MOCK TEST PAPER - 1

FINAL (NEW) COURSE: GROUP II

ELECTIVE PAPER 6C: INTERNATIONAL TAXATION

SOLUTION TO CASE STUDY 1

I. ANSWERS TO MCQs (Most appropriate answers)

1. (c)

2. (d)

3. (a)

4. (b)

5. (d)

6. (b)

7. (d)

8. (d)

9. (b)

10. (a)

II. ANSWERS TO DESCRIPTIVE QUESTIONS

Answer to Q.1:

(i) The statement is incorrect

An agreement, after being entered, may be revised by the Board either *suo moto* or on request of the assessee or the competent authority in India or the Director General of Income-tax (International Taxation), in appropriate situations, as per Rule 10Q.

(ii) The statement is partly correct

If the return of income filed u/s 139(1) is revised, then the return of income filed under section 139(5) of the Act replaces the original return of income filed the under section 139(1). Hence, if there is a return which is filed under section 139(5) to revise the original return filed before the due date specified in *Explanation 2* to section 139(1), the applicant would be entitled for rollback on this revised return of income.

However, rollback provisions will not be available in case of a return of income filed under section 139(4) because it is a return which is not filed before the due date.

Further, if a return filed u/s 139(4) is revised u/s 139(5), then, the revised return replaces the belated return filed u/s 139(4) in which case, the applicant would not be entitled for roll back.

(iii) The statement is correct

For the purpose of computing book profit for levy of minimum alternate tax, the profit shown in the statement of profit and loss prepared in accordance with the Companies Act can be increased/ decreased only by the additions and deductions specified in *Explanation* 1 to section 115JB, in case of a company which is not required to comply with Ind AS.

Therefore, transfer pricing adjustments cannot be made while computing book profit for levy of MAT.

No, the answer will not change even if TCL is required to comply with Ind AS. Even then the adjustment in 115JB(2A) need to be made, but not TP adjustment.

Answer to Q.2:

Any income arising from an international transaction, where two or more "associated enterprises" enter into a mutual agreement or arrangement, shall be computed having regard to arm's length price as per the provisions of Chapter X of the Act.

The items that are to be considered for transfer pricing adjustments are as under:

(a) Sales to SL, XY Inc and AB LLC;

(b) Royalty payments received from D Inc., and

(c) Interest on borrowings from Danubes Inc., Dubai.

Export sales to foreign companies

Sales to SL

Section 92A defines an "associated enterprise" and sub-section (2) of this section speaks of the situations when the two enterprises shall be deemed to be associated enterprises.

In SL, TCL holds 14/50 i.e. 28% of the voting power.

Since TCL holds more than 26% of the voting power in SL, TCL and SL are deemed to be associated enterprises.

SL is a non-resident company. The transaction is for sale of the product. Hence, the sales made by TCL to SL are international transactions.

Sales to GSL

In GSL, TCL holds 18/80 i.e. 22.5% of the voting power

Since TCL holds less than 26% of the voting power, GSL is not an associated enterprise.

Sales to XY Inc and AB LLC

Both these companies are located in notified jurisdictional areas (NJA).

As per section 94A, following are the consequences:

(i) all the parties to the transaction shall be deemed to be associated enterprises within the meaning of section 92A;

(ii) Transactions of purchase and sale shall be treated as international transactions;

(iii) Transfer pricing provisions will apply to such transactions.

Hence, the transactions in question have to be tested with reference to the ALP.

GSL is not an associated enterprise and hence the selling price of Rs. 12,000 per MT to GSL can be taken as the ALP, as per CUP method.

Considering the above, the understatement of profits on account of lower selling price is:

Name of the party	Qty in MT	Rate per MT (Rs.)	ALP	Difference per MT	Total amount (Rs. In lakhs)
SL	8,00,000	11,800	12,000	200	1600
XY Inc.	3,00,000	11,900	12,000	100	300
AB LLC.	2,00,000	11,700	12,000	300	600
				Total adjustment to ALP	**2,500**

Royalty receipts

D Inc., is a wholly owned subsidiary of TCL and is a non-resident company. Hence it is an associated enterprise.

Royalty falls within the meaning of international transaction, since it is payment for supply of know-how, being an intangible property.

D Inc., is currently paying a royalty of 2 million USD per annum (year ended 31-3-2019) to TCL for supply of know-how. For similar supply of know how to Epsilon LLC., a wholly owned Government Company in Japan, TCL receives annual royalty of 3 million.

Under CUP Method, ALP has to be taken as 3 million USD

Understatement of royalty is 1 million USD, i.e. 1 M USD x Rs.70 =Rs.700 lakhs.

Borrowings

If one enterprise advances loan to the other enterprise of an amount of 51% or more of the book value of the total assets of such other enterprise, the two enterprises would be deemed to be associated enterprises.

As on the date of borrowing, the amount advanced is Rs.200 crores out of Rs.330 crores, which comes to 60.6%.

Hence Danubes Inc., is deemed to be an associated enterprise of TCL.

Interest payments are also covered by the term "international transaction".

Danubes Inc., has charged interest at 8% and TCL has paid interest of Rs.16 crores for the year ended 31-3-2019.

Interest rate charged to other parties is 7%. This has to be taken as the ALP rate.

In the light of this, the interest payment should have been 16x7/8 i.e., Rs.14 crores There has been an excess payment of Rs.2 crores w.r.t. ALP.

Total income of TCL

The total income of TCL, after considering the above adjustments will be as under:

Particulars	Amount (Rs. in cr)
Net profit as given prior to TP adjustments	32.2
Add: Difference on account of value in international transactions	
(i) Export sales	25.0
(ii) Royalty receipts	7.0
(iii) Interest payment	2.0
Total Income	**66.2**

Answer to Q.3:

As per the first proviso to section 92CA(4), TCL cannot claimed deduction u/s 10AA in respect of the income enhanced (Rs.25 crores) by applying the transfer pricing adjustments, where such adjustments are made by the Assessing Officer to determine the ALP.

SOLUTION TO CASE STUDY 2

I. ANSWERS TO MCQs (Most appropriate answers)

1. (d)

2. (b)

3. (d)

4. (a)

5. (a)

6. (d)

7. (b)

8. (c)

9. (a)

10. (c)

II. ANSWERS TO DESCRIPTIVE QUESTIONS

Answer to Q.1:

Website on Indian soil, whether is PE

The term "permanent establishment" has not been defined in section 2 of the Income-tax Act, 1961. As per section 92F(iiia), "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

The term "permanent establishment" includes (a) a place of management (b) a branch, (c) an office, (d) a factory, (e) a workshop, (f) mines, (g) warehouse, etc. In most of the DTAAs, an exhaustive definition of the term "permanent establishment" is given, wherein several more items are enumerated.

A website is a set of web documents belonging to a particular organization. It consists of data and programs in digital form, from which it is stored in a server which is accessible through internet.

A website does not normally imply "a fixed place of business", even though in the case of some entities, some business could be transacted through a website. Thus, the mere presence of a website in Indian soil, without anything more, will not amount to a permanent establishment.

If the website contains merely information about the concern, the website cannot be regarded as a permanent establishment. Where the website is being used as a virtual office for transacting orders of purchases or sales or for rendering services on a more than casual basis, then it could be regarded as a permanent establishment, if the server supporting the website is located in India.

Answer to Q.2:

An equalisation levy of 6% is attracted in respect of the amount of consideration for specified services received or receivable by a non-resident not having permanent establishment in India, from a resident in India who carries out business or profession, or from a non-resident having permanent establishment in India.

“Specified Service” means

(a) online advertisement;

(b) any provision for digital advertising surface or any other facility or service for the purpose of online advertisement and

c) any other service as may be notified by the Central Government.

However, equalisation levy shall not be levied-

- where the non-resident providing the specified services has a permanent establishment in India
- the aggregate amount of consideration for specified service received or receivable during the previous year does not exceed Rs.1 lakh.
- where the payment for specified service is not for the purposes of carrying out business or profession

Where DLM has no PE in India

In the present case, the assessee is required to deduct equalisation levy of Rs.5,40,000 i.e., @6% of Rs.90 lakhs, being the amount paid towards online advertisement services provided by DLM, a non-resident having no permanent establishment in India

Non-deduction of equalisation levy would attract disallowance under section 40(a)(ib) of 100% of the

amount paid while computing business income.

Payment made to PST having PE in India

Equalisation levy would not be attracted where the non-resident service provider PST Inc., in this case, has a permanent establishment in India. Therefore, the ABL is not required to deduct equalisation levy on Rs.1.2 crores, being the amount paid towards online advertisement services to PST.

However, tax has to be deducted by the assessee at the rates in force under section 195 in respect of such payment to PST.

Non-deduction of tax at source under section 195 would attract disallowance under section 40(a)(i) of 100% of the amount paid while computing business income

Answer to Q.3:

Section 195A enjoins that where under an agreement, the tax chargeable on any income is to be borne by the person by whom the income is payable (payment is made net of tax), then for the purpose of deduction of tax at source, such income shall increase to such amount as would, after deduction of tax thereon, be equal to the net amount payable under the agreement.

As per section 203, every person deducting tax shall furnish to the deductee, certificate of deduction of tax in the prescribed form. No exception has been provided in this regard.

The CBDT has, vide *Circular No.785 dated* 24.11.99, clarified that even in those cases where the tax has been borne by the payer of income under an agreement, the payer is under a legal obligation to furnish a TDS Certificate as per the provisions of section 203 of the Income-tax Act, 1961.

Therefore, the view of ABL that the payee PST is not entitled for TDS certificate, is incorrect.

As regards payment to DLM, there is no provision in law for issuance of TDS certificate in respect of equalisation levy deducted.

Answer to Q.4:

Section 44C restricts the allowability of the head office expenses to the extent of lower of an amount equal to 5% of the adjusted total income or the amount actually incurred as is attributable to the business of the assessee in India.

For the purpose of computing the adjusted total income, the head office expenses of Rs.45 Lacs charged to the profit and loss account have to be added back. In other words, the income before charging such HO expenditure has to be considered.

The amount of income to be declared by the assessee for A.Y. 2019-20 will be as under:

Particulars	Rs. in Lakhs
Net profit before charging HO expenditure	20.00
Less: Share of HO expenditure	
- 5% of Rs.20 lakhs i.e. Rs.1 lakh	
- Actual 45 lakhs	
	1.00
Total income of SI for the A.Y. 2019-20.	19.00

Answer to Q.5:

(i) As per section 10(6A), in the case of a foreign company deriving income by way of royalty or fees for technical services from the Government or an Indian concern under the terms of an agreement entered into before 1.6.2002 relating to a matter included in the industrial policy of the Central Government, the tax paid by the Government or an Indian concern on such income would not be included in the total income of the foreign company. Hence, such tax paid would be exempt in the hands of e foreign

company.

Therefore, in the impugned situation, the tax paid by DC will be exempt from tax in the hands of NI.

In this case, section 195A is not applicable and consequently, the royalty of Rs.30 lacs should not be grossed up.

The rate of tax is 10% as per section 115A(1)(b)(A), if the royalty is received in pursuance of an agreement made after 31.3.1976.

Therefore, DC is required to pay tax of Rs.3.12 lakhs i.e., @ 10.4% on Rs.30 lakhs. No deduction is allowable in respect of any expenditure incurred to earn such income.

(ii) Since there is no clause in the agreement that DC has to bear the tax liability, the benefit under section 10(6A) is not available.

DC has to deduct tax at source on royalty payment to NI, a foreign company, as per section 195.

Since in this case, DC has to pay the royalty of Rs.30 lacs 'net to taxes" to NI, the royalty has to be grossed up.

The tax liability of NI has to be computed as under:

	Rs.
Net royalty income	30,00,000
Gross royalty income (30,00,000 x 100/89.6)	33,48,214
Tax on royalty of @10.40%	3,48,214
DC has to deduct tax of Rs.3,48,214 at source under section 195	

Answer to Q.6:

As per section 245S(1), the advance ruling pronounced under section 245R by the Authority for Advance Rulings shall be binding only on the applicant who had sought it and in respect of the specific transaction in relation to which advance ruling was sought. It shall also be binding on the Principal Commissioner/Commissioner and the income-tax authorities subordinate to him, in respect of the concerned applicant and the specific transaction.

Consequently, NI cannot use the advance ruling, obtained on an identical issue by another foreign company, FC, for its tax purposes for the assessment year 2019-20.

However, though the advance ruling pronounced does not become a precedent, it has persuasive value where the facts warrant such reference to the rulings of AAR. There is no legitimate bar for relying or forming an opinion in consonance with the reasoning of the AAR. It was so held by the Madras High Court in *CIT v. P Sekar Trust (2010) 321 ITR 305*.

SOLUTION TO CASE STUDY 3

I. ANSWERS TO MCQs (Most appropriate answers)

1. (d)

2. (b)

3. (d)

4. (a)

5. (d)

6. (b)

7. (c)

8. (c)

9. (a)

10. (c)

II. ANSWERS TO DESCRIPTIVE QUESTIONS

Answer to Q.1:

1. (i) In accordance with the provisions of section 115A, where the total income of a non-corporate non-resident includes any income by way of royalty or fees for technical services other than the income referred to in section 44DA(1), received from an Indian concern in pursuance of an agreement made by him with the Indian concern and the agreement is approved by the Central Government, then, the special rate of tax at 10% of such fees for technical services is applicable. No deduction would be allowable under sections 28 to 44C while computing such income.

Section 90(2) makes it clear that where the Central Government has entered into a DTAA with a country outside India, then, in respect of an assessee to whom such agreement applies, the provisions of the Act shall apply to the extent they are more beneficial to the assessee. Therefore, if the DTAA provides for a rate lower than 10%, then, the provisions of DTAA would apply.

(a) In this case, since India does not have a DTAA with Country 'X', of which the Abhinav is a resident, the fees for technical services (FTS) of INR 10,00,000 from ABC Ltd. would be taxable @10%, by virtue of section 115A.

(b) In this case, the FTS from ABC Ltd. would be taxable @5%, being the rate specified in the DTAA, even though section 115A provides for a higher rate of tax, since the tax rates specified in the DTAA are more beneficial. However, since Abhinav is a non-resident, he has to furnish a tax residency certificate from the Government of Country X for claiming such benefit. Also, he has to furnish other information, namely, his nationality, his tax identification number in Country X and his address in Country X

(c) In this case, the FTS from ABC Ltd. would be taxable @10% as per section 115A, even though DTAA provides for a higher rate of tax, since the provisions of the Act (i.e. section 115A in this case) are more beneficial.

(ii) Under section 206AA, any person who is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVII-B has to furnish his Permanent Account Number (PAN) to the person responsible for deducting such tax, failing which tax shall be deducted at

- the rate mentioned in the relevant provisions of the Act or
- the rate or rates in force or
- the rate of 20%

whichever is higher.

For the purpose of reducing the compliance burden of non-corporate non-residents or foreign company, section 206AA(7) provides for non-applicability of the requirements contained in section 206AA to a non-corporate non-resident or foreign company, in respect of interest on long-term bonds as referred to in section 194LC and any other payment subject to prescribed conditions.

As per Rule 37BC, the provisions of section 206AA shall not apply to a non-corporate non-resident or foreign company not having PAN in respect of payments in the nature of interest, royalty, fees for technical services and payments on transfer of any capital asset, if the deductee furnishes the following details and documents to the deductor:

- Name, e-mail id, contact number;
- address in the country or specified territory outside India of which the deductee is a resident;

- a certificate of his being resident in any country outside India from the Government of that country, if the law of that country provides for issuance of such certificate;
- Tax Identification Number of the deductee in the country of his residence. In case no such number is available, then a unique number on the basis of which the deductee is identified by the Government of that country or the specified territory of which he claims to be a resident.

Hence, if Mr. Abhinav fails to furnish the PAN details to ABC Ltd., then the company can obtain the above information from him and deduct TDS @10% in accordance with provisions of section 115A. If he is not able to furnish the requisite details, tax has to be deducted @20% under section 206AA, being the highest of the following rates –

- rate under section 115A i.e., 10%,
- rates in force i.e., 10%,
- 20%.

(iii) By virtue of section 44DA, the income by way of fees for technical services received by Mr. Abhinav from ABC Ltd., India, would be computed under the head "Profits and gains of business or profession" in accordance with the provisions of Income-tax Act, 1961, since technical services are provided from a fixed place of profession situated in India and fees for technical services is received from an Indian concern in pursuance of an agreement by Mr. Abhinav with ABC Ltd., an Indian company, and is effectively connected with such fixed place of profession. No deduction would, however, be allowed in respect of any expenditure or allowance which is not wholly and exclusively incurred for the fixed place of profession in India.

Mr. Abhinav is required to keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA and get his accounts audited by an accountant and furnish the report of such audit in the prescribed form duly signed and verified by such accountant along with the return of income.

2. (i) The statement is **incorrect**, since as per section 195(1), the obligation to deduct tax at source from interest and other payment to non-resident which are chargeable to tax in India, is on "any person responsible for paying to a non-resident or to a foreign company". The words "any person" used in section is intended to include both residents and non-residents. Therefore, if the income of payee non-resident is chargeable to tax, then tax has to be deducted at source, whether the payment is made by a resident or non-resident.

Further, *Explanation 2* to section 195(1) also clarifies that the obligation to comply with section 195(1) and to make deduction thereunder applies and shall be deemed to have always applied and extends to all persons, resident or non-resident, whether or not the non-resident has:

(a) a residence or place of business or business connection in India; or

(b) any other presence in any manner whatsoever in India.

(ii) Section 194A requiring deduction of tax at source on any income by way of interest, other than interest on securities credited or paid to a resident, excludes from its scope, income credited or paid by a firm to its partner. However, section 195 which requires tax deduction at source on payment to non-residents, does not provide for any exclusion in respect of payment of interest by firm to its non-resident partner. Therefore, tax has to be deducted under section 195 @ 30%, being the rate in force in respect of Interest on capital paid to Mr. Abhinav.

As per section 10(2A), share of profit received by partner from the total income of firm is exempt from tax. Therefore, the share of profit paid to non-resident Indian is not liable for tax deduction at source.

However, section 195(6) provides that the person responsible for paying any sum, whether or not chargeable to tax, to a non-corporate non-resident or to a foreign company shall be required to furnish the information relating to payment of such sum in the prescribed form and manner.

(iii) The CBDT has, vide Circular No.7/2007 dated 23.10.2007, laid down the procedure for refund of tax deducted at source under section 195 of the Income-tax Act, 1961 to the person deducting tax at source from the payment to a non-resident. The said Circular allowed refund to the person making payment under section 195, *inter alia*, when there occurs payment of tax at a higher rate under the Income-tax Act, 1961 while a lower rate is prescribed in the relevant double taxation avoidance treaty entered into by India.

Hence, M/s Lotus & Co., India can claim tax refund of excess tax deducted at source under section 195 where tax has been deducted at source at the rate of 30% provided under the Income-tax Act, 1961 while a lower rate i.e., 10% is prescribed under the DTAA with Country 'X'.

3. Computation of Total Income of Mr. Abhinav for A.Y. 2019-20

Particulars	INR	INR	INR
Profits & Gains of Business & Profession			
Income from partnership firm M/s Lotus & Co., India			
- Interest on Capital *[See Note (ii)]*		5,00,000	
- Share of Profit	4,00,000		
Less: Exempt under section 10(2A)	(4,00,000)	-	
Fees for technical services received from ABC Ltd., India		10,00,000	
Fees for technical services received from Government of Country "Y" *[See Note (iii)]*		-	15,00,000
Capital Gains *[See Working Note]*			
Short-term capital gain on sale of shares of -			
- PQR Pvt. Ltd.	1,500		
- Hello Pvt. Ltd	1,80,000	1,81,500	
Long- term capital gain on sale of shares of			
- PQR Pvt. Ltd.	Nil		
- Prime Pvt. Ltd.	72,500	72,500	2,54,000
Income from Other Sources			
Interest earned on deposits:			
- Interest earned on NRO saving deposits		4,000	
- Interest earned on fixed deposits		5,000	
- Interest on NRE savings account [Exempt u/s 10(4)(ii)] *[See Note (v)]*		-	9,000
Gross Total Income			17,63,000
***Less:* Deductions under Chapter VI-A**			
Deduction under section 80C *[See Note (viii)]*			
Life insurance premium for self and his spouse	50,000		
Term deposit [Five year term deposit]	60,000		
Repayment of housing loan borrowed for construction of residential house	-	1,10,000	

Deduction under section 80D [*See Note (ix)]*			
Health insurance of self and spouse	20,000		
Health insurance of mother	25,000	45,000	
Deduction u/s 80TTA *[See Note (x)]*		4,000	1,59,000
Total Income			**16,04,000**

Computation of Tax Liability of Mr. Abhinav for A.Y. 2019-20

Particulars	**INR**	**INR**
Tax@10% on fee for technical services under section 115A		1,00,000
Tax@10% on long-term capital gain on sale of foreign exchange assets under section 115E[1]		7,250
Tax on balance income of INR 5,31,500 (i.e., INR 6,90,500 - INR 1,59,000)		18,800
		1,26,050
Add: Health and education cess @4%		5,042
Tax liability		**1,31,092**
Tax liability (rounded off)		**1,31,090**

Woking Note:

Computation of Capital Gain on sale of shares purchased in convertible foreign currency

Particulars	**INR**
LTCG on sale of shares of Prime Pvt. Ltd., since held for more than 24 months	
(As per the provisions of Chapter XII-A, long term capital gain, on sale of any specified asset in foreign currency, shall be calculated at flat rate of 10% without indexation. Shares of Prime Pvt. Ltd fall under the category of "specified assets")	
Sale Consideration	12,00,000
Less: Cost of Acquisition	(6,20,000)
Long term capital gain	5,80,000
Less: Exemption under section 115F	
5,80,000*10,50,000/12,00,000	(5,07,500)
Long-term capital gain as per Chapter XII-A	**72,500**
*(**Note** - Since within a period of six months after the date of transfer of a long term foreign exchange asset, Mr. Abhinav has invested part of the net consideration in any specified asset, namely shares of Cheers Pvt. Ltd., he is eligible to claim proportionate deduction as per section 115F)*	
STCG on sale of shares of Hello Pvt. Ltd., since held for less than 24 months	
Sale Consideration	9,30,000

[1] *Since the question specifies that the Abhinav has opted for Chapter XII-A, the resultant long-term capital gains would be taxable @10%, after providing for proportional exemption under section 115F, which is available in respect of investment of net consideration in another specified asset, shares of a private company in this case. It would have been more beneficial for Abhinav to have not opted for Chapter XII-A, as he could have claimed exemption of the entire capital gain of INR 5,80,000 under section 54F, since the amount invested in construction of house at Pune exceeds the net sale consideration of INR 12 lakhs on sale of shares of Prime Pvt Ltd.*

Less: Cost of Acquisition	(7,50,000)
Short term Capital Gain	**1,80,000**
(Provisions of Chapter XII-A are only applicable in respect of long term capital gain from transfer of foreign exchange assets.)	

Computation of Capital Gain on sale of shares of PQR Pvt. Ltd.

Particulars	INR
LTCG on sale of 1500 shares acquired on October 1, 2016	
(As per section 2(42A), share of an unlisted company, if sold after period of 24 months from the acquisition date will be considered as long-term capital asset)	
Sale Consideration [1,500 x INR 15]	22,500
Less: Cost of Acquisition [1,500 x INR 10]	(15,000)
Long term Capital Gain	**7,500**
Less: Exemption u/s 54F [since the amount invested in construction of house at Pune exceeds the net sale consideration of INR 22,500 on sale of shares, the entire capital gain would be exempt. The construction of the house in Pune was completed within the prescribed time i.e., within three years after the date of transfer]	7,500
	Nil
STCG on sale of 500 shares acquired on October 31, 2017	
Sale Consideration [500 x INR 15]	7,500
Less: Cost of Acquisition [500 x INR 12]	(6,000)
Short term Capital Gain	**1,500**

Notes:

(i) Mr. Abhinav is a person who, staying outside India, comes on a visit to India every year. Hence, the minimum period of stay in India for Mr. Abhinav to be treated as a resident is 182 days in any previous year. For A.Y.2019-20, Mr. Abhinav is a non-resident since his stay in India in the P.Y.2018-19 is less than 182 days. In case of a non-resident, only income which accrues or arises or is deemed to accrue or arise in India or is received or is deemed to be received in India is taxable in India. Income which accrues or arises outside India is not taxable in India. Rental income from property in Country 'X' received there and subsequently brought to India is not taxable in India in the hands of Mr. Abhinav, since it neither accrues to him in India nor is it received by him in India.

(ii) Interest on capital paid by the partnership firm is includible as business income in the hands of the partner, only to the extent the interest is allowed as deduction in the hands of firm. In this case, the entire interest of INR 5 lakhs is included in the income of Mr. Abhinav assuming that the same has been fully allowed as deduction in the hands of firm.

(iii) Fees for technical services received from ABC Ltd., an Indian company, would be chargeable to tax under the head "Profits and gains of business or profession" in the hands of Mr. Abhinav. Since Mr. Abhinav is a resident of a country 'X' with which India has no DTAA, such fees for technical services would be taxable @10% as per section 115A.

However, fees for technical services received in foreign currency by Mr. Abhinav from the Government of Country "Y" would not be taxable in India, since such income has neither accrued in India nor is the same received in India.

(iv) As per section 9(1)(v)(c), interest payable by a non-resident would be deemed to accrue or arise in India, where the interest is payable on any debt incurred, or money borrowed and used, for the

purpose of a business or profession carried on by such non-resident in India. In the present case, Mr. George, a non-resident had purchased bonds of MNO Ltd., an Indian company out of the money borrowed. Consequently, the interest received by Mr. Abhinav in foreign currency equivalent to INR 1,95,000 will not be taxable in India, since such interest is neither received nor is it deemed to accrue or arise in India. Mr. George is a non-resident in India for A.Y.2019-20 since his stay in India during the P.Y.2018-19 is only 36 days.

(v) As per section 10(4)(ii), in case of an individual, any income by way of interest on moneys standing to his credit in Non-resident External Account (NRE A/c) would be exempt, provided the individual is a person resident outside India, as defined in Foreign Exchange Management Act (FEMA), 1999. Here, it is assumed that Mr. Abhinav qualifies to be person resident outside India as per FEMA, 1999 and hence, interest of INR 9,000 from NRE A/c is exempt from tax in his hands.

(vi) Transfer outside India of Rupee denominated bonds of an Indian company issued outside India and Government Securities through an intermediary dealing settlement of securities by Mr. Abhinav, a non-resident, to Mr. Thomas, another non-resident, would not be regarded as a transfer under section 47 for levy of capital gains tax. Thomas is a non-resident since he has stayed in India only for 100 days in the P.Y.2018-19. Being a citizen of India residing in Country "X", he has to come and stay in India for atleast 182 days in a year to be treated as a resident.

(vii) As per section 64(1A), all income accruing to minor child is includible in the hands of the parent, whose total income before including minor's income is higher, after providing deduction of INR 1,500 per child under section 10(32). However, if minor child has earned the income because of his skill or talent then it will not be included in the hand of parents. Hence, income generated by Mr. Abhinav's minor son, Kapil, by winning Science Olympiad shall not be clubbed with Mr. Abhinav's income.

(viii) Under section 80C, deduction is allowed for life insurance premium paid for self or spouse or any child, even though such premium is paid outside India. It is assumed that the annual premium is not more than 10% of actual capital sum assured. However, deduction in respect of tuition fees paid by individual to any university, college, school or other educational institution for full time education of his two children would be allowed only if, such institution is situated in India. Thus, payment for life insurance premium paid by Mr. Abhinav is fully allowable as deduction but no deduction would be allowed for annual tuition fees, since it is for education abroad. Further, no deduction is allowable under section 80C for A.Y.2019-20 in respect of repayment of housing loan, since the property in Pune is under-construction and no amount is chargeable to tax as income from house property, during the previous year 2018-19.

(ix) Mr. Abhinav is eligible for deduction of INR 20,000 in respect of health insurance premium of self and spouse, since the same is less than INR 25,000. He is also eligible for deduction in respect of premium paid for insuring the health of his mother, subject to a maximum of INR 25,000. However, he would not be eligible for claiming higher deduction of upto INR 50,000 under section 80D, as applicable to senior citizen, for the insurance on the health of his mother, since she is non-resident. Further, he is not eligible for any deduction in respect of the premium paid to insure the health of his sister, Ms. Geetha, since sister is not included within the definition of "family".

(x) As per section 80TTA, deduction in respect of interest earned on savings deposits with a bank, co-operative society carrying on the business of banking or post office is allowed to the extent of INR 10,000. Mr. Abhinav can, therefore, claim deduction u/s 80TTA on account of NRO saving bank interest of INR 4,000. However, no deduction is allowed on interest earned on time deposits.

Therefore, interest earned on fixed deposits by Mr. Abhinav shall not be eligible for deduction under section 80TTA.