

Basic Concepts

Question 1

Choose the correct answer with reference to the provisions of the Income-tax Act, 1961. Education cess @ 2% and secondary and higher education cess @ 1% is payable on

- (a) Income-tax
- (b) Income-tax plus surcharge, if any
- (c) Surcharge
- (d) Not payable by any assessee

Answer

- (b) i.e. income tax plus surcharge if any. (Note : For the A.Y. 2013-14 every domestic company must pay surcharge @ 5% if the total income exceeds ₹ 1 crore. In the case of companies other than domestic companies, the surcharge payable is 2% if the total income exceeds ₹ 1 crore. No surcharge is levied on other persons)

Question 2

Fill in the blanks:

Where the total income of an artificial juridical person is ₹ 3,10,000 the income-tax payable is ₹ and surcharge payable is ₹

Answer

₹ 11,000; surcharge – nil.

Question 3

Write short note on “Income accruing” and “Income due”. Can an income which has been taxed on accrual basis be assessed again on receipt basis?

Answer

‘Accrue’ refers to the right to receive income, whereas ‘due’ refers to the right to enforce payment of the same. For e.g. salary for work done in December will ‘accrue’ throughout the month, day to day, but will become ‘due’ on the salary bill being passed on 31st December or 1st January. Similarly, on Government securities, interest payable on specified dates arise during the period of holding, day to day, but will become ‘due’ for payment on the specified dates.

1.2 Income-tax

Income which has been taxed on accrual basis cannot be assessed again on receipt basis, as it will amount to double taxation. For example, when interest on bank deposit is offered on accrual basis, amounts received on maturity of such deposit including interest thereon cannot be treated as income again.

Question 4

An employee instructs his employer to pay a certain portion of his salary to a charity and claims it as exempt as it is diverted by over riding charge / title – Comment.

Answer

In the instant case, it is an application of income and in the nature of foregoing of salary. According to the Supreme Court judgment in *CIT v. L.W. Russel (1964) 52 ITR 91*, the salary which has been foregone after its accrual in the hands of the employee is taxable. Hence, the amount paid by the employer to a charity as per the employee's directions is taxable in the hands of the employee.

Question 5

Explain the concept of "Marginal Relief" under the Income-tax Act, 1961.

Answer

The concept of marginal relief is applicable only in the case of companies. Marginal relief is available in case of companies having a total income exceeding ₹ 1 crore. The additional amount of income-tax payable (together with surcharge) on the excess of income over ₹ 1 crore should not be more than the amount of income exceeding ₹ 1 crore.

Example:

The tax payable on total income of ₹ 1,01,00,000 of X Ltd. computed @ 31.5% (including surcharge) is ₹ 31,81,500. However, the tax cannot exceed the tax of ₹ 30,00,000 payable on total income of ₹ 1 crore by more than the ₹ 1,00,000, being the amount of total income exceeding ₹ 1 crore. Therefore, the tax payable on ₹ 1,01,00,000 would be ₹ 31,00,000 (30,00,000+1,00,000). The marginal relief is ₹ 81,500 (i.e., ₹ 31,81,500 - ₹ 31,00,000).

Question 6

Describe average rate of tax and maximum marginal rate under section 2(10) and 2(29C) of the Income-tax Act, 1961.

Answer

As per section 2(10), "**Average Rate of tax**" means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income.

Section 2(29C) defines "**Maximum marginal rate**" to mean the rate of income-tax (including surcharge on the income-tax, if any) applicable in relation to the highest slab of income in the case of an individual, AOP or BOI, as the case may be, as specified in Finance Act of the relevant year.

Question 7

Who is an "Assessee"? Who is a "Deemed Assessee"? Who is an "Assessee in Default"? Explain with suitable examples.

Answer**Assessee**

Assessee means a person by whom any tax or any other sum of money is payable under this Act. It includes every person in respect of whom any proceeding has been taken for the assessment of his income or of the income of any other person for which he is assessable or the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person. This term also includes every person who is deemed to be an assessee or an assessee in default under any provision of this Act.

Deemed Assessee

Assessee includes every person who is deemed to be an assessee under the provisions of the Act. For example, section 160(1) defines "Representative assessee". Section 160(2) states that, every representative assessee shall be deemed to be an assessee for the purposes of the Act.

Assessee in default

A person is said to be an assessee in default if he fails to comply with the duties imposed upon him under the Income-tax Act, 1961. Suppose an employer who pays salary or other person who pays interest, commission, professional fees etc. but does not deduct tax at source and deposit into government treasury, then, he shall be deemed to be an assessee in default. Likewise, under section 218, if a person does not pay advance tax, then, he shall be deemed to be an assessee-in-default.

EXERCISES

1. *The basic source of income-tax law is -*
 - a) *Income-tax Act, 1961*
 - b) *Circulars/Notifications issued by CBDT*
 - c) *Judgments of Courts*
2. *A domestic company means -*
 - a) *Only an Indian company*
 - b) *Only a foreign company which has made the prescribed arrangements for declaration and payment of dividends in India*
 - c) *Indian company and a foreign company which has made the prescribed arrangements for declaration and payment of dividends in India.*

1.4 Income-tax

3. *The rates of income tax are mentioned in -*
 - a) *Income-tax Act, 1961*
 - b) *The Annual Finance Acts*
 - c) *Both in the Income-tax Act, 1961 and the Annual Finance Acts.*
4. *The surcharge applicable in the case of an individual is -*
 - a) *10% of tax payable*
 - b) *10% of tax payable if total income exceeds ₹ 10 lakh*
 - c) *Nil*
5. *In respect of a resident assessee, who is of the age of 60 years or more at any time during the previous year 2012-13, -*
 - a) *Higher basic exemption of ₹ 2,40,000 is available*
 - b) *Higher basic exemption of ₹ 2,50,000 is available*
 - c) *Higher basic exemption of ₹ 2,60,000 is available.*
6. *The rate of tax applicable to a domestic company for A.Y. 2013-14 is -*
 - a) *30%*
 - b) *35%*
 - c) *40%*
7. *The surcharge applicable to a domestic company for A.Y. 2013-14 is -*
 - a) *10% if total income exceeds ₹ 1 crore.*
 - b) *7.5% if total income exceeds ₹ 1 crore*
 - c) *5% if the total income exceeds ₹ 1 crore.*
8. *The surcharge applicable to a foreign company for A.Y. 2013-14 is -*
 - a) *Nil*
 - b) *2% if the total income exceeds ₹ 1 crore.*
 - c) *2.5% if the total income exceeds ₹ 1 crore.*
9. *The rate of tax applicable to a firm for A.Y. 2013-14 is -*
 - a) *30%*
 - b) *35%*
 - c) *40%*
10. *Define the following terms under the Income-tax Act, 1961 -*
 - (i) *Assessee*

- (ii) Person
 - (iii) Previous year
11. Write short notes on the following -
- (i) Year of accrual of dividend
 - (ii) Marginal relief
 - (iii) Infrastructure Capital Company
 - (iv) Infrastructure Capital Fund
12. "Income of a previous year will be charged to tax in the assessment year following the previous year"- Discuss the exceptions to this general rule.
13. In certain cases, unexplained cash credit, unexplained investment, unexplained money or unexplained jewellery etc. is detected by the Assessing Officer. What is the previous year for charging such income to tax? Explain.
14. Briefly discuss about the exceptions to the rule that income of an assessee for a previous year will be charged to tax in the subsequent assessment year.

Answers

1. a; 2. c; 3. c; 4. c; 5. b; 6. a; 7. c; 8. b; 9. a.