

TEST PAPER 2

INTERMEDIATE (NEW) COURSE PAPER – 4: TAXATION (INCOME TAX LAWS) SOLUTIONS

Division A – Multiple Choice Questions

MCQ No.	Most Appropriate Answer	Reasons
1.		
(i)	(b)	<p>Section 194-Q applicable in this case on purchase made on or after 01/07/21. Purchase made from 01/04/21 till 30/06/21 not liable for TDS but it will be considered in the limit calculation of ₹ 50 Lakhs. TDS has to be deducted at the time of payment or credit, whichever is earlier. As per CBDT if advance payment made then TDS deducted on whole amount including GST.</p> <p>TDS Amount</p> <p>17/08/21 – ₹ 25,37,000 x 0.1% = ₹ 2537</p> <p>14/04/22 – ₹ 10,50,000 x 0.1% = ₹ 1050</p>
(ii)	(c)	<p>Since last year T/O of seller is more then ₹ 10 Crores. As per section 206C(1H) TCS collected @1% on consideration received in excess of ₹ 50 lakhs. As per CBDT if section 194Q applicable then section 206C(1H) doesn't apply. Since section 194Q applicable from 01/07/21 so section 206C(1H) shall apply on consideration received till 30/06/21. In this case since consideration received by seller (including GST) is ₹ 64,90,000 so TCS applicable on ₹ 14,90,000 @ 0.1%.</p>
(iii)	(c)	<p>Since this is the first year of operation so last year T/O treated as NIL so buyer not required to deduct TDS u/s 194Q but seller require to collect TCS on consideration received during current year in excess of ₹ 50 Lakhs.</p>
(iv)	(d)	<p>As per section 194-O E-Commerce operator required to deduct TDS @1% on sale value of goods to customer.</p>
(v)	(c)	<p>Assessee can give aadhar instead of PAN.</p>
2.	(a)	<p>Actual Cost : NIL as assessee already claimed deduction u/s 35</p>
3.	(b)	<p>As per section 60 if Income transferred without transfer of asset then Income Taxable in hands of Transferor.</p>
4.	(b)	<p>TDS u/s 194N applicable @2% on Cash withdraw in excess of ₹ 1 Crore.</p>
5.	(d)	<p>If T/o is more than ₹ 5,00,000 then assessee required to apply for PAN till end of PY.</p>

Division B – Descriptive Questions**Answer 1****Computation of total income of Mr. Suraj for the A.Y.2022-23**

Particulars	₹	₹
Income from house property		
Arrears of rent (taxable under section 25A even if Mr. Suraj is not the owner of the house property in the P.Y.2021-22)	1,15,000	
Less: Deduction@30%	34,500	80,500
Income chargeable under this head Profits and gains of business or Profession		
Income from wholesale business		
Net profit as per books	5,60,000	
Add: Amount debited to P & L A/c, not allowable as deduction		
- Depreciation as per books	34,000	
- Disallowance of municipal taxes paid for the second half- year under section 43B, since the same was paid after the due date of filing of return (₹7,000/2)	3,500	
- Disallowance under section 40A(3) in respect of salary paid in cash since the same exceeds ₹10,000	21,000	
- 20% of car expenses for personal use	8,000	
	6,26,500	
Less: Depreciation allowable (Note 1)	1,96,800	
	4,29,700	
Income from firm		
Share of profit from the firm is exempt under section 10(2A)	-	
Interest on capital from partnership firm (Note 2)	1,20,000	
Salary as working partner fully taxable	1,00,000	
	2,20,000	6,49,700

Particulars	₹	₹
Income from other sources		
Interest on bank fixed deposit (Gross)	45,000	
Interest on saving bank account	12,300	
Interest on income-tax refund	2,300	59,600
Gross total income		7,89,800
Less: Deduction under Chapter VIA (Note 3)		2,25,000
Total Income		5,64,800

Notes:**(1)** Depreciation allowable under the Income-tax Rules, 1962

		Opening WDV	Rate		Depreciation	Closing WDV
Block 1	Computers	2,40,000	40%		96,000	1,44,000
	Computer printer	1,50,000	40%		60,000	90,000
Block 2	Motor Car	6,80,000	15%	51,000	40,800	6,39,200
				[50% of 15% is allowable, since it is put to use for less than 180 days]		
	Less: 20% disallowance for personal use			10,200		
					1,96,800	8,73,200

- (2)** Only to the extent the interest is allowed as deduction in the hands of the firm, the same is includible as business income in the hands of the partner. Since interest is paid in accordance with partnership deed, maximum interest allowable as deduction in the hands of the firm is 12% p.a. Therefore, interest @12% p.a. amounting to ₹ 1,20,000 would be treated as the business income of Mr. Suraj.

(3) Deduction under Chapter VI-A

Particulars	₹	₹
Under section 80C		
LIP for independent son	60,000	
PPF paid in wife's name	70,000	
	1,30,000	
Since the maximum deduction under section 80C and 80CCE is ₹ 1,50,000, the entire sum of ₹1,30,000 would be allowed as deduction		1,30,000
Under section 80D		
Health insurance premium taken for mother is fully allowable as deduction, even though she is not dependant on him. Since she is senior citizen whole of amount is allowable as deduction as it is within overall limit of ₹50,000		35,000
Under section 80G		
Contribution towards PM National Relief Fund eligible for 100% deduction without any qualifying limit		50,000
Under section 80TTA		
Interest on saving bank account, restricted to		10,000
Total deduction		2,25,000

Answer 2**(a) Determination of residential status**

Mr. Raghu would be a resident in India in P.Y. 2021-22, if he satisfies any one of the following conditions:

- (i) He has been in India during the previous year for a total period of 182 days or more, or
- (ii) He has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more and has been in India for at least 60 days in the previous year.

If he satisfies any one of the mentioned above, he is a resident. If both the above conditions are not satisfied, he would be a non-resident.

During the P.Y. 2021-22 Mr. Raghu stayed in India for 179 days i.e., 365 days – 186 days [78 days + 34 days + 74 days] and 380 days i.e., more than 365 days during the 4 preceding previous years. He satisfies the second basic condition for being a resident. Hence, he is a resident in India for A.Y. 2022-23.

A person would be “Not ordinarily Resident” in India in any previous year, if such person, inter alia:

- (a) has been a non-resident in 9 out of 10 previous years preceding the relevant previous year; or
- (b) has during the 7 previous years immediately preceding the relevant previous year been in India for 729 days or less.

For the previous year 2021-22, Mr. Raghu would be “Resident but not ordinarily resident” since he stayed for less than 729 days during the 7 previous years immediately preceding P.Y. 2021-22.

Computation of total income of Mr. Raghu for A.Y.2022-23

Particulars		Amount (₹)
(1)	Salary from Indian company received in a bank account in India 15,00,000	
	Less: Standard deduction u/s 16(ia) 50,000	14,50,000
(2)	Dividend of ₹ 48,000 received from Singapore based company transferred to his bank account in Singapore is not taxable in the hands of the resident but not ordinarily resident since the income has neither accrued or arisen in India nor has it been received in India.	Nil
(3)	Interest on fixed deposit with PNB credited to his savings bank account is taxable in the hands of Mr. Raghu as Income from other sources, since it has accrued and arisen in India and is also received in India.	10,500
Gross Total Income		14,60,500
Less: Deduction u/s 80TTB		10,500
Total Income		14,50,000

(b) Taxability of perquisites provided by ABC Co. Ltd. to Shri Bala

- (i) Domestic servant was employed by the employee and the salary of such domestic servant was paid/ reimbursed by the employer. It is taxable as perquisite for all categories of employees.

Taxable perquisite value = ₹1,500 × 12 = ₹18,000.

If the company had employed the domestic servant and the facility of such servant is given to the employee, then the perquisite is taxable only in the case of specified employees. The value of the taxable perquisite in such a case also would be ₹18,000.

- (ii) Where the educational institution is owned by the employer, the value of perquisite in respect of free education facility shall be determined with reference to the reasonable cost of such education in a similar institution in or near the locality. However, there would be no perquisite if the cost of such education per child does not exceed ₹1,000 per month.

Therefore, there would be no perquisite in respect of cost of free education provided to his child Arthy, since the cost does not exceed ₹1,000 per month.

However, the cost of free education provided to his child Ashok would be taxable, since the cost exceeds ₹1,000 per month. The taxable perquisite value would be ₹14,400 (₹1,200 × 12).

Note – An alternate view possible is that only the sum in excess of ₹ 1,000 per month is taxable. In such a case, the value of perquisite would be ₹2,400.

- (iii) Where the employer has provided movable assets to the employee or any member of his household, 10% per annum of the actual cost of such asset owned or the amount of hire charges incurred by the employer shall be the value of perquisite. However, this will not apply to laptops and computers. In this case, the movable assets are television, refrigerator and air conditioner and actual cost of such assets is ₹1,10,000.

The perquisite value would be 10% of the actual cost i.e., ₹11,000, being 10% of ₹1,10,000.

- (iv) The value of any gift or voucher or token in lieu of gift received by the employee or by member of his household not exceeding ₹ 5,000 in aggregate during the previous year is exempt. In this case, the amount was received on the occasion of marriage anniversary and the sum exceeds the limit of ₹5,000.

Therefore, the entire amount of ₹10,000 is liable to tax as perquisite.

Note- An alternate view possible is that only the sum in excess of ₹5,000 is taxable. In such a case, the value of perquisite would be ₹5,000

- (v) Telephone provided at the residence of the employee and payment of bill by the employer is a tax free perquisite.
- (vi) The value of the benefit to the assessee resulting from the provision of interest-free or concessional loan made available to the employee or any member of his household during the relevant previous year by the employer or any person on his behalf shall be determined as the sum equal to the interest computed at the rate charged per annum by the State Bank of India (SBI) as on the 1st day of the relevant previous year in respect of loans for the same purpose advanced by it. This rate should be applied on the maximum outstanding monthly balance and the resulting amount should be reduced by the interest, if any, actually paid by him.

“Maximum outstanding monthly balance” means the aggregate outstanding balance for loan as on the last day of each month.

The perquisite value for computation is $10\% - 6\% = 4\%$

Month	Maximum outstanding balance as on last date of month (₹)	Perquisite value at 4% for the month (₹)
April, 2021	5,88,000	1,960
May, 2021	5,76,000	1,920
June, 2021	5,64,000	1,880
July, 2021	5,52,000	1,840
August, 2021	5,40,000	1,800
September, 2021	5,28,000	1,760
October, 2021	5,16,000	1,720
November, 2021	5,04,000	1,680
December, 2021	4,92,000	1,640
January, 2022	4,80,000	1,600
February, 2022	4,68,000	1,560
March, 2022	4,56,000	1,520
Total value of this perquisite		20,880

Total value of taxable perquisite = ₹74,280 [i.e. ₹18,000 + ₹14,400 + ₹11,000 + ₹10,000 + ₹20,880].

Note - In case the alternate views are taken for items (ii) & (iv), the total value of taxable perquisite would be ₹57,280 [i.e., ₹18,000 + ₹2,400 + ₹11,000 + ₹5,000 + ₹20,880].

Answer 3

(a) TDS implications

(i) On pre-mature withdrawal from EPF

No tax is deductible under section 192A even though the employee, Mr. Kunal, has not completed 5 years of continuous service, since termination of employment is on account of his ill-health. Hence, Rule 8 of Part A of the Fourth Schedule is applicable in this case.

(ii) On payment of service fee to bank

Even though service fee is included in the definition of “interest” under section 2(28A), no tax is deductible at source under section 194A, since the service fee is paid to a banking company, i.e., Indian Bank.

(iii) On payment of rent by a salaried individual

Mr. Agam, a salaried individual, is not liable to deduct tax at source @5% under section 194-IB on ₹ 1,60,000 (being rent for 5 months from October 2021 to February 2022) from the rent of ₹ 32,000 payable on 1st day of every month, since the monthly rent does not exceed ₹50,000.

(iv) On payment of call centre service charges

Since Rashi Limited is engaged only in the business of operation of call centre, Jigar Limited is required deduct tax at source @2% on the amount of ₹ 70,000 u/s 194J on 18.3.2022 i.e., at the time of credit of call centre service charges to the account of Rashi Limited, since the said date is earlier than the payment date i.e., 28.3.2022.

(b) If any person fails to furnish a return within the time allowed to him under section 139(1), he may furnish the belated return for any previous year at any time -

- (i) 3 months prior to the end of the relevant assessment year; or
- (ii) before the completion of the assessment, whichever is earlier.

The last date for filing return of income for A.Y.2022-23, therefore, is 31st December 2023. Thereafter, Mr. Sudarshan cannot furnish a belated return after this date.

Consequences for non-filing return of Income within the due date under section 139(1)

Carry forward and set-off of certain losses: Business loss, speculation business loss, loss from specified business under section 35AD, loss under the head “Capital Gains”; and loss from the activity of owning and maintaining race horses, would not be allowed to be carried forward for set-off against income of subsequent years, where a return of income is not furnished within the time allowed under section 139(1).

Interest under section 234A: Interest under section 234A @1% per month or part of the month for the period commencing from the date immediately following the due date under section 139(1) till the date of furnishing of return of income is payable, where the return of income is furnished after the due date.

Fee under section 234F: Fee of ₹ 5,000 would be payable under section 234F, if the return of income is not filed on or before the due date specified in section 139(1). However, such fee cannot exceed ₹1,000, if the total income does not exceed ₹5,00,000.

- (c) As per the provisions of section 64(1A) of the Income-tax Act, 1961, all the income of a minor child has to be clubbed in the hands of that parent whose total income (excluding the income of the minor) is greater. The income of Mr. A is ₹ 3,90,000 and income of Mrs. A is ₹ 2,30,000. Since the income of Mr. A is greater than that of Mrs. A, the income of the minor children have to be clubbed in the hands of Mr. A. It is assumed that this is the first year when clubbing provisions are attracted.

Income derived by a minor child from any activity involving application of his/her skill, talent, specialised knowledge and experience is not to be clubbed. Hence, the income of minor child C from exercise of special talent will not be clubbed.

However, interest from bank deposit has to be clubbed even when deposit is made out of income arising from application of special talent.

The Gross Total Income of Mrs. A is ₹ 2,30,000. The total income of Mr. A giving effect to the provisions of section 64(1A) is as follows:

Computation of gross total income of Mr. A for the A.Y. 2022-23

Particulars	₹	₹
Income from profession		3,90,000
Income of minor son B from company deposit	15,000	
Less: Exemption under section 10(32)	1,500	13,500
Income of minor daughter C		
From special talent – not to be clubbed	-	
Interest from bank	3,000	
Gift of ₹ 2,500 received from a non-relative is not taxable under section 56(2)(x) being less than the aggregate limit of ₹50,000	Nil	
	3,000	
Less : Exemption under section 10(32)	1,500	1,500
Gross Total Income		4,05,000

Answer 4

(a) Computation of total income and tax liability of Mr. Mithun for A.Y. 2022-23

Particulars	₹
Long term capital gains on sale of original shares	
Gross sale consideration (100 x ₹4,000)	4,00,000
Less: Transfer Expenses (Brokerage@1%)	4,000
Net sale consideration	3,96,000
Less: Cost of acquisition (100 x ₹2,000) (Refer Note 2)	2,00,000
Long term capital gains	1,96,000

Particulars	₹
Short term capital gains on sale of bonus shares	
Gross sale consideration (100 x ₹4,000)	4,00,000
Less: Transfer Expenses (Brokerage@1%)	4,000
Net sale consideration	3,96,000
Less: Cost of acquisition of bonus shares	NIL
Short term capital gains	3,96,000
Income from other sources	
Dividend received from M/s Good money Co. Ltd. is taxable in the hands of shareholders [200 shares x 10 per share]	2,000
Total Income	5,94,000
Tax Liability	
Tax on dividend	Nil
15% of (₹3,96,000-₹2,98,000, being unexhausted basic exemption limit)	14,700
10% of (₹1,96,000 - ₹1,00,000)	9,600
	24,300
Add: Health and education cess @4%	972
Tax payable	25,272
Tax payable (rounded off)	25,270

Notes:

- (1) Long-term capital gains exceeding ₹ 1 lakh on sale of original shares through a recognized stock exchange (STT paid at the time of acquisition and sale) is taxable under section 112A at a concessional rate of 10%, without indexation benefit.
- (2) Cost of acquisition of such equity shares acquired before 1.2.2018 is higher of
 - Cost of acquisition i.e., ₹1,000 per share and
 - lower of
 Fair market value of such asset i.e., ₹ 2,000 per share and Full value of consideration i.e., ₹ 4,000 per share.
 So, the cost of acquisition of original share is ₹2,000 per share.

- (3) Since bonus shares are held for less than 12 months before sale, the gain arising there from is a short-term capital gain chargeable to tax@15% as per section 111A after adjusting the unexhausted basic exemption limit (₹ 3,00,000 less ₹ 2,000, being the amount of dividend). Since Mr. Mithun is over 60 years of age, he is entitled for a higher basic exemption limit of ₹ 3,00,000 for A.Y. 2022-23.
- (4) Brokerage paid is allowable since it is an expenditure incurred wholly and exclusively in connection with the transfer. Hence, it qualifies for deduction under section 48(i).
- (5) Cost of bonus shares will be Nil as such shares are allotted after 1.04.2001.
- (6) Securities transaction tax is not allowable as deduction.

(b) Gross Total Income of Mr. F for the A.Y. 2022-23

Particulars	₹	₹
Income from house property (Computed)		1,25,000
Income from business		
Profits before depreciation	1,35,000	
Less: Current year depreciation	26,000	
Less: Brought forward business loss	45,000	
	64,000	
	48,000	
		1,12,000
Income from tea business (40% is business income)		
Capital gains		
Short term capital gains		56,000
Income from Other Sources		
Dividend income (taxable in the hands of shareholders)		80,000
Gross Total Income		3,73,000

Note:

- (1) Dividend from Indian companies is fully taxable in the hands of shareholders at normal rates of tax.
- (2) 60% of the income from tea business is treated as agricultural income and therefore, exempt from tax;
- (3) Long-term capital loss can be set-off only against long-term capital gains. Therefore, long-term capital loss of ₹ 90,000 brought forward from A.Y.2021-22 cannot be set-off in the A.Y.2022-23, since there is no long-term capital gains in that year. It has to be carried forward for set-off against long-term capital gains, if any, during A.Y.2023-24.

(c) Computation of income from house property of Mrs. Daya for the A.Y.2022-23

Particulars	Amount in ₹	
Computation of Gross Annual Value		
Expected Rent for the whole year = Higher of Municipal Value of ₹ 8,50,000 and Fair Rent of ₹7,30,000, but restricted to Standard Rent of ₹8,20,000	8,20,000	
Actual rent receivable for the let-out period = ₹85,000 * 9	7,65,000	
[Unrealised rent is not deductible from actual rent in this case since Mrs. Daya has not instituted any legal proceedings for recovery of unpaid rent. Hence, one of the conditions laid out in Rule 4 has not been fulfilled]		
GAV is the higher of Expected Rent for the whole year and Actual rent received/receivable for the let-out period	8,20,000	
Gross Annual Value (GAV)		8,20,000
Less: Municipal taxes (paid by the owner during the previous year)		
= 12% of ₹8,50,000		1,02,000
Net Annual Value (NAV)		7,18,000
Less: Deductions under section 24		
(a) 30% of NAV = 30% of ₹7,18,000	2,15,400	
(b) Interest on amount borrowed for repairs (Fully allowable as deduction, since it pertains to let-out property)	50,000	
		2,65,400
Income from house property		4,52,600