Tax Management Course
(Part I. Examination
G-II-P-3-Direct Taxes (2)

MAY 2010

Roll No..............................

Total No. of Questions—6]

[Total No. of Printed Pages—4

Time Allowed—3 Hours

Maximum Marks—100

WRL

Attempt **all** questions.

Marks

1. (a) In the context of the provisions of Income-tax, dealing with double taxation avoidance agreement, explain the following concepts : $3 \times 4 = 12$

   (i) Double taxation relief;

   (ii) Tax sparing;

   (iii) Underlying tax credit.

   (b) As per the provisions of Indian Income-tax Act, 1961 who can be regarded as an agent in relation to a non-resident ? 5

   (c) What is the effect of a Double Tax Avoidance Agreement ? 5

2. (a) Examine the correctness or otherwise of the following propositions :

   (i) As per Article 7(1), the taxation rights of a source company *visa-vis* the country of residence are demarcated. 5

   (ii) "Tax at source is required to be deducted by the non-resident foreign company out of "home salary" paid to its employees in foreign currency in the home country for the services rendered in India". Do you agree ? Critically examine the statement by explaining the taxability of home salary in India. Support your answer with the legal pronouncements. 5

   (b) Distinguish between the terms 'attributable to' and 'effectively connected'. 6

3. (a) State the conditions/tests that are required to be satisfied to determine the Permanent Establishment under Agency rule. 5

Marks

(b) A software company was set up in Hong Kong, a country with which India has not signed double taxation avoidance agreement. Hong Kong company wants to outsource its work to India. Your advice is sought as to which of the following three options, Hong Kong company should adopt : 6

(i) Setting up a branch in India

(ii) Opening a subsidiary in India

(iii) BPO contract to a third party which is unrelated.

(c) (i) Explain about the taxability of interest received by an Indian company from a foreign company. 2

(ii) Explain double dip structure to maximize interest deduction in a profitable operating company, arising out of debt acquisition. 3

4. (a) M/s IB (India) Ltd., an Indian company is engaged in the manufacturing of computer components. M/s ICL Inc. incorporated in USA hold 51% shares of Indian company. IB (India) Ltd. paid Rs. 5 crores to US company for purchases of one lakh parts @ $ 10 per part. At the same time, US company sold similar parts to another Indian company @ $ 8 per part. The resale value of the parts purchased by the Indian company is Rs. 3.50 crores. How the arm's length price will be determined in this transaction ? Assume the value of one $ is Rs. 50. 5

(b) Black Limited incorporated in USA is engaged in manufacturing micro oven. It has a subsidiary company, White Limited in India. Black Limited supplies micro oven to White Limited at Rs. 10,000 per unit. Selling and distribution cost incurred by White Limited is 50 per unit. White Limited sells the same at Rs. 15,000 per unit. White Limited also sources micro oven at Rs. 7,500 per unit from Red Limited, Australia, which is not an associated enterprise and the selling and distribution expenses work out to Rs. 25 per unit. Ovens purchased from Red Limited are sold at Rs. 10,000 per unit. Examine whether the transaction with Black Limited can be said to be at an arm's length. 5

(c) Big Limited, company incorporated outside India has entered into an agreement on 1st September, 2008 for sharing its know-how with Small Limited, an Indian company against a payment of lump-sum royalty of Rs. 3 crores. State how the royalty shall be taxed, if Big Limited does not have any permanent establishment in India. Whether Big Limited, shall be entitled to any other deduction from royalty under the Income-tax Act ? 6

Marks

5. Discuss the correctness or otherwise of the following proposition under the Wealth Tax Act : 5×3 =15

(a) "Land appurtenant to building is a part of the house".

(b) "A life interest in a property is a taxable asset".

(c) "Accretion to assets transferred under Section 4, shall also be part of wealth of transferor as on valuation date".

(d) "For claiming exemption u/s 5(1) the property must be held in India by the trust".

(e) "Wealth Tax Act specifically provides that certain persons are not liable to Wealth Tax".

6. (a) Mr. X, citizen of India was residing in USA. He returned to India in the October, 2009 and settled down permanently at his birth place in Delhi. He provides the following details : 8

(i) The balance in his non-resident external account in India on the date of his return was Rs. 200 lacs;

(ii) He purchased a flat in Delhi on payment of Rs. 45 lacs in April, 2008 and a car for Rs. 7.50 lac in October, 2009 from NRE account;

(iii) He transferred his Delhi flat to his married daughter but reserved the right to live in that house for whole life;

(iv) He purchased a second flat in the same housing society in the name of his minor son for Rs. 50 lacs in December, 2009 from the balance in NRO account;

(v) He also owned one parental house worth Rs. 1 crore in Mumbai.

Compute the taxable wealth and wealth tax payable by Mr. X as on valuation date 31.3.2010. Reasons to be stated in support of the inclusion or exclusion of the asset.

Marks

(b) X died on 31.8.2007 executing a will during his life time. Y has been appointed as an executor. The complete distribution of the estate was effected by Y on 28.2.2010. On these facts duly state the provisions of Wealth Tax Act as to how the wealth tax assessments will be made on the wealth of X for the respective valuation dates. 5

(c) Explain who will have the jurisdiction of valuation of assets under the wealth tax laws where the assessing officer is of the opinion that the fair value of the assets exceeds by Rs. 10 lacs over the valuation of assets returned by an assessee ? 2