

Roll No.

Total No. of Questions – 7

Total No. of Printed Pages – 15

Time Allowed – 3 Hours

Maximum Marks – 100

MAT

Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate has not opted for Hindi Medium, his/her answers in Hindi will not be valued.

Question No. 1 is compulsory.

Answer any **five** questions from the remaining **six** questions.

In case, any candidate answers extra question(s)/sub-question(s) over and above the required number, then only the requisite number of questions first answered in the answer book shall be valued and subsequent extra question(s) answered shall be ignored.

Wherever, necessary, suitable assumptions may be made and disclosed by way of a note.

Working notes should form part of the respective answers.

All questions relate to **Assessment Year 2017-18**, unless stated otherwise in the question.

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1. (a) Avimanyu, a resident individual held 25% equity shares in FMC Ltd., an Indian company. The company's paid up share capital as on 31st March, 2016 was ₹ 10,00,000 divided into 1,00,000 equity shares of ₹ 10 each issued at a premium of ₹ 20 each. The shares were allotted to the shareholders on 1st October, 2011. **10**

The company had gone for buy back of 30% of its shares on 30th April, 2016 as per the provisions of the Companies Act, 2013.

The company paid ₹ 60 per share on buy back.

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Explain and compute the tax effect in the hands of FMC Ltd. and Avimanyu in the following situations :

- (i) Shares of FMC Ltd. are listed on recognized stock exchange;
- (ii) Shares of FMC Ltd. are not listed on any recognized stock exchange.

Cost Inflation Index :

Financial Year	Cost Inflation Index
2011-12	785
2016-17	1125

- (b) Mr. Rishabh an individual aged 56 years resident in India furnishes the following particulars of income earned in India for the P.Y. 2016-17 : 6
- (i) He has purchased his first residential house during his lifetime for ₹ 60,00,000 (including stamp duty and registration fees of ₹ 1,80,000). The registration and possession of the house was completed during April 2016.
 - (ii) Loan was taken from his friend in the month of April 2016 for purchase of residential house. Interest and repayment of ₹ 25,000 and ₹ 1,00,000 respectively were made on the said loan during the year 2016-17.
 - (iii) Rent received on residential house (mentioned above) during the year ₹ 3,00,000.
 - (iv) Sale of unlisted shares on 17-01-2017, ₹ 3,20,000, the same were purchased on 09-01-2015 for ₹ 3,00,000.
 - (v) He sold a plot of land for ₹ 70,00,000 at market value on 05-06-2016. This plot of land was purchased on 20-05-2013 for ₹ 50,00,000 from his friend. The market value of the plot was ₹ 55,00,000 as per registering authorities at the time of purchase.

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- (vi) Short term capital gain on sale of gold during the year ₹ 20,000.
(vii) Brought forward short term capital loss of P.Y. 2015-16, ₹ 30,000 on shares traded on recognized stock exchange, on which STT was paid.

Compute total income of Mr. Rishabh for the A.Y. 2017-18.

Cost Inflation Index are as under :

F.Y.	Index
2013-14	939
2014-15	1024
2015-16	1081
2016-17	1125

- (c) X company engaged in developing and exporting software is having two units, namely Unit-A and Unit-B. Unit-A is setup in Special Economic Zone (SEZ) and Unit-B does not fall under section 10 AA of the Act. Company furnishes the following information relating to its 3rd year of operation ended on 31-3-2017 : 4

(Amount in ₹ Lacs)

Items	Unit – A	Unit – B
Export Sales	600	780
Domestic Sales	100	220
Duty Draw Back	19	35
Profit on sale of Import Entitlement	12	Nil
Salaries Paid	270	160
Other Expenses	210	260
Net Profit of the year	251	615

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Additional Informations :

- (i) Unit – A : Expenses of ₹ 12 lacs are disallowable under section 43B and sales proceeds in convertible foreign exchange received in India by 30-9-2016 amounted to ₹ 520 lacs. Export sales of ₹ 600 lacs include freight of ₹ 100 lacs and realization of ₹ 520 lacs includes amount of insurance and freight charges of ₹ 70 lacs.
- (ii) Unit – B : Realisation of export sales in convertible foreign exchange received in India by 30-9-2016 was of ₹ 690 lacs. Expenses charged and are to be disallowed as per section 40A(3) of Act are of ₹ 60 lacs.

Compute the total income of X Company for the A.Y. 2017-18 after claiming deduction under section 10-AA.

2. Jupiter Construction Ltd., an Indian company is engaged in the business of executing civil contracts awarded by various companies. Central Government and State Governments in relation to infrastructure facility. Statement of Profit & Loss for the year ended 31st March, 2017 reveals a net profit (before tax) amounting to ₹ 85,00,000 after debiting / crediting the following items :
- (a) Interest of ₹ 3,00,000 due to a public financial institution for the last quarter of the financial year 2016-17 paid on 20th October, 2017.
- (b) ₹ 6,00,000 paid in India to Mr. Philip, a non-resident towards fee for technical services without deduction of tax at source. TDS was, however, paid on 30th October, 2017.

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- (c) Damages amounting to ₹ 15,00,000 paid to the government of West Bengal as per the terms of contract for defects found in construction of a flyover after 5 years of its construction.
- (d) Depreciation charged ₹ 20,00,000. ✓
- (e) Marked to market loss amounting to ₹ 6,00,000 in respect of an unsettled derivative contract. The contract was settled in May, 2017 with a gain of ₹ 1,00,000.
- (f) Profit of ₹ 10,00,000 on sale of land to Neptune Inc., U.S.A., which is a wholly owned subsidiary company. ✓
- (g) Retention money amounting to ₹ 10,00,000 held by a public sector undertaking which can be released after expiry of two years on the satisfaction of certain performance criteria as per the terms of contract.
- (h) ₹ 3,00,000 being interest on fixed deposit made with a bank as margin money for obtaining a guarantee required by a State Government for a particular contract. ✓
- (i) Dividend of ₹ 10,00,000 received from a Real Estate Investment Trust (REIT), the break-up of which is as follows :
- Component of short-term capital gain on sale of development properties by the REIT ₹ 6,00,000.
 - Component of rental income from properties owned by the REIT ₹ 4,00,000.

Other Information :

- (i) Depreciation as per Income-tax Rules ₹ 25,00,000.
- (ii) Land sold to Neptune Inc. was acquired at a cost of ₹ 30,00,000 in the financial year 2012-13. Value on the date of sale assessed by the Stamp Valuation Authority was ₹ 50,00,000 (Cost Inflation Index- Financial Year 2012-13 : 852 ; Financial Year 2016-17 : 1125)
- (iii) The company informs you that till Assessment Year 2016-17 the company did not include retention money in its total income in absence of right to receive such money based on judicial pronouncements, which has also been accepted by the Assessing Officer consistently.
- (iv) During the year 20 new employees (qualifying as "workman" under the Industrial Disputes Act, 1947) were recruited. All these new employees contribute to recognized provident fund. 15 employees out of 20 employees joined on 1st May, 2016 and the other 5 employees joined in November, 2016. 10 employees, who joined on 1st May, 2016 were offered salary of ₹ 24,500 per month and the other employees who joined on the same date drew salary of ₹ 32,000 per month. One employee who joined on 1st May, 2016 at salary of ₹ 24,500 per month drew his salary by bearer cheques of ₹ 12,500 and ₹ 12,000 every fortnight in a month.
- (v) The company's accounts are required to be audited under sections 44AB of the Income-Tax Act.

Compute total income for the Assessment Year 2017-18 indicating reasons for treatment of each item and ignoring the provisions relating to minimum alternate tax(MAT). The due date for filing of return of income for Asst. Year 2017-18 be taken as 30-09-2017.

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- (a) VKS Ltd. is engaged in developing, operating and maintaining infrastructure facility, which qualifies for deduction under section 80-IA of the Income-tax Act. The company is also engaged in producing cement. Business of the infrastructure facility was commenced in the financial year 2014-15. During the financial years 2014-15, 2015-16 and 2016-17 profits/losses of the two businesses are as follows :

₹ In Lakhs

Financial Year	Infrastructure facility	Cement manufacturing
2014-15	(-) 100	120
2015-16	60	140
2016-17	75*	100

* includes freight subsidy of ₹ 10 lakhs under the scheme of the Central Government.

Further Information :

- Cement manufacturing unit transferred cement of certain quantity for an aggregate price of ₹ 20 lakhs. Similar quantity was sold to outside customers for ₹ 25 lakhs.
- Profit of infrastructure facility business for financial year 2016-17 has been arrived at after charging purchase of consumable stores amounting to ₹ 10 lakhs from RR Ltd., a subsidiary company of VKS Ltd. as against fair market value of such items amounting to ₹ 7 lakhs.

Compute the amount admissible as deduction under section 80-IA for Assessment Year 2017-18. Give working notes and the reasons in the context of statutory provisions for giving treatment to each of the items.

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- (b) Arjun's total income for Assessment Year 2017-18 is ₹ 10 lakhs 4
consisting of salary, capital gain and income from other sources. After considering TDS and advance tax a sum of ₹ 50,000 towards tax is still payable. Because of various reasons he could not file his return of income within the prescribed time limit. Arjun approaches you for advice on the following issues :
- Whether he can file a return of income on 1st December, 2017 ?
 - Whether he will be able to revise his return of income, in case he discovers any omission or mistake in his return filed on 1-12-2017 ?
 - What amount of interest and penalty, he will be subjected to for the defaults, if any, for the relevant assessment year.
- (c) Examine in the context of provisions contained under the Income Tax 2×3
Act and Rules thereunder whether the Transfer Pricing relating to the =6
International Transactions declared by the assessee who have exercised a valid option for application of safe harbor rules can be accepted by the I.T. Authorities for the A.Y. 2017-18 in the following cases :
- Bhisma Ltd., is an Indian company providing services of data processing with the use of Information Technology to YOK Inc. of U.S.A. a foreign subsidiary of the Indian company. Aggregate of the transactions value of services by Bhisma Ltd. to YOK Inc. during the previous year 2016-17 is of ₹ 200 crores having operating margin of ₹ 29 crores and operating expenses of ₹ 150 crores.

- (ii) Dhanush Ltd., an Indian company providing services relating to Contract of R & D of the Generic Pharmaceutical Drugs to ABC Inc. of UK a foreign company, which has guaranteed 15% of the total borrowings of the Indian company. Aggregate of the transactions value of services by Dhanush Ltd. to ABC Inc. during the previous year 2016-17 is of ₹ 100 crores having operating margin of ₹ 18 crores and operating expenses of ₹ 60 crores.

4. Answer any **four** out of the following five cases. Your answer should cover these aspects :

- (i) Issue involved ;
- (ii) Provisions applicable ;
- (iii) Analysis ; and
- (iv) Conclusion.

- (a) Jashan Hotels Pvt. Ltd., engaged in the business of owning, operating and managing hotels, allowed its employees to receive tips from the customers, by the virtue of their employment. The tips were also collected directly by the hotel-company from the customers, when payment was made by them through credit cards. The hotel-company thereafter disbursed the tips to the employees. The Assessing Officer treated the receipt of the tips as income under the head "Salary" in the hands of the various employees and held that the company was liable to deduct tax at source from such payments under section 192. Since the company had not deducted tax at source on such payments, the assessing officer treated the company as an assessee-in-default under section 201(1) of the Act. Discuss the correctness of the action of the Assessing Officer. 4

- (b) Radhakrishna Cooperative Society, the assessee is engaged in marketing of fertilizers and purchase and processing of seeds. The assessee had claimed deduction under section 80 P(2)(d) on dividend income received from NAFED and one Cooperative bank and also on interest on deposits with Co-operative banks. The Assessing Officer contended that the aforesaid income were not included in the total income and wants to invoke section 14A by disallowing the expenditure incurred with respect to earning income which is not liable to income tax.

Discuss whether the action taken by the Assessing Officer is tenable in law.

- (c) Mr. Vivek, a resident assessee holds 80% of equity shares in a company and is the executive director of the company. In his personal capacity, he is the owner of certain premises (building) in which he was carrying on a proprietary business. Subsequently the assessee ceased to carry on the business of proprietary firm and leased the building to the company for its business. The company incurred ₹ 3.2 crores towards construction and improvement of this premises, which it continued to use otherwise than as the owner of the premises. The Assessing Officer held that the amounts spent by the company towards repairs and renovation of the building is taxable as deemed dividend in the hands of the assessee.

Is the action taken by the Assessing Officer valid ?

- (d) Rural Health Care Trust was formed on 1st April, 2015 with the object of providing medical relief to people residing in rural areas of Assam. The trust applied for registration under section 12AA on 15th May, 2016 to the Commissioner of Income-tax. Till the due date for filing return of income for Assessment Year 2017-18, the Commissioner of Income-tax has not passed any order granting or refusing to grant such registration. The trust has filed its return of income for Assessment Year 2017-18 claiming exemption under section 11 taking a view that as the order has not been passed by the Commissioner of Income-tax within the prescribed period, the trust should be deemed to be registered under section 12AA.

Discuss and explain, whether the view taken by the trust is correct.

- (e) ABC Ltd., a listed company filed its return of income in which a claim for deduction under chapter VI-A was made. The case was subjected to scrutiny assessment and order under section 143(3) was passed reducing the claim for deduction under chapter VI-A. After 4 years from the end of assessment year a notice under section 148 was issued giving reasons such as subsequent tribunal and other court decisions which show that the deduction was excessively allowed in this case.

Is the action of the Assessing Officer valid ?

5. (a) LLM Bank Ltd. carrying on banking business is incorporated in Melbourne, Australia. It has branches in different countries including India. During the financial year 2016-17 the Indian branch of the bank paid interest of ₹ 20 lakhs and ₹ 15 lakhs respectively to its head office in Melbourne and to the branch office in California. State with reasons whether interest so paid shall be liable to tax in India in the hands of head office and California branch.

- (b) In 2012 Brijesh borrowed ₹ 15 lakhs at 15% interest per annum from Ashok for his business purpose. This loan has not been repaid so far by Brijesh. His average bank balance in current account was around ₹ 7 lakhs on which the bank was not paying him any interest. On 1st June, 2016 Brijesh's wife, Tina borrowed from him ₹ 7.50 lakhs repayable on demand at 7.5% interest per annum. She lent this money and received interest @ 18% p.a. In course of assessment of Brijesh, the Assessing Officer disallowed 50% of this interest paid to Ashok on the ground that the loan to the extent of 50% has been diverted for non-business purpose i.e. for lending to wife. Further, interest earned by Tina by advancing ₹ 7.50 lakhs was included in the hands of Brijesh by invoking section 64(1)(iv). Examine the correctness of the action of the Assessing Officer. 4
- (c) During October 2016, a search was conducted under section 132 in the business premises of Mr. Q. At that time, the following assessments of Mr. Q were pending before the Assessing Officer : 4
- Assessment under section 143(3) for A.Y. 2014-15 and A.Y. 2015-16; and reassessment proceeding under section 147 for A.Y. 2013-14. Based on the above facts, you are required to explain the provisions applicable in case of the following :
- (i) In respect of which assessment years can notice be issued for making post-search assessment ?
 - (ii) Fate of pending assessments and reassessment.
 - (iii) State the consequence, if the post-search assessment orders are annulled by the Income Tax Appellate Tribunal.

- (d) What would be the penalty leviable under section 270 A in case of DEF Ltd, an Indian Company, if none of the additions or disallowances made in the assessment or reassessment qualify under section 270 A(6) and the under-reported income is not on account of misreporting ? 4

	Particulars of total income of A.Y. 2017-18	Amount in ₹
(1)	As per the return of income furnished u/s 139(1)	(6,00,000)
(2)	Determined under section 143(1)(a)	(3,00,000)
(3)	Assessed under section 143(3)	(1,00,000)
(4)	Reassessed under section 147	4,00,000

Note : The total turnover of DEF Ltd. for the P.Y. 2016-17 was ₹ 10 crores.

6. (a) Mr. T prefers appeal with CIT(Appeals) after receiving assessment order under section 143(3) of the Income Tax Act. After filing his appeal, he realizes that certain important issues were not raised in the statement of facts and grounds of appeal submitted. The appellant wants to produce additional evidences before the CIT(Appeals). State the circumstances where the appellant, shall be entitled to produce additional evidence, i.e. documentary, before the Commissioner of Income Tax (Appeals) other than the evidence produced during the proceedings before the Assessing Officer. 4

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- (b) Discuss the correctness or otherwise of the following statements with reference to the provisions of Income Tax Act, 1961 : **3×2
=6**
- (i) Central Board of Direct Taxes issues orders, instructions and directions to other income tax authorities as it may deem fit which has to be compulsorily followed by them.
 - (ii) The Settlement Commission may suo moto amend any order passed by it to rectify any mistake apparent from the record.
 - (iii) If assessee does not pay the self assessment tax before furnishing the return of income, the return furnished shall be deemed to be a defective return.
- (c) Discuss the TDS/TCS applicability in context of Assessment Year 2017-18 in the following cases and state the amount of the TDS/TCS as per Income Tax Act, 1961. (All issues as under are independent) **3×2
=6**
- (i) Mr. Shan an individual, whose turnover from the business carried on by him during the financial year immediately preceding the financial year exceed 100 lakh, paid fee to an architect of ₹ 50,000 for furnishing his residential house.
 - (ii) Mr. Shyam purchased a house in Mumbai for consideration of ₹ 90 lakh by cheque from the builder for the use of his residence.
 - (iii) Mr. Soham purchased licensed copy of computer software from the software vendor (resident of India) along with all right to use it for ₹ 50,000 to be used for business purposes.

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7. (a) Explain the significance of the PE, when such transactions are governed by the Double Taxation Avoidance Agreements (DTAA). 4

- (b) *"Rule 10MA(2)(iv) of Income Tax Rules requires that the application for rollback provision, in respect of an international transaction, has to be made by the applicant for all the rollback years in which the said international transaction has been undertaken by the applicant."* 4

You are required in this context to explain whether the rollback has to be requested for all the four years or applicant can choose the years out of the block of four years.

- (c) The assessment of Nargis Agro Ltd., for Assessment Year 2014-15 was completed under section 143(3). The order so passed does not contain any specific direction for payment of interest under section 234 B, but was being accompanied by form ITNS-150 containing and giving the calculation of interest payable under section 234 B on the Assessed Tax. 4

The assessee being aggrieved of the levy of interest under section 234 B seeks your opinion. Kindly advice.

- (d) *"Chapter-VIII of the Finance Act, 2016 has amended the provisions of section 10 and section 40(a) to address the issues and problems relating to taxation of e-commerce transactions."* 2×2 =4

Explain in this context the following :

- (i) Equalisation Levy
(ii) Meaning of Specified Service