FINAL (NEW COURSE)
GROUP-II PAPER-7
DIRECT TAX LAWS

Roll No. ..... NOV 2010

Total No. of Questions – **7** Total No. of Printed Pages – **12**

Time Allowed – **3** Hours Maximum Marks – **100**

DLF

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 has not opted for Hindi medium, his answers in Hindi will not be valued.

Question No. **1** is compulsory.

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

Marks

1. (a) You are the auditor of Sigma Limited under Section 44AB of the Income-tax Act, 1961. You have observed that during the previous year ended 31st March, 2010 the company has charged to Profit & Loss Account a sum of ₹ 20 lakhs, being loss due to fluctuation in foreign exchange rates arising on settlement of dues to a foreign company from whom one machine was imported in the previous year ended 31st March, 2009. The company's accounting policy of charging such exchange loss to Profit & Loss Account is in consonance with the Accounting Standard 11 notified by the Companies (Accounting Standards) Rules. State the particulars to be provided in respect of the exchange loss in the Form 3CD (Statement of Particulars) forming part of the tax audit report. **5**

(b) Hari has acquired a residential house property in Delhi on 1st April, 2000 for ₹ 10,00,000 and decided to sell the same on 3rd May, 2003 to Ms. Pari and an advance of ₹ 25,000 was taken from her. The balance money was not paid by Ms. Pari and Hari has forfeited the entire advance sum. On 3rd June, 2009, he has sold this house to Mr. Suri for ₹ 35,00,000. In the meantime on 4th April, **5**

Marks

2009, he had purchased a residential house in Delhi for ₹ 8,00,000, where he was staying with his family on rent for the last 5 years and paid the full amount as per the purchase agreement. However, Hari does not possess any legal title till 31st March, 2010, as such transfer was not registered with the registration authority.

Hari has purchased another old house in Chennai on 14th October, 2009, from Mr. X, an Indian resident by paying ₹ 5,00,000 and purchase was registered with the appropriate authority.

Determine the taxable capital gain arising from above transactions in the hands of Hari for Assessment Year 2010-11. Cost inflation Index : 2000-01 : 406; 2003-04 : 463; 2009-10 : 632.

(c) Chirag owns two residential flats, one in Mumbai and another in Chennai. Both the flats are meant to be used for residential purposes by Chirag and his family. The particulars of the flats are as follows : 5

(i) The flat at Mumbai was purchased by him in January, 1980 for ₹ 10 lakhs. The flat was occupied by his friend, Suvalaxmi without rent for three months from 1st April, 2009 to 30th June, 2009. The value of the flat as per Schedule III to the Wealth Tax Act on 31st March, 2010 is ₹ 30 lakhs. Its value on the same basis as on 31st March, 1980 was ₹ 12 lakhs.

(ii) The flat at Chennai was purchased in March, 2007 for ₹ 6 lakhs. The values of the flat as per Schedule III to the Wealth Tax Act on 31st March, 2007 and 31st March, 2010 are ₹ 3 lakhs and ₹ 5 lakhs respectively.

You are required to fix value of each flat for the purpose of computation of net wealth of Chirag for Assessment Year 2010-11.

Marks

(d) Mrs. E, wife of Mr. F is a partner in a firm. Her capital contribution to the firm as on 01-04-2009 was ₹ 5 lakhs, out of which ₹ 3 lakhs was contributed out of her own sources and ₹ 2 lakhs was contributed out of gift from her husband. **5**

As further capital was needed by the firm, she further invested ₹ 2 lakhs on 01-05-2009 out of the funds gifted by her husband. The firm paid interest on capital of ₹ 80,000 and share of profit of ₹ 60,000 for the financial year 2009-10.

Advise Mr. F as to the applicability of the provision of Section 64(1)(iv) and the manner thereof in respect of the above referred transactions.

2. (a) ABC Limited was amalgamated with XYZ Limited on 01-04-2009. All the conditions of Section 2(1B) were satisfied. **10**

ABC Limited has the following carried forward losses as assessed till the Assessment Year 2009-10 :

(i)	Speculative Loss	₹ 4 lakhs
(ii)	Unabsorbed Depreciation	₹ 18 lakhs
(iii)	Unabsorbed expenditure of capital nature on scientific research	₹ 2 lakhs
(iv)	Business Loss	₹ 120 lakhs

XYZ Limited has computed a profit of ₹ 140 lakhs for the financial year 2009-10 before setting off the eligible losses of ABC Limited but after providing depreciation at 15% per annum on ₹ 150 lakhs, being the consideration at which plant and machinery were transferred to XYZ Limited. The written down value as per income-tax record of ABC Limited as on 31st March, 2009 was ₹ 100 lakhs.

The above profit of XYZ Limited includes speculative profit of ₹ 10 lakhs.

Compute the total income of XYZ Limited for Assessment Year 2010-11 and indicate the losses/other allowances to be carried forward by it.

Marks

(b) R Limited transferred a building worth ₹ 25 lakhs to the Chief Executive Officer, Mr. Mohan Lal, a resident individual on his retirement under an agreement for not carrying on any activity related to its business for a period of five years. In course of assessment under Section 143(3), the Assessing Officer found that no tax had been deducted at source by R Limited and on that ground he disallowed the expenditure by invoking the provision of Section 40(a)(ia). Examine the correctness of the action of the Assessing Officer. 6

3. (a) A resident woman individual sold a house property on 16-01-2010. On the said transaction she earned a long-term capital gain of ₹ 1,01,50,000. She invested a sum of ₹ 50,00,000 in capital gains bonds specified in Section 54 EC on 05-03-2010. She further invested a sum of ₹ 50,00,000 in the same bonds on 05-05-2010. Her other income for the financial year 2009-10 was ₹ 46,000. Compute the tax payable by her for the Assessment year 2010-11. 6

(b) ILT Limited is engaged in manufacturing pipes and tubes. The Profit & Loss Account of the company for the year ended 31st March, 2010 shows a net profit of ₹ 405 lakhs. The following information and particulars are furnished to you. You are required to compute total income of the company for Assessment Year 2010-11 indicating reasons for treatment of each item. 10

(i) A group Free Air Ticket was provided by a supplier for reaching a certain volume of purchase during the financial year 2009-10. The same is encashed by the company for ₹ 10 lakhs on April 2010.

(ii) A regular supplier of raw materials agreed for settlement of ₹ 8 lakhs instead of ₹ 10 lakhs for poor quality of material supplied during the previous year which was not given effect in the running account of the supplier.

(iii) Andhra Bank sanctioned and disbursed a term loan in the financial year 2006-07 for a sum of ₹ 50 lakhs. Interest of ₹ 8 lakhs was in arrear. The bank has converted the arrear interest into a new loan repayable in ten equal instalments. During the year the company has paid two instalments and the amount so paid has been reduced from Funded Interest in the Balance Sheet.

(iv) The company remitted ₹ 5 lakhs as interest to a company incorporated in USA on a loan taken two years ago. Tax deducted under Section 195 from such interest has been deposited by the company on 15th June, 2010.

(v) Liquidated damage of ₹ 3 lakhs received from KS Limited for delay in supply of plant and machinery has been shown under the head "Other income" in Profit & Loss Account.

(vi) Sandeep, a sales executive stationed at HO at Delhi, was on official tour in Bangalore from 31st May, 2009 to 18th June, 2009 and 28th September, 2009 to 15th October, 2009 for the business development. The Company has paid Sandeep's salary, in cash, from its local office at Bangalore for the month of May 2009 (payable on 1st June) and September 2009 (payable on 1st October), amounting to ₹ 25,000 and ₹ 27,000 respectively (net of TDS and other deduction), as Sandeep has no bank account at Bangalore.

Marks

(vii) The company has taken up initiative to restructure its debt and paid ₹ 20,000 to a financial company, M/s ABC Ltd., towards pre-payment premium. As per the scheme, ₹ 50,000 loan was waived against its loan and B Limited directly credited it to its reserve account, considering loan waiver amount as capital receipt.

(viii) The company has contributed ₹ 50,000 to an electoral trust and the same stands included under the head "General Expenses".

4. (a) Dishant received a notice under Section 148 from the Assessing Officer for Assessment Year 2004-05 on the ground that depreciation on certain assets was allowed in excess. The Assessing Officer recorded the reason for reopening. The original assessment was completed under Section 143(3). In course of reassessment proceeding the Assessing Officer also disallowed certain sum under Section 14A in respect of expenses purported to be in relation to dividend from companies and tax-free interest. However, the Assessing Officer did not record the reason for applying the provision of Section 147 in respect of the issue of disallowance under Section 14A and passed the order disallowing the excess depreciation and also certain sum under Section 14A. Is there any infirmity in the order passed by the Assessing Officer ? 3

(b) (i) Who shall sign and verify the return of income of a limited liability partnership ? 2

Marks

(ii) XYZ LLP is liquidated. What is the liability of partners of XYZ LLP in respect of its tax dues ? 2

(iii) PQR LLP has a profit of ₹ 500 lakhs after charging interest on capital for P amounting to ₹ 10 lakhs calculated at 15% p.a. as per the agreement, but before considering remuneration to partners. What is the maximum admissible amount of remuneration to partners assuming all the partners are working partners and remuneration is authorized by the LLP instrument ? 2

(c) Who can be an e-return Intermediary, as notified by CBDT ? 4

(d) ITP Limited is engaged in growing and manufacturing tea in India. It commenced its operation from 1st April, 2008. It acquired plant and machinery, factory building and furniture at cost of ₹ 40 lakhs, ₹ 25 lakhs and ₹ 10 lakhs respectively in the previous year 2008-09. All the assets were put to use for more than 180 days during 2008-09. Compute the written down value of each block of assets as on 1st April, 2009. 3

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

(a) CG Ltd. is engaged in the business of conversion of jumbo rolls of films into saleable packets/rolls of standard size. 4

Is the company entitled to claim deduction under Section 80-1B ?

Marks

(b) SK Enterprises, an exporter of soft toys, filed its return of income disclosing a total income of ₹ 8.50 lakhs after claiming deduction under Section 10 B of the Income-tax Act for ₹ 4 lakhs. The return was processed under Section 143(1) and income as per return of income was accepted. Later on it was noticed by the Assessing Officer that the assessee had offered interest income on fixed deposit under the head "profits and gains of business or profession", but it was required to be assessed under the head "income from other sources". The Assessing Officer initiated rectification proceeding by issue of notice under Section 154 and after hearing the assessee passed order under Section 154 including the interest income under the head "income from other sources" and adjusting the claim of the assessee under Section 10 B. Examine the correctness of the action of the Assessing Officer. 4

(c) A charitable institution registered under Section 12A of the Income-tax Act, 1961 filled in Form No. 10 for seeking permission to accumulate unapplied income under Section 11(2) of the Act for the objects of the institution and submitted it to the Assessing Officer along with the resolution for accumulation. The Assessing Officer found that the objects for which accumulation was sought were not particularised in as much as they covered the entire range of objects of the institution. Can the Assessing Officer deny the benefit of accumulation in such case ? 4

(d) The residential premises of Mr. X, an income tax practitioner was searched under Section 132. During the search certain incriminating documents were seized. From the documents seized it was revealed that he had been claiming and receiving income tax refunds by filing bogus TDS certificates with returns of income prepared by him even in the names of non-existing persons. Discuss whether the refund collected illegally by Mr. X by producing bogus TDS certificates constitute income chargeable to tax. 4

Marks

(e) People Housing Ltd. is engaged in the business of constructing residential and commercial properties. One of the building properties was included in the closing stock in the Balance Sheet. The said building was let out for a monthly rent as suitable buyers could not be found. All other buildings had been sold by the company. State with reasons whether the income by way of rent from the unsold property is assessable as income from business or income from house property. 4

(a) Fearless General Finance & Investment Limited, a residuary non-banking company, is accepting public deposit, issued deposit certificate and repaid back after some period of time alongwith interest, under different schemes run by it. Following transactions were noted from their books of account : 7

(i) Mr. A, an individual, has deposited ₹ 15,000 on 1st May, 2006 for 48 months in cheque and another ₹ 15,000 on 30th June, 2009 in cash to purchase a new certificate of 48 months tenure.

(ii) Mr. A has applied for premature withdrawal against both the certificates and the company has paid him ₹ 16,500, by a bearer cheque, against principal and interest on 23rd March, 2010, due against his first certificate (purchased in 2006) and ₹ 15,500 in cash on 25th March, 2010, against the second certificate.

Discuss the violation of income tax provision if any and consequential penalty for each transaction. Will it make any difference if the certificates were held jointly with Mrs. A, wife of Mr. A, while repaying back in cash or bearer cheque ?

Marks

(b) The net profit of ABP Ltd. as per Profit & Loss Account for the previous year 2009-10 is ₹ 100 lakhs after debiting/crediting the following items : 9

(i) Provision for income-tax : ₹ 15 lakhs

(ii) Provision for deferred tax : ₹ 8 lakhs

(iii) Proposed Dividend : ₹ 20 lakhs

(iv) Depreciation debited to Profit & Loss Account is ₹ 12 lakhs. This includes depreciation on revaluation of asset to the tune of ₹ 2 lakhs.

(v) Profit from unit established in Special Economic Zone : ₹ 30 lakhs

(vi) Provision for permanent diminution in value of investments : ₹ 2 lakhs

Brought forward losses and unabsorbed depreciation as per books of the company are as follows :

Previous year	Brought forward Loss (₹ in lakhs)	Unabsorbed Depreciation (₹ in lakhs)
2006-07	2	5
2007-08	–	3
2008-09	10	2

Compute book profit of the company under Section 115 JB for Assessment Year 2010-11.

Marks

7. (a) Ranjit has taken an interest-free loan of ₹ 10 lakhs from his company. The amount is utilized by him for purchasing a house on 30-06-2008. The house is self-occupied. As per the scheme of the company, loan would be recovered in 40 equal monthly instalments recoverable immediately after the completion 18th month from the date of purchase. The SBI lending rate of similar loan on 1-4-2009 was 9.75%. Calculate the perquisite value of such loan in the hands of Ranjit for the assessment year 2010-11. Is it possible to get deduction of perquisite value of interest under Section 24(b) ? Does it make any difference, if the house is given on rent ? 5

(b) Mr. Ram, a resident individual following cash basis of accounting has the following assets as on 31-03-2010. Compute his net wealth for the assessment year 2010-2011 : 5

		Valuation as on 31-03-2010 (₹ in lakhs)
(i)	Self-occupied residential house	60
(ii)	Owning of a guest house situated 26 kms from the municipality	30
(iii)	Property used for his business	50
(iv)	One residential complex consisting of 10 dwelling units. He intended to sell 5 units which are kept vacant for want of prospective buyers for the whole year. 2 units are vacant from 05-01-2010. 3 units are let out fully for the whole year.	500

Marks

(c) What are the nature and value of transactions to be reported in Annual Information Return by the following entities ? 3

(i) A banking company;

(ii) Registrar or Sub-registrar appointed under the Registration Act

What is the time limit for filing such return ?

(d) Can the Transfer Pricing Officer accept use of multiple-year data for determination of Arm's Length Price in an international transaction ? 3