

NOV 2014

Roll No. **FINAL**
GROUP-II PAPER-7
DIRECT TAX LAWS

Total No. of Questions – 7

Total No. of Printed Pages – 14

Time Allowed – 3 Hours

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/her answers in Hindi will not be valued.

Wherever appropriate, suitable assumptions may be made by the candidate and stated clearly in the answer.

Working notes should form part of the answer.

Question No. 1 is compulsory.

Answer any five questions from the remaining six questions.

All questions relate to the Assessment Year 2014-15, unless stated otherwise in the question.

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1. (a) XYZ Ltd. is engaged in the business of manufacturing plastic bottles. Its Profit & Loss account shows a net profit of ₹ 60 lakhs for the year ended 31st March 2014, after debiting/crediting the following items :
- (i) ₹ 5 lakhs, being expenses incurred on the travelling of the wife of Managing Director, who accompanied him on tour to Beijing on invitation of Trade & Commerce Chamber, China.

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- (ii) ₹ 10,000 & ₹ 15,000 paid in cash on 15.10.2013 by two separate vouchers to a contractor who carried out certain repair work in the office premises.
- (iii) One time license fee of ₹ 10 lakh paid to a foreign company for obtaining franchise on 1st July 2013.
- (iv) ₹ 5 lakhs paid to S Ltd. towards feasibility study conducted for examining proposals for technological advancement relating to existing business, where the project was abandoned without creating a new asset.
- (v) Dividend of ₹ 3,50,000 received from a foreign company, in which XYZ Ltd. holds 28% in nominal value of equity share capital of the company. ₹ 25,000 spent on earning this income.
- (vi) Depreciation on tangible fixed assets ₹ 1,50,000.
- (vii) ₹ 5,00,000 and ₹ 1,50,000, being amounts waived by a bank out of principal and arrear interest, respectively in one-time settlement. The loan was obtained for meeting working capital requirements two years back.
- (viii) Provision for gratuity based on actuarial valuation ₹ 5,00,000. Actual gratuity paid ₹ 1,50,000 was debited to provision for gratuity account.
- (ix) The opening & closing stock of the year were ₹ 18,00,000 & ₹ 18,72,000 respectively and were undervalued by 10% on cost.

Additional Information :

- (a) Provision for audit fee of ₹ 1,00,000 was made in the books for the year ending 31/3/2013, without deducting tax at source. Such fee was paid to the auditors in September, 2013, after deducting tax u/s 194J and the tax so deducted was deposited on 7th October 2013.

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- (b) During the year, the company purchased 5000 shares of RK Private Ltd. at ₹ 20 per share. The fair market value of such shares on the date of transaction was ₹ 40 per share.
- (c) Depreciation on tangible fixed assets as per Income-Tax Rules : ₹ 1.75 lakhs.
- (d) A debt of ₹ 8 lakhs was claimed as bad debt in the previous year 2012-13. But the assessing officer allowed only ₹ 4 lakhs as bad debt. In previous year 2013-14, ₹ 3 lakhs was recovered ultimately in respect of the debt. The effect of recovery of bad debt was not given in books of account.

Compute the total income and tax payable by XYZ Ltd., giving the reasons for treatment of each item, for assessment year 2014-15. Ignore MAT provisions.

- (b) ABC Constructions Ltd. furnishes the following particulars of its wealth for the valuation date 31st March 2014 :

	₹
(i) Guest House and land appurtenant thereto in rural area	10,00,000
(ii) 100 acres agricultural land acquired at Gurgaon on 9.9.2013 for construction of residential flats/commercial complex.	50,00,000
(iii) Cash in hand as per cash book	2,50,000
(iv) Bank Balance	5,00,000
(v) Residential flats of identical size provided to six employees for their use in rural areas (salaries of 2 such employees exceed ₹ 10 lakhs per annum)	15,00,000
(vi) Motor cars (including one imported car worth ₹ 20 lakhs used for hiring)	30,00,000
Liabilities :	
– Loan for purchase of 100 acres of agricultural land at Gurgaon.	30,00,000

Compute the Net Wealth of the company as on valuation date 31.3.2014, giving suitable explanation for treatment of individual items.

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2. (a) PQR Ltd., a non-banking finance company was engaged in the business of leasing and hire purchase. It purchased motor cars from Ramaha motors and leased out these vehicles to its customers. The lease agreement with the customer stated that PQR Ltd. was empowered to repossess the vehicle, in case the lessee committed a default. Registration of the vehicle in the name of lessee, during the period of lease is mandatory as per the Motor Vehicles Act, 1988. PQR Ltd. claimed ₹ 5,00,000 as depreciation on the vehicles leased out for the year ending 31/3/2014. The claim was rejected by the assessing officer on the ground that the assessee had merely financed the purchase of motor cars and was neither the owner nor the user of these assets.

Is the action of the Assessing Officer valid ? Discuss.

- (b) X Ltd. has two units, unit 'N' and unit 'Y'. Unit 'N' engaged in the business of power generation installed a windmill and had a profit of ₹ 100 lakhs in Assessment Year 2014-15. X Ltd. claimed depreciation of ₹ 120 lakhs on windmill against the profit of ₹ 100 lakhs from power generation business which was eligible for deduction u/s 80IA. Unit 'Y', engaged in manufacturing of wires, non-eligible business, had a profit of ₹ 70 lakhs for Assessment Year 2014-15.

The loss of ₹ 20 lakhs, i.e. balance depreciation not set-off pertaining to unit 'N' was set-off against the profits of unit 'Y' carrying on non-eligible business, by the assessee, X Ltd. The assessing officer was of the view that depreciation relating to a business eligible for deduction u/s 80IA cannot be set-off against non-eligible business income. Hence, unabsorbed depreciation should be carried forward to the subsequent year to be set off against eligible business income of the assessee of that year.

Give your views on the correctness of the action of the assessing officer.

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- (c) Ramji Charitable Trust, registered u/s 12AA and recognized u/s 80G of the Income-Tax Act, 1961, was created for providing relief to disabled persons. It filed the return of income for the year ended 31/3/2014, declaring 'Nil' income. While completing the assessment, the assessing officer found that a large sum was donated to the corpus of another trust by the assessee i.e. Ramji Charitable Trust. The contention of the assessee was that such donation was made out of the permissible accumulation of income of past years upto 15% u/s 11(1)(a) of the Act. 4

The assessing officer added the donation so made and by invoking the explanation to section 11(2), computed the taxable income of the assessee. Discuss the validity of the action of the assessing officer, in this case.

- (d) Arihant Ltd. filed an appeal to the Commissioner (Appeals) against the order of assessment made by the assessing officer. The appeal was allowed by the Commissioner (Appeals). The assessee later found that he was entitled to deduction of ₹ 30,000 as bad debt u/s 36 (1)(vii), which he had forgotten to claim and the related amount was also not allowed by the assessing officer in the course of assessment. Further, the issue of deduction was not raised by the assessee in appeal before the Commissioner (Appeals) and hence it was also not considered by him in the said appeal. 4

Subsequently Arihant Ltd. applied to Commissioner for Revision u/s 264 of the Act, to allow such deduction.

Examine the power of the Commissioner to grant relief to the assessee u/s 264, in such a case.

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3. (a) Mr. Ghosh held 15% equity shares in ABC Ltd., a private limited company. He gifted all the shares held by him in ABC Ltd., to his wife Mrs. Ghosh on 25/5/2013. The transfer was made without adequate consideration. On 20/6/2013, Mrs. Ghosh obtained a loan of ₹ 80,000 from ABC Ltd., when the company's accumulated profit was ₹ 50,000. What are the tax implications on the above transactions? 4
- (b) State with reasons whether the following transactions attract Income-Tax in India, in the hands of recipients u/s 9 of Income-Tax Act, 1961 : 4
- (i) A non-resident German Company, which did not have a permanent establishment in India, entered into an agreement for execution of electrical work in India. Separate payments were made towards drawings & designs, which were described as "Engineering Fee". The assessee contended that such business profits should be taxable in Germany as there is no business connection within the meaning of Sec. 9(1)(i) of Income-tax Act, 1961.
- (ii) A firm of solicitors in Mumbai engaged a barrister in UK for arguing a case before Supreme Court of India. A payment of 5000 pounds was made as per terms of professional engagement.
- (iii) Amount paid by Government of India for use of a patent developed by Mr. A, who is a non-resident.
- (iv) Sai Engineering, a non-resident foreign company entered into a collaboration agreement on 25/6/2013, with an Indian Company and was in receipt of interest on 8% debentures for ₹ 20 lakhs, issued by Indian Company, in consideration of providing technical know-how during previous year 2013-14.

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- (c) The concept of Permanent Establishment is one of the most important concepts in determining the tax implications of cross border transactions. Explain the significance thereof, when such transactions are governed by Double Taxation Avoidance Agreement (DTAA). 4
- (d) From the following particulars, compute the gross total income of Mr. Z for the assessment year 2014-15. 4
- (i) Mr. Y transferred his residential house to Mr. Z for ₹ 10 lakh on 1.4.2013. The value of the said house as per stamp valuation authority was ₹ 18 lakhs. Mr. Z is a childhood friend of Mr. Y.
- (ii) Mr. Z received a car from his cousin on payment of ₹ 2,50,000, fair market value of which was ₹ 4,00,000.
- (iii) Land of Mr. Z was acquired by railways in 2011. On 15/12/2013, he received ₹ 1,70,000 as interest on enhanced compensation on the order of court.
- (iv) On a fixed deposit of ₹ 10 lakhs, in a Bank, Mr. Z received an interest of ₹ 90,000. He had also borrowed ₹ 50 lakhs from the same bank, on security of the fixed deposit and was liable to pay ₹ 50,000 by way of interest to the bank. He, therefore, offered the difference between the two amounts i.e., ₹ 40,000 as 'income from other sources'.

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4. (a) A partnership firm consisting of three partners R, Q, S, was engaged in the business of civil construction and received the following amounts by way of contract receipts during the financial year 2013-14 : 8

Particulars	₹
Contract work for supply of labour	35,00,000
Value of materials supplied by the Government	<u>9,00,000</u>
	<u>44,00,000</u>

Each partner of the firm was entitled to draw ₹ 3000 per month by way of salary as authorized by the terms of partnership deed. Interest of ₹ 1,50,000 was also paid to partner 'R' on the capital of ₹ 6,00,000 contributed by him. The profit as per books of accounts before deduction of salary to partners and interest to partner 'R' amounted to ₹ 3,00,000.

Compute the total income of the firm, applying the provisions of section 44 AD, for assessment year 2014-15. Ignore the provisions of AMT.

- (b) Discuss and compute the liability for deduction of tax at source, if any, in the cases stated hereunder, for the financial year ended 31st March, 2014.

- (i) Mr. X, a resident acquired a house property at Mumbai from Mr. Y for a consideration of ₹ 90 lakhs, on 20.6.2013. On the same day, Mr. X made two separate transactions, thereby acquiring an urban plot in Kolkata from Mr. C for a sum of ₹ 49,50,000 and rural agricultural land from Mr. D for a consideration of ₹ 60 lakhs. Would your answer be different in case the house property had been purchased on 30/4/2013 ? 2

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- (ii) A commission of ₹ 50,000 was retained by the consignee 'ABC Packaging Ltd.' and not remitted to the consignor 'XYZ Developers', while remitting the sale consideration. Examine the obligation of the consignor to deduct tax at source. 2
- (iii) Mr. S won a motor car in a lucky draw held by 'P' marketing. The market price of car was ₹ 4,00,000. P marketing erroneously gave the car to Mr. S without deducting tax at source. Examine the liability of P marketing to make such payment, if any. 2
- (iv) Raj is working with AB Ltd. He is entitled to a salary of ₹ 45,000 per month w.e.f. 1/4/2013. He has a house property which is self occupied. He paid an interest of ₹ 80,000 on loan, during previous year 2013-14. The loan was taken for construction of house. He has notified his employer AB Ltd. that there will be a loss of ₹ 80,000 in respect of this house-property for financial year ended 31/3/2014. 2
5. (a) Following are the details of income provided by Mr. Singh, the assessee for the financial year ended 31st March, 2014 : 10
- (i) Rental income from property at Bangalore – ₹ 3 lakhs, Standard Rent – ₹ 2,50,000, Fair Rent – ₹ 2,80,000.
- (ii) Municipal and water tax paid during 2013-14 : Current year – ₹ 35,000, Arrears – ₹ 1,50,000.
- (iii) Interest on loan borrowed towards major repairs to the property – ₹ 1,50,000.
- (iv) Arrears of Rent of ₹ 30,000 received during the year, which was not charged to tax in earlier years.

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Further, the assessee furnished following additional information regarding sale of property at Chennai :

- (i) Mr. Singh's father acquired a residential house in April 1992 for ₹ 25,000 and thereafter gifted this property to the assessee, Mr. Singh on 1st December, 1994.
- (ii) The property, so gifted, was sold by Mr. Singh on 10th June 2013. The consideration received was ₹ 25,00,000.
- (iii) Stamp duty charges paid by the purchaser at the time of Registration @ 13% (as per statutory guidelines) was ₹ 3,90,000.
- (iv) Out of the sale consideration received :
 - (a) On 2/1/2014, the assessee had purchased two adjacent flats, in the same building, and made suitable modification to make it as one unit. The investment was made by separate sale deeds, amount being ₹ 8,00,000 and ₹ 7,00,000 respectively.
 - (b) On 10/10/2013, ₹ 10 lakhs was invested in bonds issued by National Highways Authority of India, but the allotment of the bonds was made on 1.2.2014.

Compute Mr. Singh's taxable income for assessment year 2014-15.

Cost inflation index :

FY 1992-93 : 223

FY 1993-94 : 244

FY 2013-14 : 939.

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- (b) The Director General of Income Tax after getting the information that Mr. X is in possession of unaccounted cash of ₹ 50 lakhs, issued orders by invoking powers vested in him as per sec. 131(IA) of the Income – Tax Act, 1961, for its seizure. 3

Is the order for seizure of cash issued by the Director General of Income Tax correct ?

If not, does the Director General of Income Tax have any other power to seize such cash ?

- (c) Rectification of an assessment order u/s 154 due to subsequent change of law on retrospective basis is valid in law. Comment. 3

Is it valid to rectify an assessment order u/s 154 due to subsequent change of law on retrospective basis ? Also, state, whether a Supreme Court judgment would warrant a rectification u/s 154 in respect of an order passed earlier by the assessing officer ?

6. (a) G Ltd. is engaged in the business of growing and manufacturing tea in India. For the previous year ending on 31/03/2013 its composite business profits before allowing deduction u/s 33AB are ₹ 60,00,000. On 01/09/2013 it deposited a sum of ₹ 11,00,000 in the Tea Development Account. During the previous year 2011-12, G Ltd., had incurred a business loss of ₹ 14,00,000 which has been carried forward. On 25/01/2014, it withdraws ₹ 10 lakhs, from deposit account which is utilized as under :

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₹ 6,00,000 for purchase on non-depreciable asset as per the scheme specified.

₹ 3,00,000 for purchase of machinery to be installed in the office premises.

₹ 1,00,000 was spent for the purpose of scheme on 5.4.2014.

- (i) You are required to determine business income of G Ltd. and the tax consequences that may arise from the above transactions in the relevant assessment year.
- (ii) What will be the consequence if the asset which was purchased for ₹ 6,00,000 is sold for 8,00,000 in April, 2014.
- (b) Shailesh, an ordinary resident but not citizen of India, has following 7 assets/debts as on 31-03-2014.
- (i) Land and building outside India worth is ₹ 20 lakhs.
- (ii) He purchased a house for ₹ 50 lakhs in India and obtained a loan from HDFC bank of ₹ 100 lakhs against the mortgage of the house for his new business. The value of the house as on 31-03-2014 is ₹ 90 lakhs.
- (iii) He purchased one Urban land in India of ₹ 200 lakhs (Classified as agricultural land in records of the government and used for the agricultural purposes.)

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- (iv) He made a gift, shares of public limited company worth of ₹ 5 lakh to his wife on 01-04-2013 and she purchased immovable property out of the sale proceeds of shares as on 28-04-2013. The net worth of the house as on 31-03-2014 is ₹ 10 lakhs.
- (v) Interest of his minor son in a partnership firm in India is ₹ 5 lakhs (determined in accordance with schedule III).
- (vi) He let out his house in India with effect from 1st Oct., 2013 at a monthly rent of ₹ 20,000 regularly. The value of the house is ₹ 15 lakhs as on 31-03-2014.

Prepare the statement of wealth of Shailesh on the valuation date i.e. 31-03-2014.

7. (a) Examine the correctness of the following statements in the context of the provisions contained in the Income-Tax Act, 1961. 6
- (i) High Court has an inherent power under the Income-tax Act, 1961, to review an earlier order passed on merits.
- (ii) If assessee does not pay the Self assessment tax before furnishing the return of income, the return furnished shall be deemed to be defective return.
- (iii) The assessee, who is required to furnish Annual Information Return fails to furnish the same. He is liable for penalty under Section 271FA of the Income tax Act, 1961.

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- (b) An assessment completed by the Assessing Officer was set aside by the ITAT on 30-01-2013 with a specific direction to re-examine certain disallowances. Before the fresh assessments is made, the Assessing Officer discovers that some other income has escaped assessment. How should he proceed to make fresh assessment ? 4
- (c) Discuss the correctness of the following statements in the context of the provisions of Income Tax Act, 1961 : 6
- (i) "The joint Commissioner of Income tax is empowered to issue direction to the assessing officer as he thinks fit for the guidance of the assessing officer during the assessment proceedings to complete the assessment in a specific manner."
- (ii) "Assessing officer may direct for the audit of the accounts under section 142(2A) of the Act, during the assessment proceeding on the basis of certain grounds."
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