

Roll No.

NOV 2012

**FINAL
GROUP-II PAPER-7
DIRECT TAX LAWS**

Total No. of Questions – 7

Total No. of Printed Pages – 11

Time Allowed – 3 Hours

Maximum Marks – 100

ADB

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

Wherever appropriate, suitable assumption(s) may be made by the candidate.

Working notes should form part of the answer.

Question No. 1 is compulsory.

Attempt any **five** questions from the remaining **six** questions.

Marks

1. (a) X. Limited has transferred its Unit N to Y. Limited by way of slump sale on November 30, 2011. The summarised Balance Sheet of X. Limited as on that date is given below : **6**

₹ In lakhs

Liabilities		Assets	
Paid up Capital	1,700	Fixed Assets :	
Reserves & surplus	620	Unit L	150
Liabilities :		Unit M	150
Unit L	40	Unit N	550
Unit M	110	Other Assets :	
Unit N	90	Unit L	520
		Unit M	800
		Unit N	390
Total	2,560	Total	2,560

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P.T.O.

Using the further information given below, compute capital gain arising from slump sale of Unit N and tax on such capital gain.

- (i) Cost inflation index for financial year 2004-05 and financial year 2011-12 are 480 and 785 respectively.
 - (ii) Lump sum consideration on transfer of Unit N is ₹ 880 lakhs.
 - (iii) Fixed assets of Unit N includes land which was purchased at ₹ 60 lakhs in the year 2004 and revalued at ₹ 90 lakhs as on March 31, 2011.
 - (iv) Other fixed assets are reflected at ₹ 460 lakhs (i.e. ₹ 550 lakhs less value of land) which represents written down value of those assets as per books. The written down value of these assets under section 43(6) of the Income-tax Act is ₹ 410 lakhs.
 - (v) Unit N was set up by X. Limited in July, 2004.
- (b) XYZ Limited purchased a machine on 1st April, 2011 for ₹ 10 crores by availing 70% loan facility from bank. The machine was required for extension of the business of the company and was put to use into effective production on 1st February, 2012. Interest on loan is charged at 12% per annum. 4
- Advise XYZ Limited on the treatment of interest payment made on this loan and depreciation allowable for the Assessment Year 2012-13. Assume that this machine is the only machine in the related block of assets.
- (c) State with reasons whether the following assets are chargeable to wealth tax under the Wealth-tax Act : 5
- (i) Factory building and godown leased out on rent.
 - (ii) Silver and gold in the jewellers shop.

- (iii) Jewellery purchased by Mr. X, a NRI out of balance lying in his Non-Resident External Account on the date of his return to India two years back on permanent basis.
- (iv) Aircraft owned and used by a company for transportation of its goods.
- (v) Life interest in property.
- (d) State the cases where the Assessing Officer can make an assessment of net wealth to the best of his judgement by exercising his powers under section 16(5) of the Wealth-tax Act. Is it necessary for the Assessing Officer to issue show cause notice before making such assessment ? 5
2. The Profit & Loss Account of Indian Branch of **Bank of UK**, a bank incorporated in United Kingdom for the year ended 31st March, 2012 shows a net profit of ₹ 60 crores after debiting / crediting the following items : 16

	₹ in crores
(i) Depreciation	10
(ii) Interest on fixed deposit from which tax was deducted at source under section 194A, but was deposited in October, 2012	2
(iii) Interest on Government Securities accrued but not due on 31 st March, 2012	3
(iv) Reversal of interest income recognised in the previous year 2010-11 in respect of term loan which was classified as sub-standard asset in that year as per the prudential norms of Reserve Bank of India. The reversal of interest was made on the basis of inspection report of Reserve Bank of India in September, 2011	0.20

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| (v) | Profit on sale of a vacant land situated in Noida, Uttar Pradesh to a company incorporated in New Zealand pursuant to an agreement entered into in UK for which payment was also made in UK. | 5 |
| (vi) | Net depreciation on investments under "held for trading" and "available for sale" categories on lower of cost or market price as per the prudential guidelines of Reserve Bank of India. | 12 |
| (vii) | Bad debts written off in respect of advances classified as "loss assets". | 13 |
| (viii) | Provision for non-performing assets as per prudential norms of Reserve Bank of India. | 120 |
| (ix) | Indian Branch's share of executive and general administration expenses as per debit note raised by the Head office. | 4 |

Other relevant information :

- (a) Interest on Government Securities accrued but not due on 31st March, 2011 is ₹ 5 crores, which was credited to the Profit & Loss Account for the previous year 2010-11.
- (b) Depreciation allowable under the Income-tax Rules : ₹ 12 crores.
- (c) The assessee was allowed deduction of ₹ 10 crores for provision for bad debts under section 36(1)(viii) till Assessment Year 2011-12 and it wrote off bad debts for the first time in financial year 2011-12.

- (d) Interest on sub-standard and doubtful categories of advances not recognised as income as per prudential norms of Reserve Bank of India : ₹ 15 crores.
- (e) Land at Noida was acquired by the branch in the financial year 2007-08 at a cost of ₹ 9 crores. Cost inflation index for financial year 2007-08 and financial year 2011-12 are 551 and 785 respectively.

Compute total income and tax payable by the Indian Branch of Bank of UK for the Assessment Year 2012-13 ignoring the applicability of the provision relating to minimum alternate tax. Give explanation for treatment of each item.

3. (a) Mr. A's premises were searched under section 132. During the course of search, certain records belonging to Mr. B were found. Mr. A and Mr. B wish to know from you the consequences. Advise them. 5

- (b) ABC LLP, a limited liability partnership in India is engaged in development of software and providing IT enabled services through two units, one of which is located in a notified Special Economic Zone (SEZ) in Chennai. The particulars relating to previous year 2011-12 furnished by the assessee are as follows : 6

Total Turnover : SEZ unit ₹ 120 lakhs and the other unit ₹ 100 lakhs

Export Turnover : SEZ unit ₹ 100 lakhs and the other unit ₹ 60 lakhs

Profit : SEZ unit ₹ 50 lakhs and the other unit ₹ 40 lakhs.

The assessee has no other income during the year.

- (i) Compute tax payable by ABC LLP for the Assessment Year 2012-13
- (ii) Will the amount of tax payable change, if ABC LLP is an overseas entity ?

(6)

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Marks

- (c) KLM Limited has gone for pension scheme referred to in section 80CCD. 5
It contributes 20% of basic salary to the account of each employee under the scheme. Dearness allowance paid is 40% of basic salary. 50% of dearness allowance forms part of pay for retirement benefits. Total basic salary of employees during the year ended 31st March, 2012 amounted to ₹ 100 lakhs. You are a finance executive of the company and get a basic salary of ₹ 20,000 per month and contribute 20% of basic salary to the pension scheme. On these facts :
- (i) Compute the amount admissible as deduction under section 36(1)(iva) and the amount inadmissible under section 40A(9) in computation of business income of KLM Limited.
- (ii) Explain the tax treatment in your hands.

4. Attempt any **four** questions out of the following questions :

- (a) P. Limited has two divisions, engineering division and tea division. It has transferred engineering division to Q. Limited pursuant to a scheme of demerger which satisfies the conditions of section 2(19AA). P. Limited had a debt of ₹ 5 lakhs in engineering division which stood transferred to Q. Limited. The said debt has been written off as bad in the accounts of Q. Ltd. Can Q. Limited claim deduction on account of the bad debt ? 4
- (b) A Venture Capital Fund derived income of ₹ 17 lakhs comprising dividend of ₹ 4 lakhs from shares from a Venture Capital Undertaking and interest of ₹ 13 lakhs on loan granted to such undertaking. Mr. G receives income of ₹ 2 lakhs from such fund. Examine the taxability of the sum of ₹ 2 lakhs received by Mr. G 4

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- (c) BCFS Limited is a Non-Banking Financial Company (NBFC). The company has not credited interest of ₹ 30 lakhs due on certain loan accounts which had become non-performing assets in its profit & loss account. As per NBFC Prudential Norms (RBI) Directions, 1998, which is binding on the company, interest or discount or any other charges on non-performing assets shall be recognised as income only when it is actually realised. Can the Assessing Officer make addition of such interest on the ground that the assessee, being a company follows mercantile system of accounting ? 4
- (d) Mr. S, a lawyer by profession incurred expenditure on his heart surgery. He claimed such expenditure arguing that the repair of vital organ i.e. the heart has directly impacted his professional competence as his gross income from profession increased manifold after the surgery, the heart should be treated as a plant and hence such expenses should be allowed under section 31 as current repairs to plant and machinery or section 37(1) as an expenditure incurred whole and exclusively for the purpose of his profession. Is the claim of Mr. S tenable in law ? 4
- (e) Pinewood Hotels and Resorts Limited is engaged in business of owning, operating and managing hotels. The tips are paid by the guests by way of charge to the credit cards in the bills. The company disburses the same to the employees at periodic intervals. Explain with reasons whether the company is responsible for deducting tax at source from disbursement of tips to its employees. 4

5. (a) MSO Foundation, a charitable institution set up on 1st April, 2011 and registered under section 12AA with effect from that date is engaged in providing education in hotel management. The organisation acquires a building for using the same for holding classes and office activities. It has approached you for your opinion on its eligibility to claim the cost of the building and also depreciation thereon in the current year and the subsequent year. Advise the institution indicating the reasons. 4
- (b) HLI Private Limited is a company with three shareholders H (40%), L (20%) and I on behalf his HUF (40%). I (HUF) is a Hindu Undivided Family whose members are Mr. I, Mrs. I and their two sons, G and J. The company gave a loan of ₹ 9 lakhs to I (HUF) on 30th April, 2011, on which date the accumulated profits of the company was ₹ 6 lakhs. What is the tax consequence of this transaction ? 4
- (c) David, a foreign national and a cricketer came to India as a member of Australian cricket team in the year ended 31st March, 2012. He received ₹ 5 lakhs for participation in matches in India. He also received ₹ 1 lakh for an advertisement of a product on TV. He contributed articles in a newspaper for which he received ₹ 10,000. When he stayed in India, he also won a prize of ₹ 10,000 from horse racing in Mumbai. He has no other income in India during the year. 8
- (i) Compute tax liability of David for Assessment Year 2012-13.
- (ii) Are the income specified above subject to deduction of tax at source ?

- (iii) Is he liable to file his return of income for Assessment Year 2012-13 ?
- (iv) What would have been his tax liability, had he been a match referee instead of a cricketer ?

6. (a) The Assessing Officer completed the assessment of X. Limited for the assessment year 2008-09 under section 143(3) on 30th December, 2010. The Assessing Officer has initiated the proceeding for penalty under section 271(1)(c) on 30th December, 2010. What is the time limit for imposition of such penalty in the following cases : 5
- (i) X. Limited did not contest the assessment order.
- (ii) X. Limited contested the assessment order by filing appeal to the Commissioner (Appeals). The appeal was dismissed on 30th December, 2011, on which date the Commissioner received the appeal order.
- (iii) The jurisdictional High Court stayed the penalty proceeding on 25th August, 2011 and the Supreme Court vacated the stay on 3rd November, 2011.
- (b) The Finance Act 2011 has broadened the powers of the Transfer Pricing Officer under section 92CA. Examine the correctness of the statement. 4
- (c) Poulomi, a chartered accountant is presently working in a firm in India. She has received an offer for the post of Chief Financial Officer from a Company at Singapore. As per the offer letter she should join the company at any time between 1st September, 2012 and 31st October, 2012. She approaches you for your advice on the following issues to mitigate her tax liability in India : 4
- (i) Date by which she should leave India to join the company;

(ii) Direct credit of part of her salary to her bank account in Kolkata maintained jointly with her mother to meet requirement of her family

(iii) Period for which she should stay in India when she comes on leave.

(d) A company which is entitled to claim deduction under section 80-IB has received duty drawback under a scheme framed by the Central Government under the Customs Act, 1962. Can such duty drawback form part of profit of eligible undertaking for the purpose of deduction under section 80-IB ? 3

7. (a) If assessee fails to make claim for any deduction in the return of income, he loses his opportunity for claiming such deduction at the assessment stage or subsequent stage. Do you agree with the proposition ? 4

(b) X and Y are partners of a partnership firm. The Assessing Officer of X is of the opinion that the income returned by X is actually taxable in the hands of Y. 5

The Assessing Officer in order to safeguard the interest of the Revenue assessed the income in the hands of both X and Y. The Assessing Officer recovered the tax due on the same from X and Y. He also imposed penalty under section 271(1)(c) on Y for concealing the same. Comment on the actions of the Assessing Officer.

- (c) PA Consulting Ltd's total income during the previous year ended 31st March, 2012 is ₹ 10,50,000. Tax deducted at source by different payers amounted to ₹ 24,450 and tax paid in foreign country on a doubly taxed income amounted to ₹ 10,000 for which the company is entitled to relief under section 90 as per the double tax avoidance agreement. 7

During the year the company paid advance tax as under :

Date of payment	Advance tax paid (₹)
15-06-2011	40,000
12-09-2011	65,000
15-12-2011	1,00,000
15-03-2012	62,000

The company filed its return of income for the Assessment Year 2012-13 on 15th October, 2012.

Compute interest, if any payable by the company under sections 234A, 234B and 234C. Assume that transfer pricing provision is not applicable.