Suggest Answers to the Model Test Paper – Compiled by CA Anoop Bhatia

Ans. 1 (a)

The final tax liability of M/s PT Ltd. shall be determined by way of a comparison between the normal and minimum alternate tax (MAT) liability. Thus both the computations are given below (for the Assessment Year 20015-16):

Computation of Normal Tax Liability

	Rs. in Lacs	Rs. in Lacs
Net Profit as per P&L Account		**170.000**
Add:		
i. Corporate Social Responsibility expenses (disallowed as per amendment made by the Finance Act 2014 under section 37)	5.000	
ii. Depreciation as per books	25.000	
iii. Taxes disallowed but debited to P&L account (Income Tax Provisions and Wealth Tax)	51.000	
iv. 30% of payment made to Internal Auditor without deduction of tax at source	0.150	
		81.150
Less:		
i. Additional deduction on account of contribution to IIT, Khadagpur due to applicability of section 35(2AA)	10.000	
ii. Unsecured loan credited to P&L account, it is not a revenue receipt hence not taxable	7.000	
iii. Interest on fixed deposit (being income from other sources)	12.000	
iv. Dividend from shares of a private limited company [exempt under section 10(34)]	4.000	
v. Depreciation as per income tax provisions (see working note)	19.375	
		52.375
Profits & Gains of Business or Profession		**198.775**
Income from Other Sources		
Income by way of interest on fixed deposits		12.000
Gross Total Income		**210.775**
Less: Deductions under chapter-VIA		NIL
Total Income		**210.775**
Tax on Total Income (i.e. Normal Tax)		63.233
Add: Surcharge @ 5%		3.162
Total		66.395
Add: Education Cess & SHEC @3%		1.992

Total Tax Liability		**68.387**

Computation of MAT Liability

Net Profit as per P&L Account		170.000
Add:		
i. Depreciation	25.000	
ii. Provision for Income Tax	45.000	
iii. Balance of Revaluation Reserve at the time of disposal of revalued asset	2.000	
		72.000
Less:		
i. Dividend being exempt income under section 10(34)	4.000	
ii. Depreciation (without revaluation)	25.000	
		29.000
Book Profits		**213.000**
Minimum Alternate Tax @18.50%		39.405
Add: Surcharge @ 5%		1.970
Total		**41.375**
Add: Education Cess & SHEC @3%		1.241
Total MAT Liability		**42.616**

Since Normal Tax Liability is higher than MAT liability thus assessee shall be required to pay Normal Tax Liability of Rs. 68.387 lacs for the AY 2015-16.

Working Notes:

a. Depreciation computation as per Income Tax provisions:

	Rs. in Lacs
Opening Block	100.000
Asset acquired and put to use during the previous year	25.000
Closing Block (before depreciation)	125.000
Depreciation @ 15% on Rs. 100 lacs	15.000
Depreciation @ 7.5% on Rs. 25 lacs	1.875
Additional Depreciation @ 10% on Rs. 25 lacs	2.500
Total Depreciation for normal income tax computation	19.375

b. Contribution to IIT shall be eligible for 200% deduction, since 100% deduction is already debited to P&L account thus balance 100% is claimed in computation of normal tax liability. However no such impact is required to be considered while computing MAT liability.

c. ISO certification non-payment not being subject matter of section 43B hence no impact given in computation of normal tax liability. Similarly no treatment is required for same in computing MAT liability.

d. Rs. 7 lacs credited to P&L account towards forgone amount of unsecured loan being capital receipt in nature hence not taxable thus reduced in computing normal tax liability. No impact of same will reflect in MAT computation, as the list of book profit adjustments given under section 115JB is exclusive.

e. Rs. 15 lacs paid to party for not delivering goods in time is a deductible business expenditure hence no adjustment made in computing normal tax liability. It also does not require any adjustment in computing MAT liability.

f. Payment of Rs. 50,000 to the auditor without deduction of tax at source shall attract disallowance @30% under section 40(a)(ia) (as per the amendment made by the Finance (No.2) Act 2014.

g. Negotiation fees of Rs. 1.50 lacs paid to Uco Bank, Delhi can be certainly claimed as interest on borrowed capital thus prima-facie allowable under section 36(1)(iiii). This figure has not role to play in computation of MAT liability.

h. Since company is a manufacturing company thus additional depreciation claim is eligible for normal tax liability computation. However 'put to use' period being less than 180 days thus normal as well as additional depreciation on Rs. 25 lacs is claimed at half rate only in computing normal tax liability. This information is not useful in computing MAT liability.

i. Assuming that upward revaluation of asset being Rs. 4 lacs was credited to revaluation reserve. Since asset is sold for Rs. 8 lacs only as compared to revalued figure of Rs. 10 lacs thus Rs. 2 lacs loss must be adjusted against revaluation reserve and balance Rs. 2 lacs of revaluation reserve must be added in computing book profits computation. However this information is deemed to be irrelevant in computing normal depreciation.

j. Since revalued asset is sold in the same year of revaluation thus depreciation at the end of the year is assumed to have no impact in computation of current year depreciation for normal income tax computations.

Ans. 1(b)

Computation of Wealth Tax liability of Mr. Himmat Chordia for the AY 2015-16

		Note	**Rs. in lacs**
i.	Paternal property received under will	Asset under section 2(ea)(i) but not exempt under section 5(v)	57
ii.	Gold Bars purchased from NRE account proceeds	Asset under section 2(ea)(iii) but exempt under section 5(v)	0
iii.	Car brought to India	Asset under section 2(ea)(ii) but exempt under section 5(v)	0

iv. Plot of land admeasuring 450 Sq. meters purchased at Jodhpur	Asset under section 2(ea)(v) but not exempt under section 5(v)	75
v. Flat purchased from NRE account proceeds	Asset under section 2(ea)(i) but exempt under section 5(v)	0
vi. Jewellery received under gift from mother	Asset under section 2(ea)(iii) but not exempt under section 5(v)	12
vii. Industrial plot purchased more than 2 years back from foreign currency remittances	Asset under section 2(ea)(v) but not exempt under section 5(v)	40
viii. Premium villa purchased in name of HUF in November 2014	Asset subject to clubbing under section 4(1A) however exempt under section 5(v)	0
Total		**184**
Less: Exemption under section 5(vi)		75
Net Wealth		**109**
Tax on Net Wealth @ 1% on Net Wealth exceeding Rs. 30 lacs.		**0.79**

Working Notes:

a. Yet question is silent on date of purchase of gold bars, it is assumed that they are purchased after return of assessee in India.

b. Similar to gold bars flat is assumed to be purchased after return of assessee in India.

c. Plot of land purchased from sale of shares which were purchased three years back from foreign currency investments would not qualify for exemption under section 5(v).

d. Industrial plot is assumed to be situated in urban area.

<u>Ans. 2(a)</u>

(i)

The transaction of interest payment of **Rs.** 6 crores entered into between Ashapurna Housing Finance Ltd., Mumbai and Ashapurna Buildhome Ltd., N.Delhi prima-facie appears to be covered under section 92BA of Income Tax Act 1961 i.e. Domestic Transfer Pricing provisions.

Section 40A(2) if applied in the given case on M/s Ashapurna Buildhome Ltd. would require to test whether payment made to the related party is excessive/

unreasonable in nature or not. Since interest is paid by builder concern to the finance company @12% which is lower than SBI rate of similar lending facility (14%) therefore from point of view of builder concern section 40A(2) is not applicable.

In addition to above even the provisions of section 92(3) deny the applicability of transfer pricing provisions where its applicability results into reduction or income chargeable to tax.

Based on above, it can be said that transfer pricing computations/provisions shall not be applicable in the given case.

Ans. 2(a)

(ii)

The transaction given in the query appears to be covered under the provisions of section 92B(2), which provides that where a transaction entered into by an enterprise with a person other than an associated enterprise shall be deemed to be a transaction entered into between two associated enterprise, it there exists a prior agreement in relation to the relevant transaction between such other person and the associated enterprise or the terms of the relevant transaction are determined in substance between such other person and the associated enterprise.

However the Finance (No.2) Act 2014 has further amended the above provisions to provide clarity that even where the other enterprise is a non-resident or not is an irrelevant factor.

In light of the above yet the transaction in the given case is entered into by two Indian companies but still the transaction will be deemed to be an international transaction because the price determined between the parties is affected by an associated enterprise of Atlanta India Ltd.

Thus by applying transfer pricing provisions in the given case and assuming Rs.52/ltr as arm's length price the sale price booked by Atlanta Indian Ltd shall be increased by Rs.2/liter from income tax provisions point of view. This would result in total increase in income of Rs. 20 lacs in the hands of Atlanta India Ltd.

Ans. 2(b)

In light of provisions of section 147 and the landmark case law of M/s Sun Engineering Works Pvt. Ltd. (SC) the queries raised in the question are answered below:

i. The assessing officer (AO) can't refuse to accept the legitimate deduction claimed by assessee against the income earlier escaped assessment but being taxed now. This view can be supported by the concept that it is not a mere receipt which is taxed under income tax provisions rather net income from a transaction should be taxed under the law.

ii. The deduction not claimed by the assessee during the course of original assessment proceedings can't be claimed for adjustment against the income escaped assessment now. However if such deduction pertains to the income proposed to be taxed under section 147 then such claim can certainly be entertained.

iii. Explanation 1 to section 147 explicitly provides that production of books of account & documents before the AO does not necessarily amount to providing full and true disclosure before the AO. Thus only by way of submission of books before the AO would not help the assessee to argue the matter that in original assessment proceedings he has disclosed fully and truly all material facts necessary for his assessment.

iv. The assessee can certainly ask the income tax authority to provide him reason to believe for opening up of assessment under section 147. However he can demand for the same only after filing a return in response to the notice issued under section 148.

Ans. 3(a)

In the context of provisions given under section 11 to section 13 of the Income Tax Act 1961 the answers to the queries raised are given below:

i. Even if the trust had not applied for registration under section 12AA earlier it can apply for the same now. However such registration, if granted shall be applicable from the assessment year following the previous year in which registration is granted.

ii. Assuming that registration application is entertained, the trust shall be eligible to avail the exemption benefit of section 11 & 12 wef AY 2015-16.

iii. As narrated above the exemption benefit shall be available only wef AY 2015-16 thus *prima-facie* benefit of exemption shall not be available retrospectively. However the Finance (No.2) Act 2014 has inserted a proviso under sub-section (2) to section 12A which provides that where registration has been granted to the trust under section 12AA, then, the provisions of section 11 & 12 shall apply in respect of any income derived from property held under trust of the assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the assessing officer as on the date of such registration and the objects and activities of such trust remain the same for such preceding assessment year.

    Following the above provisions the assessment for the AY 2013-14 can be completed by providing the exemption benefit, even if, registration benefit shall be available from AY 2015-16.

iv. The registration granted to the trust can be withdrawn under following circumstances:

a. If the Income Tax Authority being PCIT or CIT is satisfied that the activities or trust are not genuine or are not being carried out in accordance with the objects of the trust or institution.
b. Any part of the income from property held under a trust for private religious purposes which does not ensure for the benefit of the public.
c. If charitable purpose trust's income is applied for particular religious community or caste.
d. If trust's income or property ensures directly or indirectly benefit of any person referred to in section 13(3) of the Income Tax Act 1961.
e. If any income of trust is invested in any modes other than those permissible under section 11(5) of the Income Tax Act 1961.

Ans. 3(b)

The final tax liability of M/s Axis Food Products LLP can be determined by way of a comparison between the normal tax liability and alternate minimum tax.

Normal Tax Computation of M/s Axis Food Products LLP (AY 2015-16)

	Rs. in Lacs	Rs. in Lacs
Net Profit as per P&L Account		205.00
Add:		
Warehouse Depreciation	50.00	
Salary to Partners	15.00	
Income Tax Provisions	80.00	
		145.00
Less:		
Mutual Fund Dividend	15.00	
Deduction under section 35AD (on new warehouse @150%)	105.00	
		120.00
Book Profits (see working note)		**230.00**
Less:		
Remuneration Allowable to Partners under section 40(b)		15.00
Profits & Gains of Business or Profession		215.00
Gross Total Income		**215.00**
Less:		
Deductions under section 80G		5.00
Total Income		**210.00**
Tax on Total Income @ 30%		63.00
Add: Surcharge @ 10%		6.30

Total		69.30
Add: Education Cess & SHEC @ 3%		2.08
Final Normal Tax Liability		**71.38**

Alternate Minimum Tax Computation of M/s Axis Food Products LLP (AY 2015-16)

Total Income under normal computation		210.00
Add: Deduction claimed under section 35AD (after reducing depreciation)(105 – 7)	98.00	
Adjusted Total Income		**308.00**
Alternate Minimum Tax on Adjusted Total Income @ 18.5%		56.98
Add: Surcharge @ 10%		5.70
Total		62.68
Add: Education Cess & SHEC		1.88
Final Alternate Minimum Tax		**64.56**

Since normal tax liability is higher than alternate minimum tax, the assessee shall be liable to pay total tax liability of Rs. 71.38 lacs.

Working notes:

1. It is assumed that assessee firm is engaged in storage of agriculture produce thus being eligible to claim benefit of section 35AD. However in the relevant financial year it has spent Rs. 70 lacs (excluding land) on setting up of new warehouse the amount eligible for deduction under section 35AD shall be 150% being Rs. 105 lacs. It may be noted that land acquisition charges are not deductible under section 35AD.

2. The contribution to prime minister national relief fund shall be eligible for deduction under section 80G hence it is reduced in computation of total income.

3. Maximum remuneration allowable to partners is computed below:

    a. On first Rs. 3 lacs book profits @90% : Rs. 2.7 lacs
    b. On balance books profits of Rs. 227 lacs: Rs. 136.2 lacs

    Total: Rs. 138.9 lacs

    Since remuneration paid is only Rs. 15 lacs which is well within the above computed limit hence full amount is treated to be deductible. It is further assumed that both the partners are working partners in the firm.

4. The Finance (No.2) Act 2014 has amended the provisions of section 115JC to bring non-corporate assessees claiming benefit of deduction under section 35AD under AMT net. This amended provision requires the addition of deduction claimed under section 35AD to be added in computation of adjusted total income but after reducing depreciation claim otherwise

allowable to the assessee. Thus we added an amount of Rs. 105 lacs after reducing the depreciation allowable on warehouse @10% (assuming it to be a commercial building installed for a period more than 180 days during the relevant financial year) on cost of warehouse (excluding land value) of Rs. 70 lacs.

Ans. 4(a)

Computation of Long Term Capital Gain and tax thereof of Ms. Vinita Arora:

	Rs. (in lacs)
Sales Consideration of Flat	146.00
Less:	
Indexed cost of acquisition: 52 lacs * 1024 / 632	84.25
Long Term Capital Gain	61.75
Less:	
Exemption under section 54	0.00
Taxable Long Term Capital Gain	**61.75**
Tax on Long Term Capital Gain @20%	**12.35**

Notes:

a. Since the period of holding of flat is more than 36 month the capital gain nature is long term.
b. The cancellation of last sale agreement has resulted in receipt of Rs. 4 lacs as forfeiture of money by the assessee. Due to the amendment made by the Finance (No.2) Act 2014 such money since received after 31.03.2014, shall now be taxed as income from other source in the hands of the assessee.
c. The Finance (No.2) Act 2014 has further amended section 54 to restrict exemption benefit in respect of residential properties purchased outside India. Thus assessee can't avail the benefit of exemption under section 54 in respect of flat purchased in UK.

Ans. 4(b)

The taxation of various gifts received by Mrs. Yagnik for the AY 2015-16 is summarised below:

Nature of Gift	Comment	Amount (Rs.)
i. Gold chain from Daughter	Not taxable under section 56(2)(vii) as received from relative	-

ii. Land received from father-in-law	Not taxable under section 56(2)(vii) as received from relative	-
iii. Agriculture land in village – Pokran	**Not taxable under section 56(2)(vii) as the asset received is not a capital asset**	-
iv. Oil painting purchased for lower than fair market value	Taxable under section 56(2)(vii)	3,00,000
v. Flat acquired from builder at lower than stamp duty value (at time of sale deed)	Not taxable under section 56(2)(vii)	-
Total amount of gifts taxable		3,00,000

<u>Note:</u>

Where an immovable property is acquired by the assessee at a value lower than stamp duty value the provisions of section 56(2)(vii) are generally attracted however since in the given case the assessee has booked the flat through cheque two years back thus stamp duty value as on the date of booking shall be relevant which is lower than the actual transaction value thus finally the provisions of section 56(2)(vii) are not applicable.

<u>Ans. 4(C)</u>

i. The payment of Rs. 5 lacs made by M/s Avanti Marbles Pvt. Ltd. to Mr. Santosh for providing JCB Crain appears to be covered either under the provisions of section 194C or 194I of the Income Tax Act 1961. If the crain was provided on the fixed amount of charges payable for a fixed period of time the TDS shall be applicable under section 194I @10%. However if JCB machine was provided on some operational basis like no. of hours used etc. then provisions of section 194C should apply and payee being an individual, TDS rate of 1% should be applied.

ii. The Finance (No.2) Act 2014 has inserted a new section 194DA to attract withholding tax liability in respect of payments made on certain life insurance policies @ 2%. However such payment shall not be subject to TDS where the payment is exempt in the hands of recipient under section 10(10D) of the Income Tax Act 1961. Since in the given case the amount is received by dependent (i.e. wife) on death of the insured person thus same is exempt even if premium amount payable exceeds 10% of sum assured. Therefore no TDS provisions shall be applicable in the given case.

Ans. 5(a)

Computation of Total Income of Katholic Charitable Trust (for the AY 2015-16)

	Rs. in Lacs	Rs. in Lacs
Total Contributions		**90.000**
Less:		
Corpus Contributions (fully exempt)	10.000	
Anonymous Contributions separately taxable under section 115BBC (exceeding 5% of total contributions of Rs. 90 lacs) (5 lacs – 4.5 lacs)	0.500	
		10.500
Net Amount		**79.500**
Add: Interest from Tax Free Bonds		20.000
Total		**99.500**
Less: Free Accumulations (maximum 15%) exempt even without application		14.925
Net Amount to be applied for charitable purposes		**84.575**
Less: Application of Income		
i. Free medical camp in India expenses	35.000	
ii. Scholarships distributed	10.000	
iii. Expansion of Building of Trust	15.000	
		60.000
Taxable Amount due to non-application		**24.575**
Add: Anonymous Donations taxable under section 115BBC		0.500
Total Taxable Income of Trust		**25.075**

Answers to other related queries are given below:

a. The trust can save tax liability on the amount of Rs. 24.575 lacs if can apply for 'deemed application' or 'accumulation' of the same as per the provisions of section 11(1) or 11(2). However tax on Rs. 50,000 is to be paid @30% as per the provisions of section 115BBC.

b. The Finance (No.2) Act 2014 has very clearly provided by way of inserting a new sub-section (6) in section 11 to provide that where an asset acquired by the trust is claimed as application of income it can't claim any depreciation in respect of such asset.

c. It may be also noted that the Finance (No.2) Act 2014 has also amended provisions of section 11 to provide the any income exempt under the provisions of section 10 [other than agriculture income covered under section 10(1)] shall also be subject matter of exemption manner of section 11 only i.e. such income shall also be required to be applied, deemed applied or accumulated.

Ans. 5(b)

Mr. Abhijeet
Computation of Total Income & Tax Liability
AY 2015-16

	Rs.	Rs.
Income under the head 'Salaries'		5,50,000
Income from other sources		
a. Dividend from foreign company	2,00,000	
b. Interest from fixed deposits in India	4,00,000	
c. Interest from savings bank accounts in India	50,000	
		6,50,000
Gross Total Income		12,00,000
Less: Deductions under Chapter –VIA		
a. Section 80C (PPF contribution)	15,000	
b. Section 80TTA (savings bank interest	10,000	
		25,000
Total Income		11,75,000
Tax on Total Income		1,77,500
Add: Education Cess & SHEC @ 3%		5,325
Total Tax Liability		1,82,825
Average Rate of Tax in India: 182825 / 1175000 = 15.56 %		
Less: Double Taxation Relief for tax paid in UAE (15% vs. 15.56% whichever is less): 200000 * 15%		30,000
Less: Double Taxation Relief for tax paid in US (10% vs. 15.56% whichever is less): 550000 * 10%		55,000
Net Tax Liability		97,825
Final Total Tax Liability (rounded off to nearest tens)		97,830

Note: Yet in the question it is mentioned that India does have treaty with UAE and US however the specific treatment of income or tax credit method is not clarified. Thus we have computed the double taxation relief under tax credit method only.

Ans. 5(c)

Section 154 of the Income Tax Act 1961 provides the procedure regarding rectification of mistake apparent from record. This section empowers the income tax authority to rectify an intimation or an order passed by it. The revisions order can be either passed under section 263 or section 264 by the Commissioner of Income Tax (CIT). Since CIT is an income tax authority it can certainly rectify its own orders earlier passed under section 263/264 under the provisions of section 154 if there stands a mistake apparent from record. However such rectification can be done either *suo-moto* or on receipt of an application by the assessee.

Ans. 6(a)

i. Considering the provisions of section 144C of the Income Tax Act 1961 not all the assessments involving transfer pricing matter shall be subject matter of dispute resolution panel (DRP) proceedings.

   Only those cases where the difference arises on account of order of Transfer Pricing Officer or in case of assessment of a foreign company the matter can be subject matter of DRP proceedings.

ii. The Finance (No.2) Act 2014 has substituted the earlier section 142A of the Income Tax Act 1961 to enhance the scope of valuation of transaction/asset by the valuation officer even in cases involving matters other than section 69, 69A or 69B. Thus the statement given is wrong.

iii. The Finance (No.2) Act 2014 has further amended section 153 of the Income Tax 1961 to provide that period commencing from the date on which the assessing officer makes a reference to the Valuation Officer and ending with the date on which the report of the Valuation Officer is received by the AO shall be excluding in computing the period of completion of assessment. Thus the statement given is correct.

Ans. 6(b)

The circumstances of the case given are squarely covered under the provisions of section 94A of the Income Tax Act 1961 i.e. 'notified jurisdictional area' (NJA). It may be noted that the Government of India has recently notified 'Cyprus' as NJA which means where an assessee / enterprise deals into with a person located in NJA the relevant transaction shall be subject matter of transfer pricing provisions without considering the fact that there is no associationship between such enterprises.

Thus sale of 1500 tonnes of marble by MRT Granite Pvt. Ltd. to Florida Inc, Cyprus shall be subjected to transfer pricing provisions which may result into increase in the income of Indian concern due to applicability of transfer pricing provisions.

Ans. 7(a)

The facts of the case are similar to those discussed in the case of M/s Mother Dairy India Ltd. In that case Hon'ble Delhi High Court has held the case in favor of assessee by providing that the difference between the purchase price (i.e. price paid to diary company) and the MRP is the concessionaire's income from business and can't be treated as commission to attract the provision of section 194H.

Therefore considering the above case it can be said that Lotus Dairy should not be required to deduct tax at source in the transaction involved and therefore should not be held responsible to face TDS non-compliance consequences.

Ans. 7(b)

For the purposes of levying concealment penalty under section 271(1)(c) of the Income Tax Act 1961 the assessing officer should have a concrete finding to this effect that assessee has deliberately submitted inaccurate particular of his income. A mere disallowance of expense by treating it to be personal in nature does not qualify for levy of concealment penalty.

Even Hon'ble Supreme Court in the case of M/s Reliance Petro Products Pvt. Ltd. has held that where there is no finding that any details supplied by the assessee in his/its return are incorrect or erroneous or false, there is no question of imposing penalty under section 271(1)(c). A mere making of a claim, which is not sustainable, in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee.

Thus it may be concluded that matter involved in the case of M/s ABSM & Co. is prima-facie not covered under concealment penalty levy.

Ans. 7(c)

The heat surgery expenses claimed by an advocate against his professional income does not appear to have any business nexus thus it appears that Mr. Kapil Bhushan may not succeed in claiming deduction of heart surgery expenses.

The facts of the given case are similar to the case of Shanti Bhushan in which Hon'ble Delhi High Court has disallowed such claim made by the assessee.

Ans. 7(d)

The amount of Rs. 5 crores received in the given case by M/s ABB Ltd. *prima-facie* appears to be a capital receipt in nature and it is well accepted rule of taxation that capital receipts unless made taxable are always exempt. If in the given case the compensation were received on account of goods supply (not asset supply) contract the amount could certainly be treated as revenue capital.

Similar matter came up for consideration before Hon'ble Supreme Court in the case of M/s Saurashtra Cement Ltd. in which it was held that where damages were directly and intimately linked with the procurement of a capital asset which was not a receipt in the course of profit earning business therefore not taxable as business income.

Thus the amount of Rs. 5 crores received by ABB Ltd. in the given case are not taxable as business income.