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AGL2

Roll No.

Total No. of Printed Pages – 16

Total No. of Questions – 6

Maximum Marks – 70

GENERAL INSTRUCTIONS TO CANDIDATES

1. The question paper comprises two parts, Part I and Part II.
2. Part I comprises Multiple Choice Questions (MCQs).
3. Part II comprises questions which require descriptive type answers.
4. Ensure that you receive the question paper relating to both the parts. If you have not received both, bring it to the notice of the invigilator.
5. Answers to Questions in Part I are to be marked on the OMR answer sheet only. Answers to questions in Part II are to be written on the descriptive type answer book. Answers to MCQs, if written in the descriptive type answer book, will not be evaluated.
6. OMR answer sheet will be in English only for all candidates, including for Hindi medium candidates.
7. The bar coded sticker provided in the attendance register, is to be affixed only on the descriptive type answer book. No bar code sticker is to be affixed on the OMR answer sheet.
8. You will be allowed to leave the examination hall only after the conclusion of the exam. If you have completed the paper before time, remain in your seat till the conclusion of the exam.
9. Duration of the examination is 3 hours. You will be required to submit (a) Part I of the question paper containing MCQs, (b) OMR answer sheet thereon and (c) the answer book in respect of descriptive type answer book to the invigilator before leaving the exam hall, after the conclusion of the exam.
10. The invigilator will give you acknowledgement on Page 2 of the admit card, upon receipt of the above-mentioned items.
11. Candidate found copying or receiving or giving any help or defying instructions of the invigilators will be expelled from the examination and will also be liable for further punitive action.

PART – II

70 marks

1. Question paper comprises 6 questions. Answer Question No. 1 which is compulsory and any 4 out of the remaining 5 questions.
2. Working notes should form part of the answer.
3. Answers to the 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 evaluated.

All questions relate to Assessment Year 2019-20 unless stated otherwise in the question.

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PART - II

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1. On 1.4.2018, Binu Ltd. of Delhi, a domestic company, engaged in the business of manufacturing of metro rail seats, converted into an LLP by name M/s. Soumya LLP fulfilling all the conditions specified in section 47(xiiib) of the Income Tax Act, 1961. Some of the relevant information is given below in respect of Binu Ltd., as on 31.3.2018 :

- (a) Voluntary Retirement Scheme (VRS) expenditure incurred by the company during the PY 2016-17 is ₹ 20 lakhs. The company was allowed deduction of ₹ 4 lakhs each for the PYs 2016-17 & 2017-18 under section 35DDA.
- (b) 150 equity shares in Toyo Ltd., an Indian company listed in Bombay Stock Exchange was acquired for ₹ 1,900 per share on 31.7.2016. On conversion, these share become the property of M/s. Soumya LLP.
- (c) Besides other assets transferred to M/s. Soumya LLP by M/s. Binu Ltd., it also transferred two factory buildings. On 1.4.2018, M/s. Soumya LLP leased out one factory building along with plant and machineries and furniture etc. at a consolidated lease rent of ₹ 50,000 per month.

During the previous year 2018-19, the M/s. Soumya LLP earned a profit of ₹ 25,40,000 after debit/credit of the following items to its Profit and loss account :

- (i) Mr. Binu is the working partner of the LLP. He is also a working partner in another firm. He is actively engaged in the business of both the firms. Binu gets a salary of ₹ 55,000 p.m. from M/s. Soumya LLP and the same is authorised in the deed of LLP.
- (ii) Mr. Ayushman, an employee, was deputed to work in the client's office in Mumbai for three months. The LLP has paid his salary in cash for the months when he was in Mumbai, amounting to ₹ 3,45,000 (net of TDS and other deductions), since he did not have a bank account in Mumbai. This payment was included in amount of "salary" debited to profit and loss account. Mr. Ayushman is normally posted in Delhi being the headquarter of M/s. Soumya LLP.
- (iii) Amount of ₹ 25,000 was paid towards penalty for non-fulfilment of delivery conditions of a contract for sale for the reasons beyond its control.

- (iv) The LLP had provided an amount of ₹ 18 lakhs being the sum estimated as payable to workers based on agreement to be entered with workers union towards periodical wage revision once in 3 years. The provision, is based on a fair estimation of wage and reasonable certainty of revision once in 3 years.
- (v) Depreciation debited to profit and loss account ₹ 5,40,000.
- (vi) Gratuity provisions based on actuarial valuations ₹ 6.5 lakhs. (Gratuity actually paid ₹ 4 lakhs to retired employees debited in Gratuity provision account).
- (vii) Profit on sale of shares of M/s. Toyo Ltd. ₹ 1,27,500. These shares were sold on 31.5.2018 for ₹ 2,750 per share. The highest price of Toyo Ltd. quoted on the stock exchange as on 31.1.2018 was ₹ 2,500 per share.
- (viii) Repairs to plant and machinery include ₹ 59,000 in respect of plant and machinery given on lease.
- (ix) Factory licence fee paid ₹ 15,000 for each factory building.
- (x) Legal fee includes ₹ 26,000 paid to an advocate for drafting and registering the lease agreement.

Additional Information :

- (1) Under an agreement of debt restructuring, the bank has converted unpaid interest amounting to ₹ 9,00,000 up to 31.7.2018 into a new loan account repayable in 3 equal annual instalments. The first instalment was paid in March 2019 by debiting the new loan account.
- (2) Mr. Binu, being a working partner, bought a car which is registered in his own name out of the funds of LLP. The car was used exclusively for the purposes of the business of the LLP only. The depreciation on the car amounts to ₹ 15,000 for the PY 2018-19 which is not included in the depreciation amount debited to profit and loss account.
- (3) Depreciation as per Income-tax Rules ₹ 8,10,000 (including depreciation on the assets given on lease amounting to ₹ 90,000). It does not include depreciation on car.
- (4) The LLP sold import entitlements on 1.5.2018 for ₹ 1,50,000. This sum is not included in profit and loss account by treating it as capital receipt.

You are required to discuss the implication of such conversion and calculate the total income in the hands of M/s Soumya LLP for the Assessment Year 2019-20.

2. (a) On 1.4.2018, Wuyu Ltd. was amalgamated with Rayu Ltd. satisfying all the conditions mentioned in section 2(1B).

Wuyu Ltd. had the following brought forward losses as assessed till the assessment year 2018-19 :

Particulars	₹ in lakhs
Speculation business loss	5
Unabsorbed Depreciation	13
Business loss	150
Unabsorbed expenditure of capital nature on scientific research	3

Rayu Ltd. has computed a profit of ₹ 180 lakhs for the financial year 2018-19 before setting off the eligible losses of Wuyu Ltd. but after providing depreciation @ 15% p.a. on ₹ 140 lakhs, being the consideration at which plant and machinery were transferred by Wuyu Ltd. to Rayu Ltd. The WDV as per Income-Tax records of Wuyu Ltd. as on 1.4.2018 was ₹ 98 lakhs.

The above profit of Rayu Ltd. includes speculation business profit of ₹ 15 lakhs.

Compute the total income of Rayu Ltd. for the A.Y. 2019-20 and indicate the losses/other allowances to be carried forward by it.

Assume the amalgamation is within the meaning of section 72A of the Income-Tax Act, 1961. Give reasons for treatment of each item.

- (b) Mr. Robert, a non-resident, (aged 38) operates a ship for the carriage of goods, passengers and livestock between Dubai, Mumbai and Chennai. He provides you the following particulars for the previous year 2018-19 :

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- (i) Received ₹ 200 Lakhs in India on account of carriage of livestock from Mumbai to London.
- (ii) Received ₹ 50 Lakhs in India on account of carriage of passengers from Dubai to Colombo.
- (iii) Received ₹ 65 Lakhs in Dubai on account of carriage of goods from Chennai to Dubai.
- (iv) Expenses incurred during the year in respect of operation of such ships ₹ 195 Lakhs.
- (v) Winning from horse races in India ₹ 25 Lakhs

Compute the total income of Mr. Robert Chargeable to tax in India for the assessment year 2019-20. Also calculate the tax payable thereon.

3. (a) *Supporting the Girl Child*, a charitable trust, is registered under section 12AA of the Act. On 1.4.2018, it got merged with M/s. Ananya P Ltd., which is a company engaged in manufacturing of stationery items. All the assets and liabilities of the erstwhile trust became the assets and liabilities of M/s. Ananya P Ltd who is not entitled for registration under section 12AA of the Act. The trust appointed a registered valuer for the valuation of its assets and liabilities. From the following particulars (including the valuation report), calculate the tax liability in the hands of the trust arising as a result of such merger :

- (i) Stamp duty value of land held ₹ 15 lakhs. However, if this land is sold in the open market, it would ordinarily fetch ₹ 17 lakhs. The book value of the land is ₹ 20 lakhs.
- (ii) 75,000 equity shares in Idom Ltd. traded in Bombay Stock Exchange. The lowest price per share on 1.4.2018 was ₹ 75 and the highest price on that day was ₹ 85. The book value was ₹ 67 lakhs.
- (iii) 55,000 preference shares held in Niharika Ltd. The shares will fetch ₹ 44 lakhs, if they are sold in the open market on 1.4.2018. Book value was ₹ 25 Lakhs.
- (iv) Corpus fund as on 1.4.2018 ₹ 15 Lakhs,
- (v) Outside liabilities ₹ 90 lakhs,

- (vi) Provision for taxation ₹ 5 lakhs.
- (vii) Liabilities in respect of payment of various utility bills ₹ 6 lakhs.

Note : Give reasons for treatment of each item.

- (b) Mr. Kalpesh, aged 56 years, a resident individual furnishes the following particulars of income earned by him in India and country "T" for the previous year 2018-19. India has not entered into double taxation avoidance agreement with country "T". 6

Particulars	Amount (₹)
Income from profession carried on in India	6,00,000
Agricultural Income in Country "T"	75,000
Dividend from a company incorporated in Country "T"	1,20,000
Royalty income from a literary book from Country "T"	4,00,000
Expenses incurred for earning royalty	60,000
Business loss in Country "T"	75,000

As per income-tax law of Country "T" Business loss is not eligible for set off against any other incomes. The rate of income-tax in country "T" is 20%.

Compute total income and tax payable by Mr. Kalpesh in India for A.Y. 2019-20 assuming that he satisfies all conditions for the purpose of section 91.

4. (a) Discuss the liability of TDS provisions in the following independent cases :

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- (i) X Ltd. is a producer of natural gas. During the year it sold natural gas worth ₹ 20,50,000 to M/s Hawa Co., a partnership firm. It also incurred ₹ 2,00,000 as freight for the transportation of gas. It raised the invoice and clearly bifurcated the value of gas as well as the transportation charges.
- (ii) Beta Ltd. gave a contract to Alpha Ltd. for the supply of 2000 pens on which the logo of Beta Ltd. was printed. The raw materials were purchased by Alpha Ltd. from C Ltd., which is not related to Beta Ltd. The consideration paid for the pens was ₹ 1,50,000.
- (iii) M/s. Taba Ltd. enters into a contract with Mr. Babu for the transportation of its products from its plant to warehouses. It pays a lump-sum amount of ₹ 2,50,000 to Mr. Babu for the year at the year end. Mr. Babu is engaged in the business of plying goods carriages on hire. Mr. Babu is not an assessee under Income-Tax Act and thus did not provide PAN to Taba Ltd.

(iv) M/s. Sunivesh Investors is engaged in the business of stock broking, depositories, mobilisation of deposits and marketing of public issues. It is a registered member of Bombay Stock Exchange. Every year it makes payment amounting to ₹ 10 lakhs, to the Stock Exchange by way of transaction charges in respect of fully automated online trading facility. This service is available to all members of the stock exchange in respect of every transaction that is entered into. Would it be liable for tax deduction under section 194J ?

(b) Muskaan Ltd. (MK India) is an Indian company that manufactures cricket kits in India. MK India is eligible for deduction under section 10AA of the Income Tax Act, 1961. For its UK sales, MK India has entered into a marketing arrangement with KitsSports (KS UK), a UK incorporated firm. MK India uses the patented design provided by KS UK for manufacturing of cricket kits by it. MK India supplied 30,000 sports kits to KS UK for ₹ 5,000 per kit. In the assessment, the Assessing Officer, increased the price charged by MK India from KS UK to ₹ 6,000 per kit. MK India accepts such transfer price adjustment adopted by the Assessing officer. As a result, there is an increase in the income of MK India. You are required to answer the following questions in this respect :

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- (1) Would MK India and KS UK be treated as associate enterprises for the purposes of transfer pricing adjustment adopted by the Assessing Officer ?
- (2) What is the liability of KS UK in respect of the change in Arm's Length Price (ALP) in respect of purchases made by it from MK India ?
- (3) MK India contends that since the income is increased because of the arm's length price adopted by the Assessing Officer, the deduction claimed by it under section 10AA should also be increased accordingly, since the amount of deduction is based upon the amount of the export sale. Discuss whether the contention of MK India is valid.

5. (a) Answer any two out of the following three questions :

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- (i) Mr. Raja, a resident individual died on 15.1.2019. Some reassessment proceedings in respect of his income chargeable to tax were pending on that date. Mr. Nitin is the legal heir of Late Raja. The Assessing Officer continued the reassessment proceedings without bringing the legal heir Mr. Nitin on record though Mr. Nitin informed the demise of Raja and also participated in the assessment. After the completion of assessment, Mr. Nitin contends that the order of assessment is bad in law. Decide the validity of the contentions of Mr. Nitin.

(ii) SRM Tech Ltd. is engaged in the manufacture of multi-layer tubes and other specialty packaging and plastic products. It came out with an initial public issue of shares during the relevant assessment year and deposited the share application money received in banks. The share capital was received by the SRM Tech Ltd. to meet capital expenditure for setting up of its factory. As the funds were not immediately required, it made temporary deposits with bank which earned interest. This interest income of ₹ 1.71 crores was treated as abatement of capital cost of the project/factory by the company and set off such interest earned against public issue expenses, in the books of account. The AO is of the opinion that the same should be treated as revenue receipt and taxed the same as income from, 'Other Sources'. Decide the correctness of action of the Assessing Officer.

(iii) M/s Jonga and Jonga decided to expand its jeep product line and entered into an agreement with K Inc., an American company, which agreed to sell it dies, welding equipment and die models. The purchase consideration was agreed at \$ 65000 including cost, insurance and freight and K Inc., agreed to advance a loan to the assessee at 6% interest per annum repayable after 10 years in instalments. The Reserve Bank of India and the concerned Ministry approved the loan agreement.

Later on, XL Inc., took over K Inc., and agreed to waive the principal amount of loan advanced by K Inc., to Jonga and Jonga and to cancel the promissory notes as and when they matured. This was communicated to the assessee-company which filed its return showing ₹ 35 Lakh as cessation of liability in its books of account.

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The Income-Tax Officer concluded that the waiver of the loan amount represented income and held that the sum of ₹ 35 Lakh is taxable under section 28(iv) as income. The alternate argument of the Revenue authorities was that the sum would be taxable under section 41(1) as a waiver of a trading liability.

Examine the validity of Assessing Officer's action.

(b) M/s. Raghuram Co. Ltd., Mumbai entered into the following agreements with various non-resident entities during the previous year 2018-19 :

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- (i) Paid ₹ 4,00,000 to M/s. Neil Inc., a company based in USA for online advertisement of its products. M/s. Neil Inc., does not have a PE in India.
- (ii) Paid ₹ 50,000 to Mr. David, a non-resident individual, against providing digital space for online advertisement of its products.
- (iii) Paid ₹ 1,55,000 to M/s LOX Ltd., for providing a platform for sale of its used furniture items. M/s. LOX Ltd., is a company based in New Zealand and does not have a PE in India.

Discuss the relevant provisions of Income Tax Act, in respect of such agreements and also state the tax implications of such payments.

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6. (a) Mr. Jayant and Mr. Basant, created a trust, out of the insurance policy amount received upon the death of their father. The trust deed named Jayant and Basant as the trustees and Mrs. Kamla and Mrs. Vimla (their sisters) as the beneficiaries. However, it is the discretion of the trustees that they may either accumulate the net income of the trust or pay the same to any one or both the beneficiaries. During the year previous year 2018-19, the total income of the trust amounted to ₹ 10,50,000. You are required to discuss the relevant provisions of the Income-Tax Act in this regard and calculate the tax payable by the trust, if any.

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What would be your answer if the trust was created under the 'Will' of the deceased father and such trust is the only trust so created under the 'Will' ?

- (b) Under the provisions of a tax treaty between India and Country V, if a resident of country V makes any capital gains by selling the shares in any Indian Company, such capital gains will be taxable only in Country V and it will be exempt from tax in India. However, as an exception it is also provided that, such exemption is not available if the transferor holds more than 10% interest in the equity capital of the Indian Company. VFX Ltd., a resident in Country V floated two wholly owned subsidiaries in country V. On 1.4.2018, both the subsidiaries bought 9% shareholding in XYZ Co. Ltd., an Indian Company. These subsidiaries do not have any other income. On 31.12.2018, both of them sold the investment in XYZ Co. Ltd. Each of the subsidiaries claim exemption from Indian capital gains tax amounting to ₹ 2.5 crores from such sale, as each is holding less than 10% equity shares in the Indian Company. Can GAAR be invoked in such case to deny the treaty benefit ?

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Will your answer be different if the capital gain tax on such sale is calculated at ₹ 1.2 crores each ?

For the Assessment Year 2018-19, Mr. John, was directed to carry out a special audit of his accounts under section 142(2A) on 1.8.2018, without giving him an opportunity of being heard. 6

Answer the following questions in this regard :

- (i) Can the assessee contend that since reasonable opportunity of being heard is not provided to him by the Assessing Officer, such notice requiring the special audit of accounts is not valid ?
- (ii) If the assessee decides to get his books of account audited under section 142(2A), what will be the due date by which he has to submit the audit report (including the extended time, if any, allowed to him) ?
- (iii) If the assessee intentionally does not comply with the directions How much penalty can be levied on him ?
- (iv) For failure to get the books of account audited under section 142(2A), can prosecution proceedings be launched against the assessee ? If yes, what will be the quantum of punishment for such default ?
- (v) Can the assessee approach the Settlement Commission to grant immunity from penalty and prosecution proceedings initiated against him ? If yes, discuss the power of Settlement Commission to grant immunity in this regard.