

DIRECT & INDIRECT TAXATION

T.Y.B.Com. Semester V

CA MAHESH S. SATHE

*Vice Principal, Associate Prof. & HOD, Accountancy
L.S.Raheja College, Santacruz(West)*



**Special Guidance Lecture at
L.S.Raheja College of Arts & Commerce,
Santacruz (West),
On 16th October, 2018.**

TOTAL MARKS – 100 TIME – 3 HOURS

- ALLOCATION OF MARKS & TIME –
- Q.No.1 Objective – 10 out of 12+ 10 out of 12 20 marks
- Q.No.2 Problem-15 marks or Problem 15 marks
- Q.No.3 Problem-15 marks or Problem 15 marks
- Q.No.4 Problem-15 marks or Problem 15 marks
- Q.No.5 Problem-15 marks or Problem 15 marks
- Q.No.6 Theory10+10marks or Short Q.4 out of 6 20 marks
- Question of 15 marks may be divided into 7/8, 10/5 marks
- Total Questions 6, Total 100 **marks**

- For reading question paper 5 mt.s
- For solving 5 questions x 30 mt.s 150 mts.
- For solving Q. no. 1 20 mts.
- For checking answer paper 5 mts.
- Total Time **180 mts.**

Definitions, Residential Status and Scope of Income

- **Definitions –**
 - Assessee – Sec. 2(7)
 - Assessment – Sec. 2(8)
 - Assessment Year – Sec. 2 (9)
 - Annual Value – Sec. 2(2) and Sec. 23
 - Business – Sec. 2(13)
 - Capital Asset – Sec. 2(14)
 - Income – Sec. 2(24)
 - Person – Sec. 2(31)
 - Previous Year – Sec. 2(34) and Sec. 3
 - Transfer – Sec. 2(47)
- **Write the definition, meaning and give examples.**

• **Residential Status for individual assessee**

- **Sec. 6 (1)** – (a) If he is in India in that previous year for a period of 182 days or more, Or
- (b) If he is in India, for a period of 365 days or more during the 4 years immediately preceding the previous year and he is in India during the previous year for a period of 60 days or more.
- **Exceptions –**
- a) A citizen of India or an Indian member of a crew of an Indian ship, who leaves India in the previous year for the purpose of employment, becomes resident only if he stays in India for 182 days or more during the year.
- b) A citizen of India or a person of Indian origin, who being outside India, comes on a visit to India, in the previous year, becomes a resident only if he stays in India for 182 days or more during that year.
- The day of arrival in India and departure from India should be counted as stay in India.
- “Employment” in exception includes own business or profession.

Resident and Ordinarily Resident Individual

- **Sec. 6 (6) – An individual who is a resident in India is treated as an “ordinarily resident” if –**
- **a) he has been a resident in India for at least 2 out of 10 years immediately preceding the previous year,**
- **and**
- **b) he has been in India for a period of 730 days or more during the 7 years immediately preceding the previous year.**
- **Non Resident – Sec. 2(30)**
- **A “non-resident” means a person who is not a “resident”.**

• Scope of Income – Sec. 5

• Nature of Income	R and OR	R but NOR	NR
• Income recd. In India	Taxable	Taxable	Taxable
• Income deemed to be Received in India	Taxable	Taxable	Taxable
• Income accruing or arising in India	Taxable	Taxable	Taxable
• Income deemed to accrue or arise in India	Taxable	Taxable	Taxable
• Foreign Income –			
• a) from a business controlled from India / profession set up in India	Taxable	Taxable	N.T.
• b) any other foreign income	Taxable	N.T.	N.T.

Income from Salaries

- “Employer and employee” relationship is must between giver and receiver of amount.
- Salary is taxable on receipt basis or on due basis, whichever is earlier.
- Salary may be received in cash or in kind.
- Salary may be called as wages, remuneration, over-time payment, bonus, leave salary, ex-gratia payment, notice pay, commission, pension, arrears of salary etc.
- If payment is from employer to employee in relation to employment, it is treated as salary.
- Sec. 17(1) – Salary
- Sec. 17 (2) – Perquisite
- Sec. 17 (3) – Profit in lieu of Salary

Salaries - Deductions and Exemptions

- **Deduction u/s 16 (ii) – Entertainment Allowance**
 - a) $\frac{1}{5}$ th of basic salary
 - b) Rs. 5,000
 - c) Actual allowance received, whichever is less

It is allowed only for Government employees.
- **Deduction u/s 16 (iii) – Professional Tax**
- **Gratuity exempt u/s 10 (10)**
 - i) Govt. employees – 100 %
 - ii) under Payment of Gratuity Act, 1972
 - a) Gratuity actually received
 - b) Rs. 20,00,000
 - c) salary last drawn $\times \frac{15}{26} \times$ no.of years (r/off allowed) whichever is less.

- iii) other employees
 - a) Gratuity actually received
 - b) Rs. 20,00,000
 - c) Av.salary in last 10 months preceding month of retirement $\times \frac{1}{2} \times$ no. of years (r/off not allowed) whichever is less.
- **Commutation of Pension – exempt u/s 10(10 A)**
 - a) Govt employees – 100 %
 - b) Other employees – i) If gratuity is recd. - $\frac{1}{3}^{\text{rd}}$ of pension
ii) in any other case – $\frac{1}{2}$ of pension
- **Encashment of Leave Salary – exempt u/s 10 (10AA)**
 - a) Govt. employees – 100%
 - b) Other employees – (i) encashment of leave not exceeding 30 days per year (ii) 10 months av. Salary (iii) Rs. 3,00,000
 - iv) amount actually received, whichever is less.

Income from House Property

- **Let out Property (LOP) –**
- Gross Annual Value =
Reasonable letting value, or
Actual Rent, whichever is higher
- **Net Annual Value =**
- GAV – Municipal taxes paid and borne by the owner.
- NAV less
- **Standard deduction u/s 24 (a) – 30% of NAV**
- **Interest on housing loan u/s 24 (b) –** for acquisition, construction, repairs, renewal, reconstruction – no limit.
- Pre acquisition / Pre construction period interest on housing loan is allowed **in 5 equal instalments** beginning with the year in which property is acquired or constructed.

- **Self-occupied Property (SOP)**

Annual Value is taken as Nil.

- Only one deduction of Interest on housing loan u/s 24(b)
 - 1) Interest on loan taken after 1.4.1999
 - for i) acquiring or ii) constructing the SOP Max. Rs. 200000
 - 2) Interest on loan taken after 1.4.1999
 - for i) repairing ii) renewing iii) reconstructing the SOP Max. Rs. 30000
 - 3) Interest on loan taken before 1.4.1999
 - for i) acquiring ii) constructing iii) repairing iv) renewing v) reconstructing the SOP Max. Rs. 30000

If assess has two or more houses as SOP, he can select only one house as SOP and the remaining houses are treated as “Deemed to be Let out Properties”.

If property is owned by co-owners, net income is divided between the co-owners if their share is definite. If their share is not known, it is taken as income of AOP.

Profits of Business or Profession

- If Profit and Loss A/c is given, then –
- Net profit as per Profit & Loss Account xx
Add – Disallowable Expenses xx
Less – Income exempt from tax or
income taxable under other head (xx)
Net Taxable Income from Business xx

If Receipts and Payments Account is given, then –

Relevant receipts from business / profession	xx
Less :- Relevant expenses	<u>(xx)</u>
Net Taxable Income from Business	<u>xx</u>

If any asset is used for less than 180 days during the year then depreciation rate will be 50% of the normal rate.

If any asset is used for 180 days or more during the year then depreciation for the full year is allowed at normal rate.

Expenditure Disallowed

- Salary to proprietor
- Interest on Capital to proprietor
- Any cash payment exceeding Rs.10000 (for payment of freight, the limit is Rs.35000)
- Payment to relative which is excessive
- Unpaid statutory liability if not paid before due date for filing of return. Such expenses will be allowed in the year in which they are actually paid.
- Donation and Charity
- Penalty and interest for breach of legal provisions
- Personal expenses
- Capital expenditure
- Advertisement expenses for advertisement in the brochure or souvenir of a political party.
- Income-tax, wealth tax
- Reserve for doubtful debts
- Payments made without T.D.S. (30% of sum payable is disallowed)

Capital Gains

- **Short Term Capital Gain** arises on transfer of short term capital asset. Following are STCA -
 - 1) securities listed on a recognized stock exchange, Units of UTI and equity oriented fund, zero coupon bonds 12 months or less
 - 2) Land or Building or both, unlisted shares 24 months or less
 - 3) Units of debt oriented fund, other capital assets 36 months or less
- Any asset other than STCA is **Long Term Capital Asset** and **Long Term Capital Gain** arises on transfer of LTCA.

Computation of Short term Capital Gain

• Full Value of consideration	XX
• Less : Transfer expenses	- XX
• Less : Cost of Acquisition	- XX
• Less : Cost of Improvement	<u>- XX</u>
STCG	<u>XX</u>

Computation of Long term Capital Gain

• Full Value of consideration	XX
• Less : Transfer expenses	- XX
• Less : Indexed Cost of Acquisition	- XX
• Less : Indexed Cost of Improvement	<u>- XX</u>
LTCG	XX
Less : Exemption u/s 54, 54 EC	<u>(XX)</u>
Taxable LTCG	<u>XX</u>

- Long term capital gain on transfer of securities subject to STT is totally exempt from tax – Sec. 10 (38)
- Income from transfer of units of US 64 of UTI shall be exempt from tax whether long term or short term - u/s 10 (33)
- If asset is acquired by assessee directly before 1.4.2001 or asset is acquired by him by way of gift, inheritance etc. and the previous owner acquired it before 1.4.2001 then he can take either its cost or its Fair Market Value on 1.4.2001 as its cost.
- Period of holding of previous owner is counted and cost to the previous owner is taken as cost in case of asset owned by assessee by way of gift, inheritance etc.
- u/s 54 EC maximum deduction is Rs.50,00,000 for investment in Bonds of RECL or NHAI within 6 months.

Income from Other Sources

- Dividend {from domestic co., Units of UTI, MF—exempt u/s 10(33)}
- Winning from lotteries, crossword puzzles etc.
- Interest on securities
- Income from machinery, plant, furniture let on hire
- Receipt fro Keyman Insurance Policy
- Income from open plot of land
- Income from sub-letting of property
- Family pension (standard deduction-lesser of $33\frac{1}{3}^{\text{rd}}\%$ or 15000)
- Bank Interest on S.B. A/c, R.D. A/c, F.D. A/c
- Interest on income tax refund
- Director's board meeting fees
- Examination remuneration from non-employer
- Royalty on books

Deductions from Gross Total Income

- **u/s 80 C** – L.I.C. Premium, P.P.F., N.S.C, ULIP, contribution to recognized P.F., tuition fees of any 2 dependent children, principal amount of housing loan repaid etc. **Max. Rs. 1,50,000**
- **u/s 80 CCC** – Insurance premium under Pension Plan
Max. 80 C + 80 CCC Rs. 1,50,000
- **u/s 80 D** – Mediclaim Insurance Premium – Chq. Payment
Max. Rs. 25,000 / Rs. 30000 (60years or more)
Additional Rs. 25,000 for parents/Rs. 30000 (60years or more)
Medical exp.s for self, spouse or parents of the age of 80 years or more and no insurance payment is made – Rs. 30,000
Amount paid for Preventive Health check-up is also covered.

- **u/s 80 DD** – Any amount paid for medical treatment of dependent being a person with disability qualifies for deduction. Actual deduction – Rs. 75,000/- and in case of severe disability (disability 80% or more) Rs.1,25,000/-
- **u/s 80 E** – Interest on loan taken for higher studies of own education or of spouse or any child. It is allowed up to 8 years or till the loan is paid off whichever is earlier.
- **u/s 80TTA** – Savings bank interest received from a bank or a co-operative society or a post-office is eligible for deduction up to Rs. 10,000/- . Interest on P.O. savings bank interest is exempt up to Rs.3,500 and excess over Rs.3,500 is eligible for deduction u/s 80 TTA.
- **u/s 80 U** – For a hadicapped person deduction of Rs.75,000 (disability 40% or more) is allowed. For severe disability Rs.1,25,000 is allowed as deduction.
- Deductions can not exceed Gross Total Income. **Sec.80 A**

Theory Questions

- **Question No. 1** is of objective type question – a) Any 10 out of 12 and b) Any 10 out of 12, which may include
- Questions like a) Multiple-choice b) Fill in the blanks c) Match the column d) True or False
- **Question No. 6** is Theory Q. a) Short Q. of 10 marks b) Short Q. of 10 marks **OR** Short Notes – Any 4 out of 6.

Tests of Residential Status of an individual

Perquisites

Gratuity exempt from tax

Deemed to be let out property

Pre-construction period interest on housing loan

Depreciation allowed from business income

Long term capital gain

Income from other sources

Deduction u/s 80 D

Deduction u/s 80 U

General Instructions

- It is not necessary to solve Q.No.1 first. Solve first the question which you know the best.
- Handwriting should be clean, neat and beautiful.
- Presentation should be nice.
- Complete the entire paper.
- Take care of your health. Take proper sleep at night and avoid full night studies.
- Reach exam. hall 30 minutes before time.
- Do not entertain anybody during exam.

BEST OF LUCK !

- TRY TO GET **100 / 100 !**
- YOU **CAN** AND YOU **WILL** DO IT !!

THANK YOU !

CA MAHESH S. SATHE.



msathe123@rediffmail.com / 9820099422.