

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

Roll No.

Total No. of Questions – 7

Time Allowed – 3 Hours

NOV 2011

Total No. of Printed Pages – 11

Maximum Marks – 100

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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.

Working notes should form part of the answer.

Question No. 1 is compulsory.

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

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1. (a) Jyoti Education Centre, a charitable institution registered under section 12AA of the Income-tax Act runs schools for primary and secondary education. The following particulars pertaining to the previous year 2010-11 are furnished to you by the institution :

(₹ in lakh)

(i)	Gross Receipts from students towards admission fees, tuition fees, development fees, laboratory fees, etc.	152.75
(ii)	Dividend received on units of mutual funds specified in section 10(23D).	16
(iii)	Donations received (including anonymous donation ₹ 2.50 lakh).	10.50
(iv)	Grant from State Government.	7.25
(v)	Amount applied for purposes of schools.	90.60

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(vi)	Purchase of computers and laboratory equipments.	21.40
(vii)	Included in (v) above, a sum of ₹ 3.50 lakh, being the amount applied for the benefit of the founder of the institution.	
(viii)	The institution had accumulated ₹ 20 lakh under section 11(2) in the previous year 2007-08 for a period of two years for acquiring and developing a plot of land for construction of a new school. Land was purchased for ₹ 15 lakh and development was made at a cost of ₹ 2 lakh in the previous year 2010-11.	
(ix)	Excess of expenditure over income in the previous year 2009-10.	35

Compute total income of the institution and tax payable by it for the Assessment Year 2011-12.

- (b) A. Limited engaged in manufacturing activity has the following immovable properties as on 31st March, 2011. State, with reasons, whether the assets are chargeable to wealth tax as on the valuation date 31st March, 2011. 4
- (i) A plot of agricultural land in Chennai acquired on 1st January, 2009 for conversion into non-agricultural land to be used for opening a new factory. The approval of the Tamil Nadu State Government for conversion into industrial land was obtained on 1st November, 2010. The development activity for conversion was in progress on 31st March, 2011.
- (ii) A building is under construction at Coimbatore. The said building after construction will be used partly for accommodating senior executives each having annual salary exceeding ₹ 5 lakh and partly as guest house.

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- (c) Madhav, a child artist acting in laughter shows accumulated a wealth of ₹ 25 lakh over a short span of time. The same was put into securities by his mother, who is also the guardian. The securities were sold in 2010-11 resulting in capital gain of ₹ 10 lakh, which was invested in a plot of land in urban area. The Assessing Officer proposes to include the value of the land in computation of net wealth of the mother under section 4(1) on the valuation date. Is the proposition of the Assessing Officer justified in law? 3
- (d) "The rules laid down in Schedule III to the Wealth-tax Act are not binding on the Valuation Officer." Examine the correctness of the statement. 3
2. XYZ Private Limited is engaged in manufacturing and selling ceramic tiles. The net profit of the company as per its Profit & Loss Account for the year ended 31st March, 2011 is ₹ 150 lakh after debiting or crediting the following items: 16
- (i) One-time license fee of ₹ 20 lakh paid to a foreign company for obtaining franchise on 1st June, 2010.
 - (ii) ₹ 29,000 paid to A & Co., a goods transport operator in cash on 31st January, 2011 for distribution of the company's products to its warehouse.
 - (iii) Rent of ₹ 6 lakh received from letting out a part of its office premises. Municipal tax in respect of the said part of the building amounting to ₹ 15,000 remains unpaid.
 - (iv) ₹ 2 lakh, being contribution to a University approved and notified under section 35(1)(ii).
 - (v) ₹ 3 lakh, being loss due to destruction of a machinery caused by a fire due to short circuit. The Insurance Company did not admit the claim of the company.

- (vi) ₹ 4 lakh and ₹ 1 lakh being amounts waived by a bank out of principal and arrear interest respectively in an one-time settlement. The loan was obtained for meeting working capital requirement four years back.
- (vii) ₹ 1 lakh, being amount payable to a contractor (who does not have Permanent Account Number) for repair work at the company's factory. Tax of ₹ 2,000 was deducted and paid in time.
- (viii) Dividend of ₹ 0.10 lakh from P.Limited on 1000 equity shares of ₹ 10 each purchased at ₹ 100 per share on 10th October, 2010. The rate of dividend declared is 100%, the record date being 1st December, 2010. The shares were sold on 1st March, 2011 at ₹ 80 per share. Loss of ₹ 0.20 lakh has been debited to Profit & Loss Account.
- (ix) Depreciation on tangible fixed assets ₹ 1 lakh.

Additional Information :

- (i) Depreciation on tangible fixed assets as per Income-tax Rules ₹ 1.75 lakh.
- (ii) The company has obtained a loan of ₹ 2 lakh from ABC Private Limited in which it holds 16% voting rights. The accumulated profits of ABC Private Limited on the date of receipt of loan was ₹ 0.50 lakh.

Compute total income of XYZ Private Limited for the Assessment Year 2011-12 indicating reasons for treatment of each item. Ignore the provisions relating to minimum alternate tax.

3. (a) A partnership firm consisting of three partners X, Y, and Z is engaged in the business of manufacturing and selling toys. 7

Turnover of the business for the year ended 31st March, 2011 amounts to ₹ 55 lakh.

Bad debts written off in the books are ₹ 75,000.

Interest at 12% is provided to partner, Z on his capital of ₹ 6 lakh as authorized by the partnership deed.

The firm had business loss of ₹ 50,000 and unabsorbed depreciation of ₹ 1,50,000 carried forward from Assessment Year 2010-11. The firm did not pay tax under presumptive tax system in assessment year 2010-11. The firm opts for presumptive taxation under section 44AD for Assessment Year 2011-12.

- (i) Compute the income of the firm chargeable under the head "profits and gains of business or profession".
- (ii) What would be the liability for interest under section 234B and 234C, if the firm has not paid any advance tax ?

- (b) Mr. X transferred his residential house to Y for ₹ 10 lakh on 1st April, 2010. 5

The value of the said house as per Stamp Valuation Authority was ₹ 16 lakh. Mr. Y is a childhood friend of Mr. X.

Mr. X gifted a plot of land (purchased by him on 1st August, 2007) to Mr. Y on 1st July, 2010. The value as per Stamp Valuation Authority is ₹ 8 lakh. Mr. Y sold the land on 1st March, 2011 at ₹ 14 lakh.

Cost Inflation Index- 2007-08 : 551; 2010-11: 771.

Compute the income of Mr. Y chargeable under the heads "Capital Gains" and "Income from other sources" for Assessment Year 2011-12.

- (c) JJ Limited, a company incorporated in Australia has entered into an agreement with KK Limited, an Indian company for rendering technical services to the latter for setting up a fertilizer plant in Orissa. As per the agreement JJ Limited rendered both off-shore services and on-shore services to KK Limited at fee of ₹ 1 crore and ₹ 1.5 crore respectively. JJ Limited is of the view that it is not liable to tax in India in respect of fee of ₹ 1 crore as it is for rendering services outside India. Discuss the correctness of the view of JJ Limited. 4

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

- (a) Rajesh regularly files his return of income electronically. While he was trying to upload his return of income for assessment year 2010-11 on 31st July, 2010, last date for filing the same, he found it extremely difficult to do the same due to network problems and ultimately he became successful in making e-filing of his return only at 1 A.M. on 1st August, 2010. The return contained a claim for carry forward of business loss of ₹ 1 lakh. This circumstance was recorded in a letter delivered to the office of the Deputy Commissioner of Income Tax on 1st August, 2010 during normal office hours. Rajesh made a request to the CBDT for condonation of delay in filing the return of income.

Discuss whether the CBDT has the power to condone the delay in filing the return of income and permit carry forward of loss in the given circumstance. =16

- (b) PQR Limited has written off certain debts as bad debts in the books of account and claimed deduction under section 36(1)(vii) in the return of income filed for Assessment Year 2011-12. The Assessing Officer made disallowance for deduction of bad debts on the ground that the debts have not been established to have become irrecoverable and bad in the previous year 2010-11.

Examine the correctness of the action of the Assessing Officer.

- (c) MNO Limited is engaged in manufacturing activities. It received liquidated damages of ₹ 10 lakh from supplier of machinery due to delay in supply of machinery. State, with reasons whether or not the income by way of liquidated damages is assessable as income from business.
- (d) ABC JET Limited, an airline company pays landing and parking charges to the Airports Authority of India. Discuss whether the company is required to deduct tax at source from such payment.
- (e) ABC Limited has claimed exemption on the income from long-term capital gains under section 54EC by investing in bonds of National Highway Authority of India within the prescribed time. In the computation of "book profit" under section 115JB, the company claimed exclusion of long-term capital gains because of exemption available on it by virtue of section 54EC. The Assessing Officer reckoned the book profit including long-term capital gains for the purpose of levy of minimum alternate tax payable under section 115JB.

Is the action of the Assessing Officer justified in law ?

5. (a) Explain the term "Bilateral Relief" in the context of Double Taxation Avoidance Agreement. 4
- (b) Ajay, a non-resident Indian has the following sources of income in India during the previous year 2010-11: 6

Particulars	₹
i. Income from house property located in India (computed)	1,80,000
ii. Dividend from Indian Companies	75,000

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iii.	Interest on debentures of Indian company (Subscribed in convertible foreign exchange)	1,00,000	
	Less : Interest on loan taken for purchase of debentures	20,000	80,000
iv.	Long-term capital gains on sale of debentures subscribed in US \$:		
	Cost in 2002-03	4,00,000	
	Sale in 2010-11	<u>6,00,000</u>	
		2,00,000	
	Less: Commission to brokers	6,000	1,94,000

Cost Inflation Index : 2002-03- 447; 2010-11- 711.

Compute tax payable by Ajay for Assessment Year 2011-12, if he opts for the provisions of Chapter XII-A of the Income-tax Act.

- (c) State the consequences that would follow if the Assessing Officer makes adjustment to arm's length price in international transactions of the assessee resulting in increase in taxable income. What are the remedies available to the assessee to dispute such adjustment ? 6

6. (a) The Assessing Officer within his jurisdiction surveyed a popular Cyber Café at 12'o clock in night for the purpose of collecting information which may be useful for the purposes of the Income-tax Act. The Cyber Café is kept open for business every day between 2 P.M. and 2 A.M. The owner of the Cyber Café claims that the Assessing Officer could not enter the café in late night. The Assessing Officer wanted to take away with him the books of account kept at the Cyber Café. Examine the validity of the claim made by the owner and the proposed action of the Assessing Officer. 4

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- (b) The Assessing Officer issued a notice under section 142(1) on the assessee on 24th December, 2010 calling upon him to file return of income for Assessment Year 2010-11. In response to the said notice the assessee furnished a return of loss and claimed carry forward of business loss and unabsorbed depreciation. State whether the assessee would be entitled to carry forward as claimed in the return. 4
- (c) The regular assessment of MNO Ltd. for the Assessment Year 2009-10 was completed under section 143(3) on 13th March, 2011. There was an audit objection by the Revenue Audit team that interest on loan should be disallowed partly as there was diversion of borrowed fund to sister concern without charge of interest. 5

5/11 Based on the above facts :

- (i) State, with reasons, whether the Assessing Officer can issue notice under section 148 on the basis of audit objection of the Revenue Audit team.
- (ii) If the action stated in (i) above is not permitted, what is the option open to the Revenue Department to deal with the said audit objection ?
- (d) Discuss the correctness or otherwise of the following statements with reference to the provisions of the Income-tax Act : 3
- (i) An appeal before Income-tax Appellate Tribunal cannot be decided in the event of difference of opinion between the Judicial Member and the Accountant Member on a particular ground.
- (ii) A High Court does not have an inherent power to review an earlier order passed by it on merits.

7. (a) Ms. Madhvi, a resident individual and self-employed industrial designer, furnished the following particulars for the year ended 31-03.2011 :

	₹
i. Gross total income.	5,00,000
ii. Housing loan principal repayment. The property is under construction at Jaipur as on 31-03-2011.	1,10,000
iii. Principal repayment of housing loan from a relative. This property is self-occupied situated at Jodhpur.	50,000
iv. Contribution to Public Provident Fund in the name of her mother.	70,000
v. She deposited ₹ 5,000 per month in her account under a pension scheme notified by the Central Government.	

Compute total income of Ms. Madhvi for Assessment Year 2011-12 stating reasons for the deduction eligible under appropriate provisions of Chapter VI-A.

- (b) A sum of ₹ 60,000 was paid to Mr. Dastur, an advocate on 1st July, 2010 towards fees for his professional services without deducting tax at source. Later on, a further sum of ₹ 70,000 was due to him on 27th February, 2011 from which tax of ₹ 13,000 was deducted at source. The tax so deducted was deposited on 25th June, 2011. Compute interest payable by the deductor under section 201(1A).

- (c) Explain whether there is conflict between accounting standards and provisions of the Income-tax Act in respect of the following: $3 \times 2 = 6$

- (i) Effect of fluctuation in foreign currency rates where a capital asset is imported by a company.
 - (ii) Permanent fall in value of long-term investments held by a company.
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