward loss of 2012-13	15,20,000	5,00,000
Unabsorbed depreciation	—	69,000

Compute the net income and tax liability of Prayash Ltd. for the assessment year 2019-20 assuming that Prayash Ltd. has a (deemed) long-term capital gain of ₹ 60,000 under proviso (i) to section 54D(2) which is not credited in statement of profit and loss. **[16]**

4.(a) State the provisions regarding Appealable Orders for making an appeal to the Commissioner (Appeal). **[8]**

(b) M/s. QQ Trading Co. a sole proprietary concern, was converted into a company w.e.f 01-09-2018. Before the conversion, the sole proprietary concern had a block of Plant & Machinery (15%), whose WDV as on 1-4-2018 was ₹ 3,00,000. On 1st April itself, a new plant of the same block was purchased for ₹ 1,20,000. After the conversion, the company has purchased the same type of plant on 1-1-2019 for ₹ 1,60,000. Compute the depreciation that would be allocated between the concern & the company. **[8]**

5.(a) X purchased a bungalow at Lonawala near Bombay for ₹ 6 lakhs and immediately thereafter leased 80 per cent of the same to a public limited company for a period of 99 years on annual lease of ₹ 1 per annum. The terms of lease provide that the lessee shall keep a deposit of ₹ 20 lakhs with the lessor free of interest during the period of lease. It is also provided that after the expiry of 30 years, the lessee shall have an option to cancel the lease agreement in which case the sum of ₹ 20 lakhs shall be refunded immediately.

The Assessing Officer says that the lease agreement is nothing but a colourable transaction of sale and hence, he wishes to tax the difference of ₹ 14 lakhs (₹ 20 lakhs minus ₹ 6 lakhs) as income from other sources or as short-term capital gains. The assessee's contention is that the sum of ₹ 20 lakhs received is merely a deposit and he is the owner of bungalow till today and the agreement can be terminated on the expiry of 30 years. Further, the assessee has contended that any amount earned on the deposit of ₹ 20 lakhs is shown as income in the regular course and the Assessing Officer cannot treat this transaction as 'sale'. Advise whether the Assessing Officer is justified in his view. **[8]**

(b) Discuss whether section 133(6) is applicable in the case of a co-operative society or co-operative bank. **[8]**

6.(a) Discuss whether adjustment is required in the context of transfer pricing provisions where the transfer price adopted for an international transaction of sale of goods by an Indian company during the financial year 2017-18, is ₹ 50 lacs whilst the Arm's Length Price determined using the most appropriate method are ₹ 48 lacs and ₹ 56 lacs. Assume that the rate of permissible variation prescribed by the Central Government is 2% of the transfer price for this class of international transaction. **[8]**

(b) What is Foreign Tax Credit in the context of international taxation? State the documents which are required for availment of such credit. **[4+4=8]**

- 7.(a)** Mr. Ramesh, a resident Indian, has derived the following incomes for the previous year relevant to the A.Y. 2019-20:

a. Income from profession in India	₹ 2,44,000
b. Income from profession in country A (Tax paid in foreign country @ 5%)	₹ 4,50,000

Compute Indian tax liability of the assessee assuming that as per treaty between India and Country A, ₹ 4,50,000 is taxable in India. However foreign tax can be set off against Indian tax liability. **[8]**

- (b)** What is International Transaction according to sec. 92B of the Income Tax Act? Also, specify some transactions which may be considered as Deemed International Transaction. **[4+4=8]**

8. Write short note (any four):

[4×4=16]

- (a)** Computation of total undisclosed foreign income and asset as per Black Money and Imposition of Tax Act.
- (b)** Comparative study of ICDS II with AS 2.
- (c)** Tonnage Tax Scheme.
- (d)** Tax on Income from Patent.
- (e)** Succession of Income-Tax Authority.