Test Series: October, 2020

MOCK TEST PAPER

FINAL (NEW) COURSE: GROUP II

ELECTIVE PAPER 6C: INTERNATIONAL TAXATION

Attempt any four out of five case study based questions.

Each case study carries 25 Marks.

Time Allowed – 4 Hours **Maximum Marks – 100**

CASE STUDY - 1

Mr. Shiva, born in India in the year 1962, left India for employment to the United States in October, 1992 with his family comprising of his wife, Mrs. Parvati, and two sons, Ganesh and Karthikey. Mrs. Parvati (born and brought up in India) returned to India permanently in 2008 with her two sons. She co-owns a residential house property at Mumbai along with her husband, in which she resides. The municipal value of the said house is ₹ 8 lakhs and the fair rent is ₹ 6 lakhs. She visits USA for four months every year to stay with her husband.

Mr. Shiva visits India from 1st February to 30th March every year. He remitted US $ 50,000 in his wife's joint bank account in Mumbai on 16th April, 2013. She purchased in her name, ₹ 12 lakhs in the equity shares of domestic companies on 14th April, 2014 and ₹ 13.20 lakhs on 25th March, 2017. The fair market value of the equity shares as on 31st January, 2018 is ₹ 14 lakhs and ₹ 14.90 lakhs, respectively. The consideration for purchase of shares on both the occasions was met in foreign exchange (USD) and the values, as translated in INR terms, have been furnished.

On 28.03.2020, the shares purchased in April, 2014 were sold for ₹ 15 lakhs and the shares purchased in March, 2017 were sold for ₹ 17.50 lakhs. For both purchase and sale of shares, STT was paid. TTBR and TTSR of US dollars adopted by the State Bank of India is as follows -

Date	TTBR of 1 US Dollar in Indian rupees	TTSR of 1 US Dollar in Indian rupees
14.04.2014	₹ 58	₹ 62
25.03.2017	₹ 64	₹ 66
28.03.2020	₹ 68	₹ 70

Mr. Shiva owned a vacant site at Mumbai which had been acquired on 14.10.2011 for ₹ 7,40,000. It was sold on 20.03.2020 for ₹ 35 lakhs to Mr. Vishnu, his younger brother (a resident Indian based at Hyderabad). The stamp duty valuation of the property on the date of sale was ₹ 40 lakhs. The entire sale proceeds of vacant site were used for acquiring a residential property at Malaysia for ₹ 36 lakhs. Shiva owns one residential house in Delhi, which is unoccupied, and a commercial apartment at Singapore, since October, 2012. The municipal value of the house at Delhi is ₹ 9 lakhs and fair rent is ₹ 12 lakhs. The fair value of the commercial apartment at Singapore is Singapore dollars equivalent to ₹ 15 lakhs.

Note: Cost Inflation Indices:

F. Y. 2011-12 - 184; F. Y. 2014-15 - 240; F.Y.2016-17 - 264; F.Y.2019-20 - 289

Mr. Shiva's first son Mr. Ganesh (born in India in 1987), an engineer, left India in May 2014 for permanently settling down in Australia. He acquired 50,000, 8% debentures of ₹ 100 each in a listed company in India, by remitting foreign exchange in May, 2016. He received interest on these debentures for the year on 28.03.2020. He remitted ₹ 1 lakh towards premium on life insurance policy taken in the year 2008 with capital sum assured of ₹ 12 lakhs. He has dividend income of ₹ 25,000 from listed Indian companies for the year. He earned dividend income in Australian dollars equivalent to ₹ 30,000 and ₹ 10,000 from listed and unlisted companies in Australia. He earned rental income in Australian dollars equivalent to ₹ 20,000 per month for house let out in Australia. The municipal taxes paid in respect of the said house is Australian dollars equivalent to ₹ 5,000 p.a. This year, he visited India from 1st May, 2019 to 27th August, 2019. He visited India for 100 days in the earlier previous years.

Mr. Ganesh is engaged to Ms. Radha who is born and brought up in Australia and a citizen of that country. Her parents and maternal grandparents were also born and brought up in Australia, but her paternal grandparents were born in Lahore, Pakistan before the year 1940. She visits India every year from 1st May to 31st July.

Mr. Shiva's second son Mr. Karthikey (born in the year 1989 in India) is engaged in textile business at Surat. He has not filed return of income in India since assessment year 2010-11, though his total income exceeded the basic exemption limit every year. He has a joint bank account in the United States along with Mr. Shiva, with operating rights since 1.4.2011. He purchased a house property in the United States in January, 2012.

I. MULTIPLE CHOICE QUESTIONS

Write the most appropriate option to each of the following questions by choosing one of the four options given. Each question carries two marks.

(i) In respect of Mr. Karthikey who has not filed his return of income since A.Y.2010-11, the Assessing Officer wants to issue notice under section 148 for bringing to tax income escaping assessment. From which Assessment Year, can he issue such notice?

- (a) From A.Y.2010-11
- (b) From A.Y.2012-13
- (c) From A.Y.2014-15
- (d) From A.Y.2016-17

(ii) What would be the total income of Mr. Ganesh for A.Y.2020-21 computed under the regular provisions of the Act?

- (a) ₹ 6,04,500
- (b) ₹ 5,64,500
- (c) ₹ 4,00,000
- (d) ₹ 3,00,000

(iii) What is the tax liability of Mr. Ganesh for A.Y.2020-21 (rounded off) computed in a manner most beneficial to him?

- (a) ₹ 34,740
- (b) ₹ 26,420
- (c) ₹ 2,600
- (d) Nil

(iv) What is the residential status of Ms. Radha for A.Y.2020-21 under the Income-tax Act, 1961?

- (a) Resident and Ordinarily resident
- (b) Resident but not ordinarily resident
- (c) Resident; however, it is not possible to determine whether or not he is ordinarily resident with the given information
- (d) Non-resident

(v) What would be your answer to Q.(iv), if Radha's paternal grandparents were also born in Australia?

- (a) Resident and Ordinarily resident

(b) Resident but not ordinarily resident

(c) Resident; however, it is not possible to determine whether or not he is ordinarily resident with the given information

(d) Non-resident

II. DESCRIPTIVE QUESTIONS

1. Compute the total income and tax liability of Mr. Shiva for the A.Y. 2020-21. **(7 Marks)**

2. Mr. Vishnu seeks your advice as regards deduction of tax at source on the payment made to Mr. Shiva and tax implication of the transaction of purchase of land from him. **(3 Marks)**

3. Assume that Mr. Ganesh is in receipt of income of ₹ 2,45,000 being income distributed by a REIT during the P.Y.2019-20. The components of income are as follows:

	Particulars	**₹**
(i)	Rental Income from real estate property owned by REIT	1,25,000
(ii)	Interest Income of REIT from A Ltd.	62,000
(iii)	Dividend Income of REIT from A Ltd.	58,000

A Ltd. is an Indian company in which the REIT holds controlling interest. The REIT holds 100% of shareholding of A Ltd.

Examine whether the above components of the income distributed by REIT would be chargeable to tax in the hands of Mr. Ganesh. Also, examine whether the REIT is required to deduct tax at source on such income distributed to Mr. Ganesh. **(5 Marks)**

CASE STUDY - 2

MNO Ltd., having its registered office in Mumbai, is engaged in multiple businesses. It has a trading unit at Surat and manufacturing unit at Hyderabad. It has borrowed ₹ 200 crores from State Bank of India (SBI) for which 100% guarantee was given by the parent company ABC Inc. of Country A. The total borrowings of MNO Ltd. is ₹ 1,000 crores.

The Surat unit buys mobile phones from ABC Inc. The mobile phones are branded for which royalty at ₹ 100 per mobile phone sold is paid to ABC Inc. Similar mobile phones are also sold to other customers in India by ABC Inc. but no royalty is charged from them. The credit period offered to MNO Ltd. is 2 months, whereas for other customers, the credit period is 1 month. During the year, 10 lakh mobile phones were bought for an aggregate sum of ₹ 2,600 crores from ABC Inc. The purchase could be assumed as uniform throughout the financial year 2019-20. The cost of capital may be adopted as 10% per annum. ABC Inc. would have billed ₹ 2,400 crores (excluding interest component for the delay beyond 1 month) for supply of identical quantity of similar mobile phones to other customers. It may be assumed that the entire purchase has been sold out by 31st March, 2020.

ABC Inc. also has a liaison office at Delhi (opened with the permission of RBI), where the orders are booked for supply of mobile phones directly to customers in India. The liaison office has no connection with any other unit of MNO Ltd. The salary and administrative expenses of liaison office are met directly by ABC Inc. During the financial year 2019-20, the liaison office procured for ABC Inc., orders for 1,00,000 mobile phones from various customers in India. In addition, ABC Inc. procured orders for 50,000 mobile phones directly from customers in India. ABC Inc. made profits from orders procured directly as well as through the liaison office.

The unit at Hyderabad is engaged in manufacture of automobile spare parts. It paid technical fee of ₹ 100 crores to ABC Inc. during the financial year 2019-20 in pursuance of an agreement approved by the Central Government; tax on the same was, however, deducted at source in May, 2020 and remitted in the same month. The unit also paid commission to overseas agents for booking export orders amounting to ₹ 25 crores in respect of which no tax was deducted at source. The commission payments to the overseas agents were made outside India in foreign currency. The unit also employed persons for after-sales service in the Far East, to whom salary was paid in foreign currency outside India. The total salary payment to overseas employees was foreign currency equivalent to ₹ 40 crores and though the payments were remitted from Hyderabad, no tax was deducted at source.

The assessment of MNO Ltd. for assessment year 2019-20 is pending before the Assessing Officer who referred the matter to Transfer Pricing Officer (TPO) for determination of arm's length price (ALP) in respect of the manufacturing unit at Hyderabad. The TPO, however, expanded the scope of his work by calling for details in respect of the trading unit of MNO Ltd. located at Surat.

Aggrieved with the expanded scope of work carried out by the TPO, MNO Ltd. wants to approach the Dispute Resolution Panel (DRP), as similar issues for the assessment years 2017-18 and 2018-19 are pending before the Appellate Tribunal. The appeal to the Appellate Tribunal for A.Y.2017-18 and A.Y.2018-19 also contains other matters relating to certain disallowances made while computing total income of those years. The management of MNO Ltd. also wants to enter into an Advance Pricing agreement (APA) with rollback mechanism.

Based on the above facts, you are required to answer the following questions:

I. MULTIPLE CHOICE QUESTIONS

Write the most appropriate option to each of the following questions by choosing one of the four options given. Each question carries two marks.

(i) If primary adjustment is made *suo motu* by MNO Ltd., what is the prescribed time within which the excess money available with ABC Inc. has to be repatriated, if the company does **not** want to treat such excess money as deemed advance and compute interest thereon??

(a) On or before 30th November, 2020

(b) On or before 29th December, 2020

(c) On or before 28th February, 2021

(d) On or before 31st March, 2021

(ii) In case the excess money has not been repatriated and additional income-tax is not paid, what would be the tax consequence for P.Y.2020-21, if the one year marginal cost of fund lending rate of SBI is 6% as on 1.4.2019 and 7% as on 1.4.2020?

(a) Interest calculated @9.25% p.a. from 1st December, 2020 to 31st March, 2021 to be added to total income of P.Y.2020-21

(b) Interest calculated @10% p.a. from 1st December, 2020 to 31st March, 2021 to be added to total income of P.Y.2020-21

(c) Interest calculated @10.25% p.a. from 1st December, 2020 to 31st March, 2021 to be added to total income of P.Y.2020-21

(d) Interest calculated @10.25% p.a. from 1st March, 2021 to 31st March, 2021 be added to total income of P.Y.2020-21

(iii) Is MNO Ltd. required to deduct tax at source on salary paid to overseas employees and commission paid to overseas agents?

(a) MNO Ltd. is required to deduct tax at source on both the payments

(b) MNO Ltd. is not required to deduct tax at source on either of the payments

(c) MNO Ltd. is required to deduct tax at source on salary paid to overseas employees but not on commission paid to overseas agents

(d) MNO Ltd. is required to deduct tax at source on commission paid to overseas agents but not on salary paid to overseas employees

(iv) What are the consequences of deduction of tax at source in May, 2020 on fees for technical services (paid to ABC Inc. during the F.Y.2019-20) and remittance thereof in the same month? For the purpose of this MCQ, assume that ABC Inc. does not have a PE in India. Your answer should be on the basis of the provisions of the Income-tax Act, 1961. Ignore DTAA between India and Country A.

(a) No disallowance is attracted since tax has been deducted and remitted on or before the due date of filing return of income under section 139(1)

(b) ₹ 30 crores to be disallowed while computing business income of the P.Y.2019-20

(c) ₹ 100 crores to be disallowed while computing business income of the P.Y.2019-20

(d) ₹ 112.26 crores to be disallowed while computing business income of the P.Y.2019-20.

(v) Can MNO Ltd. go for advance pricing agreement with roll back mechanism?

(1) No, since similar issues are pending before the Appellate Tribunal for A.Y.2017-18 and A.Y. 2018-19

(2) Yes, since the Appellate Tribunal has not yet passed an order disposing the appeal.

(3) Yes, provided the appeal to the Appellate Tribunal, to the extent of subject covered under APA, is withdrawn before furnishing the modified return for the said year.

(4) Yes, provided the appeal pending with the Appellate Tribunal is withdrawn before furnishing the modified return for the said year.

The most appropriate answer is –

(a) Only (1) above

(b) Only (4) above

(c) (2) and (3) above

(d) (2) and (4) above

II. DESCRIPTIVE QUESTIONS

1. Determine the arm's length price (ALP) of the transaction of purchase of mobile phones by MNO Ltd. from ABC Inc., Country A and its impact on the assessable income, if any, for the assessment year 2020-21. **(5 Marks)**

2. Examine the procedure to be followed by the Assessing Officer before making reference to TPO. State whether the TPO can enlarge his scope of work by calling for details of trading activity at Surat, when the Assessing Officer has made reference, only in respect of the manufacturing unit at Hyderabad. **(5 Marks)**

3. Does the liaison office in Delhi constitute a PE of ABC Inc. in India? If so, will ABC Inc. be liable to tax in India only in respect of profit earned by it from orders procured through its liaison office in Delhi? Examine in the context of India-Country A DTAA which is in line with UN Model Convention. **(5 Marks)**

CASE STUDY - 3

ABC Ltd. is an Indian company, with its head office located at New Delhi. The company has special divisions dealing in manufacture, purchase and sale of several products.

ABC Ltd. possesses the following assets as on 31-3-2020, whose book values are as under:

Type of asset	(₹ in crores)
Intangible assets	20
Land and Building	250
Plant and Machinery	140
Vehicles	25

The market value of these assets as on 31-3-2020 is ₹ 750 crores.

The following further information are provided:

(1) The General Manager, HRD, informs you that as on 31-3-2020, there were 340 employees, in the rolls of ABC Ltd., resulting in wages/salary payments to the tune of ₹ 11.2 crores.

(2) ABC Ltd. has a foreign subsidiary XYZ Inc. incorporated in Country X, which has assets located in India. It has 40 warehouses in India, whose market value as on 31-3-2020 is ₹ 40 crores, the book value being ₹ 25 crores, split into ₹ 10 crores for land component and balance for building portion. WDV as on 31-3-2020 for income-tax purposes is ₹ 13.2 crores.

(3) Other fixed assets of XYZ Inc. in India as on 31.3.2020 are to the tune of ₹ 6 crores (WDV for the purposes of the Income-tax Act, 1961 ₹ 5.1 crores). The value as on 1.4.2019 is ₹ 4 crores (WDV ₹ 3.5 crores)

(4) As on 1.4.2019, XYZ Inc. had 22 warehouses in India, whose market value was ₹ 15 crores, the book value being ₹ 10 crores, split into ₹ 7 crores for land component and balance for building portion. WDV as per the Income-tax Act, 1961 is ₹ 6.7 crores.

(5) **Assets of XYZ Inc. located outside India**

		As on 1-4-2019	As on 31-3-2020
No. of warehouses owned		10	11
		(All values in ₹ Crores)	
Warehouses: Land portion	(Book value)	8	12
	(Market value)	20	25
Warehouses : Building portion	(Book value)	5	12
	(Market value)	4.5	11
Warehouses : Building portion (WDV for taxation)		4.2	10.2
Other fixed assets:	(Book value)	12	20
	(Market value)	14	22
	(WDV for taxation)	3.8	10.6

(6) There are 30 persons employed in India, in respect of whom annual payment of ₹ 1.2 crores is incurred by XYZ Inc. There are 10 other persons, who, though not directly employed by XYZ Inc, perform the work like other employees. Annual payment made to them is ₹ 34 lakhs. All these employees are residents in India. XYZ Inc. employs 42 employees outside India, in respect of whom the total payroll expenditure involved is ₹ 3 crores (converted into INR). There number of employees remained the same throughout the P.Y.2019-20.

(7) The income earned by XYZ Inc. during the year ended 31-3-2020 from its Indian operations as well as other operations is as under:

Type of Income	(₹ in crores)	
	In India	Outside India
From sale made to ABC Ltd. out of purchases from third parties	42	-

From purchases made from ABC Ltd. and sold to third parties	10	15
Income from other trading operations with third parties	5	70
Dividends and interest	8	5

(8) XYZ Inc. held 10 Board meetings during the F.Y.2019-20, out of which 4 Board meetings were held in India.

(9) ABC Ltd. has entered into a complicated technical know-how agreement with LMN Inc., of Country Y and the agreement is approved by the Central Government. The annual payment of the technical know-how is likely to be around ₹ 150 crores. LMN Inc. has no PE in India.

(10) ABC Ltd. utilized the services of William Peters, a Country Z cricketer and non-resident for playing in cricket league matches for a team sponsored by the company. He was paid a sum of ₹ 32 lakhs for playing in such matches. In addition, ABC Ltd. paid him a sum of ₹ 8 lakhs for appearing in company's advertisement for its product. He has incurred an expenditure of ₹ 2 lakhs in India for earning the said income.

Samuel Singers, an ex-cricketer hailing from Country P, was employed as a match referee in the said cricket tournaments. He was paid a sum of ₹ 6 lakhs for his services. He stayed in India for 45 days during the P.Y.2019-20

Based on the above facts, you are required to answer the following questions

I. MULTIPLE CHOICE QUESTIONS

Write the most appropriate option to each of the following questions by choosing one of the four options given. Each question carries two marks.

(i) As per the provisions of the Income-tax Act, 1961, is there any income-tax liability in the hands of LMN Inc.? If so, what is the effective rate of income-tax under the provisions of the Act?

(a) There is no income-tax liability, as the income would be exempt under the provisions of the Act in the hands of a non-resident.

(b) Yes; 10.40%

(c) Yes; 11.648%

(d) Yes; 10.92%.

(ii) If it is assumed that India has a DTAA with Country Y, which provides for levy of tax in source country at 10% on fees for technical services, then, the rate of income-tax would be -

(a) Nil, since the income is exempt under the Income-tax Act, 1961, no tax will be leviable

(b) 10%

(c) 10.92%

(d) 11.648%

(iii) Would LMN Inc. be required to file its return of income for A.Y.2020-21, in the cases mentioned in (i) and (ii) above, if tax deductible at source, if any, has been fully deducted from its income? Assume that this is the only source of income of LMN Inc. in India.

(a) No, in both cases

(b) Yes, in both cases

(c) No, in case (i) and Yes, in case (ii)

(d) No, in case (ii) and Yes, in case (i)

(iv) If LMN Inc. sends three of its personnel, Mr. J, Mr. K and Mr. L, being nationals and residents of Country Y, to render services in India for a period of 65 days, 90 days and 95 days, what would be the taxability of their remuneration for services rendered by them during their stay in India under the provisions of the Income-tax Act, 1961? Assume that LMN Inc. is not engaged in any trade or business in India and such remuneration is not liable to be deducted from its income chargeable under the provisions of the Income-tax Act, 1961-

(a) The remuneration of all the three employees would be exempt under the provisions of the Income-tax Act, 1961, since their stay in India is for a period less than 100 days.

(b) The remuneration of all the three employees is taxable under the provisions of the Income-tax Act, 1961, since their stay in India is for a period exceeding 60 days.

(c) The remuneration of Mr. J is exempt in India but the remuneration of Mr. K and Mr. L is taxable in India.

(d) The remuneration of Mr. J and Mr. K is exempt in India but the remuneration of Mr. L is taxable in India.

(v) For A.Y.2020-21, XYZ Inc. would be -

(a) resident in India, since it does not fulfil the active business outside India test

(b) non-resident in India, since it fulfils the active business outside India test

(c) non-resident in India, since majority of the Board meetings are held outside India

(d) non-resident in India, due to reasons mentioned in (b) and (c) above

II. DESCRIPTIVE QUESTIONS

1. The Managing Director of ABC Ltd. wants to know about the obligation to deduct tax at source from the payments made to William Peters and Samuel Singers. Advise ABC Ltd. suitably.

   If there is an agreement between ABC Ltd. and William Peters and Samuel Singers that the tax payable in India on income payable to them will be borne by ABC Ltd., then, what is the amount of tax to be deducted at source?

   Assume that there is no DTAA provision, conferring a lower rate of withholding tax. **(5 Marks)**

2. The Board of Directors wish to know whether the foreign subsidiary XYZ Inc. satisfies the active business outside India test. Advise them suitably. **(10 Marks)**

CASE STUDY – 4

The assessee is a popular Bollywood star Mr. Prem Kapoor. He has business interest in few other nations as well. He is a resident in India for the Assessment Year 2020-21.

You are a chartered accountant with sound knowledge of domestic and international tax laws provided with the following information pertaining to Mr. Prem Kapoor. The date of occurrence of various events summarized in this case study is 31-3-2020.

Whatsapp call from General Manager (Legal) at 10 a.m.

A Whatsapp call was received from General Manager (Legal) that a search is being conducted by the Income-tax department at one of the premises of Mr. Prem Kapoor.

E-mail from Deputy Manager (Taxation) at 5 p.m.

The Deputy Manager (Taxation) has sent an email providing the following information of income earned in India by Mr. Prem Kapoor during the year ended 31-3-2020: (₹ in crores)

Income from house property (Computed)	4.3
Business income:	

From being the owner of cricket team Pune Knight Riders	12.4
Acting in movies	9.415

Mr. Prem Kapoor has deposited ₹ 1.5 lakhs in PPF and paid Life Insurance premium of ₹ 1 lakh.

Phone call from General Manager (Legal) 7.30 p.m.

The search conducted by the income-tax department has come to an end. It appears that some incriminating documents have been unearthed. It is likely that it has come to the notice of the Department that the assessee has earned income equivalent to ₹ 8 crores (as converted into INR) in Country A during the Financial Year 2017-18, which has not been reflected in the return of income filed by Mr. Prem Kapoor for the Assessment Year 2018-19 or in any other year.

Further, the presence of certain immovable property, in Country B, which is not appearing in the books of account and financial statements filed with the IT Department, is noticed. These buildings were purchased for 22 million USD on 27.2.2016. For acquiring this asset, brokerage of 3% has been paid.

Additionally, there are materials to show that Mr. Prem Kumar owns a rare piece of art work, acquired on 14.5.2018 in Country C for a price of 1 million USD.

E-mail from International Division Manager at 10 p.m.

The International Division Manager has intimated details of income earned from two countries outside India, X and Y, with which India does not have any Double Taxation Avoidance Agreement. The summarized data are as under:

Type of Income	X	Y
	(₹ in crores)	
Loss from house property (Computed)	1.3	-
Business income:		
Own	7.2	2.9
Share income from partnership firm (not evidenced by an instrument in writing)	4.8	-
Agricultural income	-	1.2

In Country X, share income is not exempt and loss from house property is not eligible for being set off against other income. In Country Y, agricultural income is chargeable to income-tax.

In Country X, Prem Kapoor has paid income-tax of ₹ 2.16 crores and in Country Y ₹ 80 lakhs on the total income earned in those countries.

Inputs from Forex Team (Email received at 10.30 p.m.)

The prevailing rates of exchange on various dates are as under:

Date	1-4-2015	27-2-2016	1-4-2017	1-7-2017	31-3-2018	1-4-2018	14-5-2018	1-4-2019
1 USD = INR	62.29	69.09	65.06	64.52	65.08	65.08	66.78	69.21

Email from M/s. Yemen & Co. (Registered valuers) at 11.25 p.m.

The fair market value of the assets acquired abroad were indicated by the registered valuers on various dates are as follows:

Sl. No.	Description of Asset	Date	Amount (million USD)
1	Immovable property in Country B	01-07-2017	27
		31-03-2018	27
		01-04-2019	30

2	Art piece in Country C	14-05-2018 01-04-2019	1.5 2

Payment made to foreign player

Mr. Win Smith, a citizen and resident of Country Q, was called for one of the Pune Knight Riders League Matches, for which ₹ 30 lakhs was payable to him, after deduction of tax at source. The withholding tax mentioned in the DTAA with Country Q, is 20%. He stayed in India from 1st April, 2019 to 25th May, 2019. During that time, Mr. Win Smith also won ₹ 20,000 from crossword puzzles in respect of which tax deducted has been remitted to the credit of the Central Government.

I. MULTIPLE CHOICE QUESTIONS

Write the most appropriate option to each of the following questions by choosing one of the four options given. Each question carries two marks.

(i) In respect of ₹ 30 lakhs payable to Mr. Win Smith, does Prem Kapoor have to deduct tax under the relevant provisions of the Income-tax Act, 1961, and if so what is the rate at which tax is deductible?

(a) No, he need not deduct tax at source under the provisions of the Income-tax Act, 1961

(b) Yes; 10.4%

(c) Yes; 15.6%

(d) Yes; 20.8%

(ii) Considering the withholding tax mentioned in the DTAA with Country Q, what is the rate at which tax is deductible in respect of ₹ 30 lakhs due to Mr. Win Smith?

(a) 10.4%

(b) 15.6%

(c) 20%

(d) 20.8%

(iii) What would be your answer to Q.(i) above, if Mr. Win Smith is an Indian citizen and resident of Country Q?

(a) No tax is required to be deducted at source under the provisions of the Income-tax Act, 1961

(b) Yes; 20.8%

(c) Yes; 10.4%

(d) Yes; 31.20%

(iv) What would be your answer to Q.(ii) above, if Mr. Win Smith is an Indian citizen and resident of Country Q?

(a) 10.4%

(b) 15.6%

(c) 20%

(d) 20.8%

(v) Does Mr. Win Smith need to file his return of income in India, if tax deductible at source under Chapter XVII-B of the Income-tax Act, 1961 has been fully deducted and remitted to the credit of the Central Government within the prescribed time in cases (i) and (iii) above?

(a) No; he need not file in both cases

(b) Yes, he has to file his return of income u/s 139 in both cases.

(c) He need not file his return of income in case (i) but has to file his return of income u/s 139 in case (iii)

(d) He need not file his return of income in case (iii) but has to file his return of income u/s 139 in case (i)

II. DESCRIPTIVE QUESTIONS

1. Compute Mr. Prem Kapoor's income-tax liability for the A.Y.2020-21, with workings. **(8 Marks)**

2. Examine the tax implications under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 in respect of the foreign income and foreign assets unearthed by the Department during the search. What would be the year of taxability and the tax liability under the said Act? **(7 Marks)**

CASE STUDY – 5

Delta LLP, a firm of Chartered Accountants providing audit and taxation services, has a separate International Taxation division. The partners of M/s. Sriram and Co, a medium sized CA firm, have sought the opinion of Delta LLP in respect of certain matters of their clients for giving reply to the tax authorities relating to the show cause notice issued to tax the income earned by each of the following clients and opinion on other matters so raised by them under the provisions of the Income-tax Act, 1961:-

(A) Mr. Vaibhav stayed in India only for 59 days during P.Y.2019-20. He had acquired a house property located in Country T in July 2011 for ₹ 80 lakh. Out of the investment of ₹ 80 lakh, ₹ 55 lakh was assessed to tax in the total income of the P.Y.2011-12 and P.Y.2010-11, when he was resident in India. The remaining income has not been assessed to tax in any year. This asset comes to the notice of the Assessing Officer in March 2020. The value of the house property on 1.4.2019 was ₹120 lakh.

(B) Electro Spark Inc, a Country A company whose place of effective management (POEM) is also in Country A, entered into an agreement with Hypo Power Ltd., India, for the execution of electrical work in India. Separate payments, termed as "Engineering Fee", were made towards drawings and designs by Hypo Power Ltd. to the Country A Company, which does not have any permanent establishment (PE) in India for doing the business and operates only from Country A.

(C) EEE Ltd, a Country B company whose POEM is outside India, entered into a collaboration agreement on 22.08.2019 with Alpha Ltd., an Indian Company. The Country B Company was issued debentures by Alpha Ltd. for ₹ 80 lakhs on 1.09.2019 bearing interest @ 12% p.a. in consideration for providing the technical know-how to Alpha Ltd. Alpha Ltd. also remitted the interest on debentures to EEE Ltd. which was due for the relevant period ended on 31.03.2020.

(D) Beta Ltd. is an Indian Company located in Special Economic Zone (SEZ) in which PQR Inc., a Country C company is holding 27% shares and voting power. Following transactions were effected between these two companies during the year 2019-20:-

(i) Beta Ltd. sold 90,000 pieces of Pinafores at $ 10 per Pinafore to PQR Inc. Identical Pinafores were sold by Beta Ltd. to an unrelated party, namely, Gamma Inc. in Country C at $ 12 per Pinafore.

(ii) Beta Ltd. borrowed loan of $ 3,50,000 from a Country C lender on the strength of guarantee given by PQR Inc. and for the purpose of giving guarantee, Beta Ltd. paid $ 15,000 as guarantee fee to PQR Inc. However, for the same amount of loan taken by an unrelated party in India, PQR Inc. had charged guarantee fees of $ 12,000.

(iii) Beta Ltd. paid $ 18,000 to PQR Inc. for getting the details of various potential customers to improve its business outside India in global market. PQR Inc. provided the same services and details to an unrelated party in India for $ 16,000.

(E) Mr. Arjun, a citizen of Country L, stays in India during the months of April to August and in Country L during the months September to March every year. As per the domestic laws of Country L, an individual has to stay in Country L for 200 days to be treated as a resident of that country. India has a DTAA with Country L in line with UN Model Convention, 2017.

Arjun owns immovable properties (including residential house) in both India and country L. He earned income of ₹ 72 lakhs from tea estates in the Country L during the financial year 2019-20. He does not have any business in India; nor does he have any permanent establishment in India. He sold a house property situated in Country L which had resulted in short-term capital gain of ₹ 15 lakhs during the year to him and was subject to tax in Country L. He also has a residential house at Pune which was used by him for his stay when he visits India.

In the backdrop of the aforesaid matters referred to Delta LLP your expert opinion/views are sought in respect of the following questions on the matters so referred by the firm of Chartered Accountants:

I. MULTIPLE CHOICE QUESTIONS

Write the most appropriate option to each of the following questions by choosing one of the four options given. Each question carries two marks.

(i) Engineering Fee paid outside India to Electro Spark Inc., Country A company, in the P.Y.2019-20, is:

(a) not chargeable to tax its hands under the provisions of the Income-tax Act, 1961, since it is a foreign company which does not have a permanent establishment in India.

(b) not chargeable to tax in its hands under the provisions of the Income-tax Act, 1961, since it is a foreign company which is not resident in India on account of its POEM being outside India.

(c) not chargeable to tax in its hands under the provisions of the Income-tax Act, 1961, since it is non-resident in India and the said income is neither received in India nor is it deemed to accrue or arise in India.

(d) chargeable to tax in its hands in India under the provisions of the Income-tax Act, 1961

(ii) Fees for technical services and interest income accruing to EEE Ltd. for P.Y.2019-20 on debentures issued by Alpha Ltd., which was received by EEE Ltd. in Country B, is:-

(a) chargeable to tax in India under the provisions of the Income-tax Act, 1961.

(b) not chargeable to tax in the hands of EEE Ltd. under the provisions of the Income-tax Act, 1961, since it is a non-resident, on account of its POEM being outside India

(c) not chargeable to tax in the hands of EEE Ltd. under the provisions of the Income-tax Act, 1961, since it is neither received in India nor is it deemed to accrue or arise in India

(d) not chargeable to tax under the provisions of the Income-tax Act, 1961, due to reasons stated in both (b) and (c) above

(iii) Would your answer to (i) and (ii) above change, if Electro Spark Inc. had a PE in India during the P.Y.2019-20 and EEE Ltd.'s POEM was in India during the P.Y.2019-20?

(a) Yes, the answer would change for both (i) and (ii)

(b) No, the answer would not change for either (i) or (ii)

(c) Answer would change for (i) but not for (ii)

(d) Answer would change for (ii) but not for (i)

(iv) Assuming that, for the purpose of this MCQ, the tax benefit arising in respect of transactions/arrangement between Beta Ltd. and PQR Inc is ₹ 2 crore to Beta Ltd. and ₹ 1 crore to PQR Inc. for A.Y.2020-21, can the department invoke GAAR provisions in respect of such transactions?

(a) No, it cannot, since the tax benefit arising to Beta Ltd. does not exceed the specified threshold.

(b) No, it cannot, since the tax benefit arising to Beta Ltd. and PQR Inc. does not exceed the specified threshold

(c) Yes, it can, since the tax benefit arising to Beta Ltd. exceeds the specified threshold.

(d) Yes, it can, since the tax benefit arising to Beta Ltd. and PQR Inc. exceeds the specified threshold.

(v) What is the value of undisclosed asset (house property located in Country T) in the hands of Mr. Vaibhav for the purpose of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 and in which year would the same be chargeable to tax?

(a) The same is not chargeable to tax since Mr. Vaibhav is a non-resident for A.Y.2020-21, having stayed in India only for 59 days in the P.Y.2019-20; Therefore, there is no need to determine its value.

(b) ₹ 82.50 lakh chargeable to tax in the hands of Mr. Vaibhav for A.Y.2020-21

(c) ₹ 25 lakh chargeable to tax in the hands of Mr. Vaibhav for A.Y.2012-13

(d) ₹ 37.50 lakh chargeable to tax in the hands of Mr. Vaibhav for A.Y.2020-21.

II. DESCRIPTIVE QUESTIONS

1. Examine the relationship of the companies Beta Ltd. and PQR Inc. of Country C and the nature of various transactions entered into between them during the year 2019-20.

   (i) What are the adjustments, if any, required to be made to the total income of Beta Ltd. under transfer pricing provisions. One Country C dollar may be taken as ₹ 65

   (ii) If the said adjustments are made by the Assessing Officer, can Beta Ltd. claim deduction under section 10AA in respect of the enhanced income? **(7 Marks)**

2. Determine the residential status of Mr. Arjun for A.Y.2020-21 and examine with reasons as to whether the business income arising in Country L from the tea estate and the capital gains in respect of sale of the property situated in Country L can be taxed in India in the hands of Mr. Arjun during the A.Y. 2020-21. **(8 Marks)**