

INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

Question 1

Choose the correct answer with reference to the provisions of the Income-tax Act, 1961.

- (i) For an employee in receipt of hostel expenditure allowance for his three children, the maximum annual allowance exempt under section 10(14) is
 - (a) Rs.10,800
 - (b) Rs.7,200
 - (c) Rs.9,600
 - (d) Rs.3,600
- (ii) A charitable or religious institution is required to file an application for registration -
 - (a) within 1 year from its creation
 - (b) within 30 days from its creation
 - (c) within the financial year of its creation
 - (d) before the expiry of the financial year from which the benefit of exemption is sought
- (iii) Share of profit of Mr. Abhishek, who is a partner in M/s. Amar & Co. is:
 - (a) Exempt from tax
 - (b) Taxable as his business income
 - (c) Taxable as his salary
 - (d) Taxable as income from other sources.
- (iv) The deduction allowable in respect of the family pension taxable under "income from other sources" is:
 - (a) 33 1/3% of the pension
 - (b) 30% of the pension or Rs.15,000 whichever is lower
 - (c) 33 1/3 % of the pension or Rs.15,000 whichever is less
 - (d) Nil

Taxation

Answer

- (i) (b) i.e. Rs.7,200 [300 x 12 x 2]
- (ii) (d) before the expiry of the financial year from which the benefit of exemption is sought
- (iii) (a) exempt from tax
- (iv) (c) 33-1/3% of the pension or Rs.15,000 whichever is less

Question 2

Fill in the blanks by choosing the correct answer from the brackets.

- (i) A compensation of Rs.4 lakhs received by Mr.Jaimin from his employer, Indian Institute of Technology (is / is not) exempt under section 10(10C).
- (ii) In the case of a person being a partner of a firm which is separately assessed as such, his share of total income of the firm is(exempt/not exempt).

Answer

- (i) is
- (ii) exempt

Question 3

State with reasons in brief whether the following statements are true or false with reference to the provisions of the Income-tax Act, 1961:

- (i) Exemption is available to a Sikkimese individual, only in respect of income from any source in the State of Sikkim.
- (ii) Where the Commissioner of Income-tax is satisfied that the activities of the charitable trust, which has been accorded registration, is not genuine, he can cancel the registration by passing an order in writing.
- (iii) In respect of voluntary contributions in excess of Rs.20,000 received by a political party, exemption under section 13A is available where proper details about the donations are maintained; there is no need to maintain books of account.
- (iv) Pension received by a recipient of gallantry award is exempt from income-tax.
- (v) Mr. A, a member of a HUF, received Rs.10,000 as his share from the income of the HUF. The same is to be included in his chargeable income.
- (vi) Mr. Roy received a sum of Rs.20 lakh on 31.3.2011 from Life Insurance Corporation of India in respect of a policy, where the sum assured was Rs.15 lakh, taken on 1.10.2003 and for which a one time premium of Rs.10 lakh was paid. Mr.Roy claims that the amount is totally exempt under section 10(10D)(c) of the Income-tax Act, 1961.

Incomes which do not form part of Total Income

- (vii) *Voluntary contributions received by charitable trusts, universities and educational institutions are not taxable as the definition of income in section 2(24) does not cover the same.*
- (viii) *Compensation on account of disaster received from a local authority by an individual or his/her legal heir is taxable.*
- (ix) *Mr. P, a shareholder of a closely held company, holding 16% shares, received advances from that company which is to be deemed as dividend from an Indian Company, hence exempted under section 10(34) of the Income-tax Act, 1961.*

Answer

(i) False

Exemption under section 10(26AAA) is available to a Sikkimese individual not only in respect of the said income, but also in respect of income by way of dividend or interest on securities.

(ii) True

As per section 12AA(3), the Commissioner has power to cancel the registration of the trust, by passing a written order, where he is satisfied, *inter alia*, that the activities of the trust are not genuine. However, the trust should be given a reasonable opportunity of being heard before such cancellation.

(iii) False

The obligation under section 13A to maintain proper details of voluntary contributions in excess of Rs.20,000 is over and above the obligation to maintain such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom.

(iv) True

Section 10(18) exempts any income by way of pension received by individual who has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other gallantry award as the Central Government, may, by notification in the Official Gazette, specify in this behalf.

(v) False

Section 10(2) exempts any sum received by an individual as a member of a HUF where such sum has been paid out of the income of the family. Therefore, Rs.10,000 should not be included in Mr.A's chargeable income.

(vi) False

As per section 10(10D)(c), any sum received under an insurance policy issued on or after 1.4.03, in respect of which the premium payable for any year during the term of the policy exceeds 20% of actual capital sum assured, shall not be exempt from tax. Hence, the contention of Mr. Roy is not correct since the one-time premium of Rs.10 lakh paid by him is in excess of 20% of the sum assured [i.e. it exceeds Rs.3 lakh, being 20% of Rs.15 lakh].

(vii) False

Section 2(24) defining the term 'income' includes voluntary contributions received by any trust, university or educational institution. Hence, the statement is not correct.

(viii) False

As per section 10(10BC), any amount received or receivable as compensation by an individual or his/her legal heir on account of any disaster from the Central Government, State Government or a local authority is exempt from tax.

(ix) False

As per section 10(34), only income by way of dividend referred to in section 115-O shall be exempt in the hands of shareholders. Corporate dividend tax is not leviable on deemed dividend under section 2(22)(e) and hence, such deemed dividend is not exempt under section 10(34).

Question 4

Briefly enumerate the conditions to be satisfied by an undertaking engaged in export of articles/things for claiming exemption under section 10A of the Income-tax Act, 1961.

Answer

Refer to page 3.66 of Study Material.

Question 5

Explain the provisions regarding exemption of compensation received on account of disaster under section 10(10BC) of the Income-tax Act, 1961.

Answer

Exemption of compensation received on account of disaster under section 10(10BC)

- (i) Section 10(10BC) exempts any amount received or receivable as compensation by an individual or his / her legal heir on account of any disaster.
- (ii) Such compensation should be granted by the Central or State Government or by a local authority.

Incomes which do not form part of Total Income

- (iii) Exemption would not be available in respect of the compensation for alleviating any damage or loss, which has already been allowed as deduction under the Act.
- (iv) "Disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence.
- (v) It should have the effect of causing substantial loss of life or human suffering, or damage to, and destruction of, property, or damage to, or degradation of, environment.
- (vi) It should be of such a nature or magnitude, which is beyond the coping capacity of the community of the affected area.

Question 6

What are the incentives for newly established units in Special Economic Zone (Section 10AA)?

Answer

Refer to page 3.71 of Study Material.

Question 7

Write short notes on :

- (i) *Exemption for retrenchment compensation under section 10(10B).*
- (ii) *Exceptions under section 10(10D) as regards exemption of any sum received under a life insurance policy.*
- (iii) *'Encashment of Earned Leave' and its taxability under the Act.*

Answer

- (i) Refer to page 3.27 of Study Material.
- (ii) Refer to page 3.31 of Study Material.
- (iii) Refer to section 10(10AA) in page 3.24-3.25 of Study Material.

Question 8

Mr. A is a resident Indian. During the F.Y. 2010-11, interest of Rs.1,92,000 was credited to his Non-resident (External) Account with the SBI. Rs.20,000 being interest on fixed deposit with SBI was credited to his savings bank account during this period. He also earned Rs.4,000 as interest on this savings account. Is Mr. A required to file return of income?

What will be your answer, if he owns one shop in Mumbai of area 130 sq.ft. ?

Taxation

Answer

Computation of total income of Mr. A for A.Y. 2011-12

Particulars	Rs.
Income from other sources	
Interest earned from Non-resident (External) Account Rs.1,92,000 [Exempt u/s 10(4)(ii), assuming that Mr.A has been permitted by RBI to maintain the aforesaid account]	NIL
Interest on bank fixed deposit	20,000
Interest on savings bank account	4,000
Total Income	24,000

An Individual is required to furnish a return of income under section 139(1) if his total income exceeds the maximum amount not chargeable to tax i.e. Rs.1,60,000 (for AY. 2011-12). Hence, Mr. A is not required to file a return of income as his total income is below Rs.1,60,000.

The aspect of Mr.A occupying / owning a shop area of 130 sq.ft in Mumbai, would not make any difference.

Question 9

Briefly explain about aggregation of agricultural income for rate purposes. How will income-tax be computed where an individual derives agricultural as well as non-agricultural income?

Answer

Agricultural income is exempt from tax under section 10(1). However, it is to be included for determining the rate at which non-agricultural income is chargeable to tax. This is provided for in the Finance Act of each year. The procedure for computation of tax payable on non-agricultural income after aggregation of agricultural income is as follows–

- (i) Aggregate the agricultural income with non-agricultural income and determine the tax payable on such amount.
- (ii) Aggregate the agricultural income with the basic exemption limit (i.e. Rs.1,60,000) and determine the tax payable on such amount.
- (iii) The difference between the tax computed in step (i) and step (ii) will be the tax payable in respect of non-agricultural income.

Incomes which do not form part of Total Income

Example :

Mr.A. (age below 65 years)

Assessment year 2011-12

Total Income + agricultural income (Rs.4,00,000 + Rs.2,00,000)	6,00,000
Income tax on Rs.6,00,000	54,000
Less: Income tax on basic exemption limit + agricultural income i.e. Rs.1,60,000 + 2,00,000 = Rs.3,60,000. Tax thereon	20,000
Tax before cess	34,000
Add : Education cess @ 2% and SHEC @ 1%	1,020
Total tax liability	35,020

In the case of assesseees such as partnership firms, companies etc, whose income is chargeable to tax at a flat rate, aggregation of agricultural income has no effect. In the case of every individual, HUF, AOP or BOI and every artificial juridical person, the Finance Act prescribes slab rates of income-tax and in such cases, agricultural income has to be aggregated for rate purposes.

Question 10

State the provisions relating to the exemption in respect of long-term capital gains on transfer of listed equity shares.

Answer

Refer to section 10(38) in page 3.61 of Study Material.

Question 11

The Income-tax Act, 1961 grants exemption from tax to political parties in respect of their income. State the incomes so exempt, as per the provisions of the Act.

Answer

Refer to section 13A in page 3.100 of Study Material.

Question 12

What is the procedure for registration of charitable trusts under section 12AA?

Answer

Refer to page 3.93 of Study Material.

Question 13

When can a charitable trust avail benefits under section 11 & 12 of the Income-tax Act, 1961?

Answer

A charitable trust can avail the benefits under section 11 & 12 of the Act if it satisfies the following conditions :

- (i) The trust has been granted registration by the Commissioner of Income-tax under section 12AA of the Income-tax Act, 1961 on an application in the prescribed form.
- (ii) The property from which income is derived should be held under a trust or other legal obligation.
- (iii) The property should be held for charitable purposes. According to section 2(15), charitable purpose includes relief of the poor, education, medical relief, preservation of environment and preservation of monuments or places or objects of artistic or historic interest and the advancement of any other object of general public utility.
- (iv) In the case of a charitable trust created on or after 1.4.1962, the further conditions are :
 - (a) the trust should not be created for the benefit of a particular religious community or caste ;
 - (b) no part of the income should enure, directly or indirectly, for the benefit of the settlor or other specified persons ; and
 - (c) the property should be held wholly for charitable purposes.

The conditions mentioned in (b) and (c) would also apply to religious trusts created on or after 1.4.1962.

- (1) Where the total income of the trust without giving effect to sections 11 & 12 exceeds the maximum amount which is not chargeable to income tax in any previous year (Rs.1,60,000 for the previous year 2010-11), then the accounts of the trust have to be audited and an audit report in the prescribed form must be filed along with the return of income.
- (2) At least 85% of the income is required to be applied for achieving the objects of the trust/ institution.
- (3) 15% of the income, which can be accumulated or set apart, should be preferably invested or deposited in the forms or modes specified in section 11(5).

Question 14

Briefly discuss about the provisions relating to deductibility of expenditure incurred in relation to income not includible in assessee's total income.

Answer

Refer to Section 14A in page 3.2 of Study Material.

Question 15

How is exemption granted by section 10(10CC) in respect of income-tax paid by employer?

Answer

Refer page 3.31 of Study Material.

Question 16

Whether the income derived from saplings or seedlings grown in a nursery is taxable under the Income-tax Act, 1961?

Answer

As per Explanation 3 to section 2(1A) of the Act, income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income and exempt from tax, whether or not the basic operations were carried out on land.

Question 17

Will a charitable trust forfeit the exemption granted to it, if it holds shares in a public sector company?

Answer

According to section 13(1)(d), investment in shares in a public sector company is allowed to be made by a charitable trust. Therefore, a charitable trust holding shares in a public sector company can continue to claim exemption.

Question 18

When is a charitable trust required to file its audit report alongwith return of income?

Answer

A charitable trust is required to get its accounts audited by a Chartered Accountant and file the audit report in the prescribed form, duly signed and verified by such accountant, along with its return of income when the total income of the trust before giving effect to section 11 and 12 exceeds the maximum amount not chargeable to tax i.e. Rs.1,60,000.

Question 19

Explain the meaning of expression "advancement of any other object of general public utility" in the context of "Charitable Purpose" defined under section 2(15) of the Act.

Answer

The proviso to section 2(15) of the Act provides that "advancement of any other object of general public utility" shall not be a charitable purpose, if it involves carrying on of:

- (i) any activity in the nature of trade, commerce or business, or
- (ii) any activity of rendering of any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application of the income from such activity or the retention of such income, by the concerned entity. However, "advancement of any other object of general public utility" would continue to be a "charitable purpose", if the total receipts from any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business does not exceed Rs. 10 lakh in the previous year.

The expression "advancement of any other object of general public utility" includes any object which will be beneficial even to a segment of society and not necessarily to the whole mankind. However, the object should not be for the benefit of specified individuals.

Question 20

Explain the exemption of income received in a transaction of "reverse mortgage" entered into by an individual with a bank.

Answer

Refer to section 10(43) in page 3.64 of Study Material.