

Roll No.

MAY 2017

Total No. of Questions – 7

FINAL
GROUP-II PAPER-7
DIRECT TAX LAWS

Total No. of Printed Pages – 15

Time Allowed – 3 Hours

Maximum Marks – 100

RAB

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

Question No. 1 is compulsory.

Answer any five questions from the remaining six questions.

In case, any candidate answers extra question(s)/sub-question(s) over and above the required number, then only the requisite number of questions first answered in the answer book shall be valued and subsequent extra question(s) answered shall be ignored. Wherever necessary, suitable assumptions may be made and disclosed by way of a note.

Working notes should form part of the respective answers.

All questions relate to **Assessment year 2017-2018**, unless stated otherwise in the question.

Marks

1. (a) Viraj Exports Limited, a domestic company, earned profit of ₹ 95 lakhs as per statement of Profit and Loss Account for the year ended 31.03.2017, after debiting or crediting the following items : **10**

		₹
(i)	Items debited to statement of profit and loss :	
	(a) Provision for Income-tax(including interest of ₹ 50,000)	5,00,000
	(b) Sales tax liability	70,000
	(c) Depreciation	4,00,000
	(d) Interest to financial institutions unpaid before due date of filing of return of income	1,20,000
	(e) Reserves for currency exchange fluctuation	1,30,000
	(f) Penalty for infraction of law	60,000
(ii)	Items credited to statement of profit and loss :	
	(a) Dividend received on investment in Indian companies	1,40,000
	(b) Long term profit on sale of rural agricultural land	10,00,000
	(c) Profit on unit established in SEZ	8,00,000
	(d) Net agricultural income	6,00,000
	(e) Royalty received from patents developed and registered in India	40,00,000

RAB

P.T.O.

Other Information :

- (a) Depreciation as per the Income-tax Act ₹ 3,50,000.
- (b) Depreciation (as per books) includes ₹ 1,90,000 on account of revaluation of assets.
- (c) Interest on borrowed capital ₹ 1,00,000 payable to Y, not debited to profit and loss account.
- (d) Profit and Loss account in balance sheet on the assets side as at 31.03.2017 was ₹ 4,70,000 which included unabsorbed depreciation of ₹ 4,10,000.
- (e) The company is an eligible assessee as per the provisions of Section 115 BBF of the Income Tax Act 1961.

Compute the minimum alternate tax under Section 115 JB of the Income-tax Act 1961.

- (b) Alpha Ltd. has two industrial undertakings. Unit 1 is engaged in the production of television sets and unit 2 is engaged in the production of refrigerators. The company has, as part of its restructuring program, decided to sell unit 2 as a going concern, by way of slump sale for ₹ 300 lakhs to a new company called Beta Ltd., in which it holds 85% equity shares. The following are extracted from the balance sheet of Alpha Ltd. as on 31st March, 2017 : 10

	₹ (in lakhs)	
	Unit-1	Unit-2
Fixed assets	112	158
Debtors	88	68
Inventories	85	22
Liabilities	33	65

(3)

RAB

Marks

	₹ (in lakhs)
Paid-up share capital	231
General Reserve	160
Share premium	39
Revaluation reserve	105

The company had set up unit 2 on 1st April, 2012. The written down value of the block of fixed assets for tax purpose as on 31st March, 2017 is ₹ 130 lakhs out of which ₹ 75 lakhs are attributable to Unit 2.

- (i) Determine what would be the tax liability of Alpha Ltd. on account of this slump sale;
- (ii) How can the restructuring plan of Alpha Ltd. be modified, without changing the amount of consideration, in order to make it more tax efficient ?

2. Preetam Motors Limited is engaged in manufacturing and selling of cars, **16** having an annual turnover of ₹ 5000 lakhs. The net profit of the company as per Profit and Loss account for the year ended 31st March, 2017 is ₹ 150 lakhs, after debiting or crediting the following items :

- (i) One time licence fee of ₹ 20 lakhs paid to a foreign company for obtaining franchise on 10.06.2016.
- (ii) Dividend of ₹ 12 lakhs received from a foreign company in which the company holds 32% of equity share capital of the company. ₹ 50,000 was also expended on earning this income.

RAB

P.T.O.

(4)

RAB

Marks

- (iii) ₹ 6 lakhs paid to H Ltd. towards feasibility study conducted for examining proposals for technological advancement relating to existing business; however, the project was abandoned without creating a new asset.
- (iv) Payments due to railways for use of the assets for transportation of cars during F.Y 2016-17, the company is likely to make the payment in the month of December 2017 ₹ 2 lakhs.
- (v) Contributions made to an approved research association used for the purpose of research in social science or statistical research under Section 35(1) (iii) ₹ 1 lakh.
- (vi) Depreciation charged to the statement of profit and loss account ₹ 20 Lakhs.
- (vii) The opening and closing stock for the year were ₹ 90 lakhs and ₹ 68 lakhs respectively. They were overvalued by 10%.
- (viii) Payment of ₹ 18,000 and ₹ 12,000 by cash on 15th February, 2017 by two separate vouchers to a contractor who carried out work at office premises.
- (ix) Legal fees incurred in defending title of factory premises of the company ₹ 3 lakhs.
- (x) Profit of ₹ 3 lakhs from hedging contracts entered into for meeting out the loss in foreign currency payment towards an imported machinery purchased from Germany for ₹ 90 lakhs, which was installed on 20.12.2016.

RAB

- (xi) The company, during the year, employed 100 new workers in the factory, which was 15% of the existing work force employed on the last day during the earlier year. It paid ₹ 15 lakhs as additional wages. The workmen were employed from 01.05.2016.
- (xii) Profit on sale of land ₹ 20 lakhs.
- (xiii) Provision for warranty is made for all vehicles sold on scientific and reliable basis for replacement of some spares, free of cost. The statistical data indicates that without such warranty, no customer is prepared to buy a vehicle.

Additional Information :

- (a) Normal depreciation allowable as per the Income-tax Act, 1961 ₹ 22 lakhs.
- (b) Additional depreciation on plant and machinery imported and installed during December 2016 has not been considered while calculating depreciation as per the Income-tax Act, 1961 as above. The company is not eligible for any deduction under Section 35 AD of the Income-tax Act, 1961.
- (c) The land sold during the year for ₹ 70 lakhs (Guideline Value as per stamp valuation authority ₹ 60 lakhs) was purchased by the company during F.Y. 2012-13. This was the only land available with the company as on 01.04.2016.
- (d) Cost inflation index F.Y. 2012-13 : 852, F.Y. 2016-17 : 1125

Compute the total income and tax payable by Preetam Motors Ltd. (giving reasons for treatment of each item) for the A.Y. 2017-18. Ignore MAT provisions.

(6)

RAB

Marks

3. (a) Vaamana Pvt. Ltd., has share capital in the form of equity shares. The shares were held up till 31st March, 2015 by four members, C, D, E and F equally. The company made losses/profits for the past three assessment years as follows :

Assessment Year	Business Loss (₹)	Unabsorbed Depreciation (₹)	Total (₹)
2013-14	Nil	5,00,000	5,00,000
2014-15	Nil	2,00,000	2,00,000
2015-16	6,00,000	6,00,000	12,00,000
Total	6,00,000	13,00,000	19,00,000

The above figures have been accepted by the Income-tax Department.

During the previous year ended 31.3.2016, C sold his shares to A and during the previous year ended 31.3.2017, D sold his shares to B. The profits for the past two previous years are as follows :

31.3.2016 8,00,000 (before charging depreciation of 1,00,000)

31.3.2017 15,00,000 (before charging depreciation of 1,50,000)

Compute the total income for the A.Y. 2017-18. Workings must form part of your answer.

- (b) D, an individual, filed his return of income for the assessment year 2017-18, erroneously offering for taxation, interest received from notified Relief Bonds exempt under Section 10(15), in the said return. The Assessing Officer completed the assessment under Section 143(3) on 20.12.2017 accepting the income returned by D. D had furnished complete particulars relating to the interest income in the return of income. D approaches you for advice regarding the steps to be taken to secure exemption of the income. Advise D about the various remedies available under the Income-tax Act, 1961 for the redressal of his grievance. 3

RAB

- (c) A manufacturing company was transporting two of its machines from unit 'X' to unit 'Y' on 1st September, 2016 by a truck. On account of a civil disturbance, both the machines were damaged. The insurance company paid 5 lakhs for the damaged machines. On these facts, for submitting the return of income for the previous year ending 31st March, 2017, your advice is sought as to, –
- (i) Whether the damage of machines results in any transfer, vis-a-vis exigibility to capital gains.
- (ii) How the amounts received from the insurance company are to be treated for taxability.
- (iii) Whether there will be any impact on the written down value of the block of plant and machinery as at 31st March, 2017.

4. Answer any **four** out of the following five cases (*Your answer should cover these aspects : (i) Issue involved, (ii) Provisions applicable, (iii) Analysis and (iv) Conclusion*) :

- (a) ECO & Co. filed an application for advance ruling for A.Ys. 2010-11, 2011-12 and 2012-13 with the Authority for Advance Ruling (AAR). For the assessment year 2010-11, 2011-12 notices under Section 143(2) were issued to the assessee and subsequently, before the date of filing application with AAR, notice under Section 142(1) along with questionnaire was issued. For the assessment year 2012-13. Notice under Section 143(2) was issued before the date of filing of application with the AAR and notice under section 142(1) along with questionnaire was served on the assessee after the date of filing of application with the AAR.

Can the AAR reject the application on the ground that proceedings are already pending ?

(*You may assume that the provisions relating to Advance Ruling for the earlier assessment years were the same as those prevailing for the A.Y. 2017-18*)

- (b) Atlant Italy, a company incorporated in France, was engaged in manufacture, trade and supply equipment and services for GSM Cellular Radio Telephones Systems. It supplied hardware and software to various entities in India. Software licensed by assessee embodied the process which is required to control and manage the specific set of activities involved in the business use of its customers. Software was also made available to its customers, who used it to carry out their business activities. The Assessing officer contented that the consideration for supply of software embedded in hardware is 'Royalty' under Section 9(1)(vi)

Examine the correctness of the action of the Assessing Officer.

- (c) Mrs. Santosh filed her return of income for the A.Y. 2017-18 declaring total income of ₹ 3.15 Lakhs. The return was processed under Section 143(1) and later, the case was selected for scrutiny and statutory notice under Section 143(2) was issued. The Assessing Officer, after being satisfied with the replies given for the enquires, completed the assessment by accepting the declared income. Subsequently, the Commissioner invoked revisionary jurisdiction under Section 263, holding that the Assessing Officer had not made enquiry properly.

Is invoking of revisionary jurisdiction under Section 263 justified ?

- (d) Kumar Bros, the assessee, is a partnership firm. During the course of assessment proceedings, the Assessing Officer noticed that huge amount of cash was accepted by the firm from its partners during the relevant year corresponding to the AY 2017-18. The Assessing Officer was of the view that interest was given to partners on amounts advanced, which conclusively proved that the transaction are between different persons whereby the firm has accepted loans in cash from the partners and thereby initiated penalty proceeding under section 271D in view of violation of Section 269SS.

Is the action of Assessing Officer tenable in law ?

(9)

RAB

Marks

- (e) The assessee M/s Career Network, a partnership firm comprising of four partners, who have contributed capital in the books of the firm, but failed to explain satisfactorily the source of receipt in their individual hands. The Assessing Officer has proposed to tax the amounts credited in their accounts in the books of the firm as cash credit in the hands of the partnership firm. **4**

Is the action of the Assessing Officer valid ?

5. (a) Discuss the liability for tax deduction at source in the following cases for the Assessment year 2017-18 : **6**

- (i) M/s Avtar Limited entered in to an agreement for the warehousing of its products with ABC Warehousing and deducted tax at source as per the provisions of section 194C out of warehousing charges paid during the year ended on 31.03.2017. The A.O. while completing the assessment for Assessment Year 2017-18 of Avtar Limited, asked the company by treating the warehousing charges as rent, as defined in section 194-I and to make payment of difference amount of TDS with interest. It was submitted by the company that the recipient had already paid tax on the entire amount of warehousing charges and therefor, now the difference amount of TDS be not recovered. However, it was prepared to make the payment of due interest of the difference amount TDS. Examine critically the correctness of the action or the treatment given.

RAB

P.T.O.

- (ii) K Ltd., an event management company, organized a concert of international artists in India. In this connection, it engaged the services of an overseas agent Mr. X from USA, to bring artists to India. He contacted the artists and negotiated with them for performance in India, in terms of the authority given by the company. He did not take part in event organized in India. The company made the payment of commission of ₹ 5 lakhs to the overseas agent, outside India.
- (iii) Ram gave a building on sub-lease to M Ltd. with effect from 1-6-2016 on a rent of ₹ 20,000 per month. The company also took on hire machinery from Ram with effect from 1-10-2016 on hire charges of 15,000 per month. The rent for building and hire charges of machinery for the year 2016-17 were credited by the company to the account of Ram in its books of account on 31-3-2017.
- (b) M Ltd., a US company has a subsidiary, N Ltd., in India. M Ltd. sells computer monitors to N Ltd. for resale in India. M Ltd. also sells computer monitors to K Ltd., another computer reseller. It sells 50,000 computer monitors to N. Ltd. at ₹ 11,000 per unit. The price fixed for K Ltd. is ₹ 10,000 per unit. The warranty in case of sale of monitors by N Ltd. is handled by N Ltd. However, for sale of monitors by K Ltd. M Ltd. is responsible for the warranty for 3 months. Both M Ltd. and N Ltd., offer extended warranty at a standard rate of ₹ 1,000 per annum. On these facts, determine the ALP and the effect on the net profit/income of the assessee-company.

(c) What is the quantum of penalty that could be levied in each of the following cases : 3

- Failure to get books of accounts audited as required under Section 44 AB within the time prescribed under the Act.
- Failure to comply with a direction issued under Section 142(2A)
- Failure to furnish report from an Accountant, as required under Section 92E.

(d) Seizures were made from Mr. Murari pursuant to a search conducted in his premises. He filed an application for settlement by claiming to have received the amount by way of loans from several persons. The Settlement Commission accepted his statement and made an order. The CBI, however, conducted enquiry at the instance of the Revenue regarding the claimed amount of loans and opined that the alleged lenders had no means or financial capacity to advance such huge loans to Mr. Murari and were mere name lenders only. The Commissioner filed an application under section 245D(6) praying for the order to be declared void and for withdrawal of benefit granted. Mr. Murari, however, contended that the order of the Settlement Commission was final and any fresh analysis would amount to sitting in judgment over an earlier decision, for which the Settlement Commission was not empowered. Discuss the correctness of Mr. Murari's contention. 4

6. (a) EF Limited, an Indian company, is engaged in manufacturing electronic components. 74% of shares of the company are held by EF Inc., incorporated in USA. EF Limited has borrowed funds from EF Inc. at LIBOR plus 150 points. The LIBOR prevalent at the time of borrowing is 4% for US \$. The borrowings allowed under the External Commercial Borrowing Guidelines issued under Foreign Exchange Management Act are LIBOR plus 200 basis points. 3

Discuss whether the borrowing made by EF Limited is at arm's length ('LIBOR' means London inter-bank offer rate).

- (b) The Assessing Officer lodged a complaint against M/s Emerald, a firm, under section 276CC of the Income-tax Act 1961 for failure to furnish its return of income for the AY 2017-18 within the due date under Section 139(1). The tax payable on the assessed income, as reduced by the advance tax paid and tax deducted at source, was ₹ 60,000. The appeal filed by the firm against the order of assessment was allowed by the Commissioner (Appeals). The Assessing Officer passed an order giving effect to the order of the Commissioner (Appeals). The tax payable by the firm as per the said order of the Assessing Officer was ₹ 1,000. The Assessing Officer has accepted the order of the Commissioner (Appeals) and has not preferred an appeal against it to the Income-tax Appellate Tribunal. The firm desires to know about the maintainability of the prosecution proceeding in the facts and circumstances of the case.

3

Advise the firm suitably.

- (c) An Assessing Officer entered a hotel premises run by a person, in respect of whom he exercises jurisdiction at 8 p.m., for the purpose of collecting information, which may be useful for the purpose of the Act. The hotel is kept open for business everyday between 9 am to 9 pm. The hotelier claims that the Assessing Officer could not enter the hotel after sunset.

3

The Assessing Officer wants to take away with him the books of account kept at the hotel.

Examine the validity of claim made by the hotelier and the proposed action of the Assessing Officer with reference to the provisions of Section 133B of the Income-tax Act 1961.

(13)

RAB

Marks

- (d) PA Consulting (P) Ltd., an Indian company established in the year 2000, having turnover of ₹ 9.3 crores reports total income of ₹ 10,50,000 for the previous year ended 31.03.2017. Tax deducted at source by different payers amounted to ₹ 24,450.00 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 Taxation Avoidance Agreement.

During the year, the company paid Advance tax as under :

Date of Payment	Advance Tax Paid (₹)
15-06-2016	40,000
12-09-2016	65,000
15-12-2016	1,00,000
15-03-2017	62,000

The company filed its return of income for the A.Y. 2017-18 on 15th October, 2017. There is no international transaction.

Compute interest, if any, payable by the Company under Sections 234A, 234B and 234C. Assume that transfer pricing provisions are not applicable.

7. (a) Anushtup Chandra, Balram and Vasudev were partners in a partnership firm, engaged in wholesale grains trade. On 30-6-2016, it was agreed that the firm is to be dissolved from the close of business hours that day and that Mr. Vasudev was entitled to continue the business of the firm w.e.f. the next day. One of the terms for dissolution was that the stock as on 30-6-2016 would be valued at the cost price of ₹ 10 lakhs, despite the market value being ₹ 12 lakhs.

RAB

P.T.O.

You are required to examine, whether in computing the income of the dissolved firm, the stock can be valued at ₹ 10 lakhs, since it has been so agreed upon and the business of the firm is continued by a partner, in the light of the decision of the Supreme Court in **Shakti Trading Co. vs. CIT.**

Your answer should touch upon the applicable covenants of the ICDS.

Will there be any change in your answer, had the dissolution taken place on 31-3-2016 ?

(b) Mr. Prajapathi intends to sell a piece of urban residential plot held for 48 months, to Mr. Vasan, for a consideration of ₹ 2 crores, in February, 2017. This asset had been held as investment by Mr. Prajapathi. Both parties are willing to enter into a written agreement in this regard. Initial payment will be ₹ 40 lakhs. The buyer is given 12 months time for completing the sale, at which point of time, balance amount has to be paid. Following two options are considered :

- (i) Payment of ₹ 10 lakhs by account payee cheque on the date of the agreement and ₹ 30 lakhs by cash, the same day, and
- (ii) Payment of ₹ 10 lakhs by account payee cheque on the date of the agreement and ₹ 30 lakhs by ECS through a bank within seven days.

An increase of 30% in stamp duty is anticipated with effect from 1st April, 2017. The parties seek your advice to plan suitably for reduction of capital gains. Advise them suitably as to what payment mode is to be adopted. Should the agreement in question be registered ?

RAB

(15)

RAB

Marks

(c) Vivshvakshena & Co., is a partnership firm. For the year ended 31-3-2017, the following particulars are made available to you in respect of its trading business, for which books of account are maintained :

- (i) Secret commission of ₹ 50,000/- paid to a Government official.
- (ii) ₹ 12 lakhs paid as commission to a partner's son at 0.5% of the sales value, without deduction of tax at source. Partner has 25% share in firm.
- (iii) Loss in the above business, after considering the above items debited to the profit and loss account are : Business loss ₹ 80 lakhs, Unabsorbed depreciation ₹ 19 lakhs.

In addition, the firm has a warehouse business covered by section 35AD. Loss suffered therein is ₹ 55 lakhs.

The firm has filed the return of income for the assessment year 2017-18 on 29-11-2017.

Specify the items (with quantum) which are eligible for carry forward to the subsequent years.

Will your answer be different, if the firm has filed its return of income on 29-12-2017 ?

RAB