

Roll No.

Total No. of Questions – 7

Total No. of Printed Pages – 8

Time Allowed – 3 Hours

Maximum Marks – 100

MAY 2012

POK

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 answer in Hindi will not be valued.

Wherever appropriate, suitable assumption/s should 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.

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1. (a) Siddarth Ltd. has an undertaking (Unit-X) in Special Economic Zone (SEZ) and another undertaking (Unit-Y) in Free Trade Zone (FTZ) for manufacturing of computer software. It furnishes the following particulars of its 2nd year of operations ended on 31st March, 2012 : 10

| | Unit – X | Unit – Y |
|--|-------------|-------------|
| | ₹ (in lacs) | ₹ (in lacs) |
| Total Sales : | 180 | 120 |
| Export Sales : | 120 | 10 |
| (Inclusive of ₹ 10 lacs onsite development of computer software outside India by Unit X) | | |
| Profit earned | 63 | 36 |
| (After claim of bad debts under Section 36(1)(vii) in Unit X) | | |

Plant and machinery used in the business has been depreciated at 15% on straight line method (SLM) basis and depreciation of ₹ 9 lacs was charged to Profit and Loss Account in the proportion of sales during the previous year.

₹ 100 lacs were realized out of export sales in time and balance of ₹ 20 lacs becomes irrecoverable due to bankruptcy of one of the foreign buyers in Unit – X.

Compute the deduction under Section 10AA of the Income Tax Act, 1961 and taxable income of Siddarth Ltd. for the Assessment Year 2012-13.

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- (b) The net wealth of a firm consisting of two partners S & K having 3 : 1 share and a capital contribution of ₹ 7,50,000 and ₹ 2,50,000 respectively is as under, 4

- (i) Value of assets located outside India ₹ 15 Lacs.
(ii) Value of assets located in India ₹ 40 Lacs.
(iii) Debts incurred in relation to assets in India ₹ 5 Lacs

Determine the value of interest of the partners in the Firm under the Wealth Tax Act, 1957.

- (c) (i) What are the cases where it is deemed that net wealth chargeable to tax has escaped assessment under Section 17 of the Wealth Tax Act, 1957 ? 3
(ii) Can the Assessing Officer under Section 16A of Wealth Tax Act, 1957 refer valuation of assets to the Departmental Valuation Officer for the purpose of making an assessment in a case where no return of wealth has been filed by the assessee ?
(d) State the circumstances in which Schedule III shall not apply for valuation of immovable property. 3

2. S. Ltd. is engaged in the business of manufacturing, shows a net profit of ₹ 5 crores for the financial year ended 31-3-2012, after debiting/crediting the following items : 16

- (i) On EPABX and mobile phones (exclusively used for the business purpose) purchased during the year, on which depreciation amounting to ₹ 18 lacs was claimed at higher rate of 60% treating them at par with computer.
(ii) ₹ 50 lacs paid to N. Ltd, towards feasibility study conducted for examining proposals for technological advancement relating to the existing business, where the project was abandoned without creating a new asset.
(iii) ₹ 35 lacs paid on the higher studies of the director's son abroad, with a stipulation that he would be appointed as a trainee in the company under "apprentice training scheme" where there was no evidence of existence of such scheme.

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- (iv) Payment of ₹ 29 lacs towards purchase of software from a non-resident, meant for subsequent resale in the Indian market (no tax deducted at source) was ultimately sold at a profit during Financial Year 2011-12.
- (v) Dividend of ₹ 10 lacs received from a foreign company in which company holds 28% in nominal value of the equity share capital of the company. ₹ 0.25 lac expended on earning this income.
- (vi) A machine in use since past 7 financial years having WDV amounting to ₹ 1.50 lacs on 01-04-2010 was discarded on 3rd September, 2010. The depreciation on the block at 15% has been provided and charged to profit and loss account for the previous year ended 31st March, 2012. The entire block is used for the purpose of business.
- (vii) ₹ 45 lacs were paid on 3rd June, 2011 to a National Laboratory with a stipulation that the said contribution shall be used for the purpose of an approved scientific research programme only.
- (viii) Secret commission of ₹ 13 lacs was paid and debited under commission account.
- (ix) Purchased a brand new bus and donated to a school where the employees' children were studying and debited the same to the Workmen and Staff Welfare Account.

Additional Information :

- (x) A debt of ₹ 10 lacs was claimed as bad debt in the previous year 2010-11. However, the Assessing Officer allowed only a sum of ₹ 5 lacs as bad debts. In the previous year 2011-12, a sum of ₹ 4 lacs is recovered ultimately in respect of the debt.

Compute total income of S. Ltd. for the Assessment Year 2012-13 and work out the amount of tax payable on such income, indicating reasons for treatment of each item.

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3. (a) Mr. W has provided the following information regarding his income and expenditure of the previous year 2011-12. 6

| | |
|--|---------------|
| Income from business (computed) | – ₹ 5,00,000 |
| Dividend Income from Money Market Mutual Funds | – ₹ 1,25,000 |
| Share of Profit from Firm | – ₹ 85,000 |
| Consultancy charges to Mutual Fund Agent | – ₹ 15,000 |
| Interest Expenditure relating to both taxable and non-taxable income – | – ₹ 2,25,000. |

Value of Investments in Mutual Funds units as on First and Last day of the previous year are ₹ 5,00,000 and ₹ 3,00,000.

Value of Total Assets as appearing in Balance Sheet as on First day and Last day of the previous year are ₹ 50,00,000 and ₹ 70,00,000.

Mr. W claims that no expenditure was incurred by him for exempt income earned.

Assessing Officer is not satisfied with the correctness of the claim of the assessee in respect of expenditure in relation to exempt income.

You are required to compute the amount of expenditure incurred in relation to exempt income and resultant total income, assuming that Mr. W has no other income.

- (b) Often controversies arise between the assessee and the department on the issue of treatment of gain arising out of transactions of sale and purchase of shares and securities. 5

Based on the judicial decisions, narrate the significant points of distinction in order to judge the purpose and motive of the assessee for its different treatment as income from business or income from capital gain.

- (c) On an application made by Mr. Pandey, an order was passed by the Settlement Commission on 03-01-2012 under Section 245D. The said order had a mistake apparent on record. The Settlement Commission passed an amended order dated 30-04-2012 which resulted in modifying the liability of Mr. Pandey. 5

Mr. Pandey is of the view that order of the Settlement Commission is final and conclusive and it has no power to rectify the said mistake.

You are required to examine the following :

- Correctness of claim made by Mr. Pandey
- Validity of the order amended by the Settlement Commission

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

- (a) MNO Limited paid a sum of ₹ 15 Lakhs as salary to Mr. X for which no tax was deducted at source by the Company. Mr. X filed his return of income and paid the tax due by way of self assessment. Assessing Officer (AO) issued notice to Mr. X demanding interest under Section 234B as no advance tax was paid by him. Your opinion is sought on the following aspects, 4
- (a) Is the action of AO valid ?
- (b) If not, is there any other means available to AO to recover the interest ?
- (b) B. Airways Ltd. sold tickets to the travel agents in India at a minimum fixed commercial price. The agents were permitted to sell the tickets at a higher price, however, up to a maximum of published price. Commission at the rate of 9% of published price was payable to the agents of the airlines company, on which tax was deducted under Section 194H by the company. The Assessing Officer raised the issue of further liability of tax deduction at source on the amount of difference between the actual sales price and the minimum fixed commercial price by treating it as "additional special commission" in the hands of the agents. 4
- Whether the contention raised by the Assessing Officer is tenable in law ? Critically examine.
- (c) Teachwell Education is a trust approved under Section 10(23C) (vi) which runs various educational institutions. During the course of assessment under Section 143(3), the Assessing Officer (AO), finds that the trust has carried out its activities in contravention of the section under which it was approved for exemption. Hence, AO wants to pass an order without giving exemption u/s 10, which the assessee objects. You are required to examine the following with respect to the provisions of Income Tax Act, 1961. 4
- (a) Whether the AO can pass an order without giving exemption under Section 10 ?
- (b) Can the AO get any additional time limit in completing this assessment ?
- (d) The Assessing Officer (AO) issued notices under section 133 to four banks requiring particulars relating to a customer in a specific format duly verified in a prescribed manner. One of the banks refused to part with the information on the ground that the letter did not specify about any proceeding pending against the said customer under the Income Tax Act. Discuss the correctness of action of the bank in refusing to furnish the particulars as required by the AO. 4

- (e) Dhaval is in business of manufacturing customized kitchen equipments. He is also the Managing Director and held nearly 65% of the paid-up share capital of Aarav Ltd. A substantial part of the business of Dhaval is obtained through Aarav Ltd. For this purpose Aarav Ltd. passed on the advance received from its customers to Dhaval to execute the job work entrusted to him. The Assessing Officer held that the advance money received by Dhaval is in the nature of loan given by Aarav Ltd. to him and accordingly is deemed dividend within the meaning of provisions of section 2(22)(e) of the Income Tax Act, 1961. The Assessing Officer, therefore made the addition by treating advance money as the deemed dividend income of Dhaval. Examine whether the action of the Assessing Officer is tenable in law. 4
5. (a) RV Ltd, an Indian company, exports grapes to DK Inc for an amount of ₹ 30 Lacs. DK Inc is located in a Notified Jurisdictional Area (NJA). RV Ltd. charges ₹ 38 Lacs and ₹ 40 Lacs for sale of similar goods to CC Inc and MM Inc respectively which are not located in NJA and both of them are not associated enterprises of RV Ltd. Assuming that permissible variation notified by Central Government for such class of International transactions is 6% of the transaction price, state the tax implications under Section 94A in respect of the above transaction by RV Ltd. to DK Inc. 4
- (b) "The existence of a website on Indian Soil constitute a permanent establishment". Is this statement correct ? Examine. 4
- (c) State the powers of the Authority for Advance Ruling under the Income Tax Act, 1961. 4
- (d) In order to overcome a situation where the tax is deducted at a rate prescribed in the relevant Double Taxation Avoidance Agreement which is higher than the rate prescribed in the Income Tax Act, 1961, CBDT recently has clarified this issue, to avoid genuine hardship faced by the resident deductor. Explain in brief the contents of this CBDT circular. 4

6. (a) What are the consequences if the amount deposited in Capital Gains Account Scheme to avail exemption from capital gains is not utilised within the stipulated time. Is there any difference in the tax treatment in the event of death of the assessee, before the stipulated time. 3
- (b) X carrying on a business as sole proprietor, died on 31st March, 2011. On his death, the same business was continued by his legal heirs, by forming a firm. As on 31st March 2011, a determined business loss of ₹ 5 lacs is to be carried forward, under the Income Tax Act, 1961. 3
- Does the firm consisting of all legal heirs Mr. X, get a right to have this loss adjusted against its current income.
- (c) State the cases, where the benefit of indexation of cost is not available for determination of capital gains. 7
- (d) Mr. C borrowed on Hundi, a sum of ₹ 15,000 by way of bearer cheque on 11-09-2011 and repaid the same with interest amounting to ₹ 20,000 by account payee cheque on 12-10-2011. 3
- Assessing Officer (AO) wants to treat the amount borrowed as income during the previous year. Is the action of AO valid ?
7. (a) What are the consequences of not collecting Tax at Source (TCS) in respect of sale of scrap by a manufacturing company. State the circumstances under which the TCS provisions are not applicable in the above case. 5
- (b) State with reasons whether Return of Income is to be filed in the following cases for the Assessment Year 2012-13 : 4
- (i) Mr. X, an individual aged 80 years has a Gross total income of ₹ 6,50,000 and he is eligible for deduction of ₹ 1,60,000 under Chapter VI-A.
- (ii) ABC, a partnership firm, has a loss of ₹ 10,000/- during the previous year 2011-12.
- (iii) A registered association, eligible for exemption u/s 10 (23B), has income from house property of ₹ 2,10,000.
- (iv) Mr. Y is an employee of ABC P Ltd, draws a salary of ₹ 4,90,000 and has income from fixed deposits with Bank of ₹ 10,000.

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(c) Mr. X received the following gifts / amounts during the previous year 2011-12, 7

- (i) Gift of Bullion worth ₹ 60,000 on his birthday from his friend.
- (ii) Received a car from his cousin on payment ₹ 1 lac, fair market value of which was ₹ 4 lacs.
- (iii) Received cash gift of ₹ 18,000 each from three of his friends A, B & C on 24-09-2011.
- (iv) Acquired an office building on 22-11-2011 from his friend Q for a consideration of ₹ 10 lacs, stamp value of which is ₹ 20 lacs.
- (v) In respect of Land of Mr. X acquired by Railways in the year 2009, he received the following amount on 25-12-2011 as interest on enhanced compensation on the order of the court,

| Relating to Previous Year | Amount ₹ |
|---------------------------|----------|
| 2009-10 | 1,45,000 |
| 2010-11 | 1,75,000 |
| 2011-12 | 1,10,000 |

You are required to compute the income of Mr. X chargeable under the head "Income from other sources" for the Assessment Year 2012-13 assuming that he has no other income.

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