

Time Allowed—3 Hours

Maximum Marks—100

FJS

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 who has not opted for Hindi medium, answers in Hindi, his answers in Hindi will not be valued.

Answer **all** questions.

Marks

1. X, Y and HUF of Z (represented by Z) are partners with equal shares in profits and losses of a firm, M/s Popular Cine Vision, which is engaged in the production of TV serials and telefilms. In the previous year 2007-08, one partner 'A' retired, but his dues have been settled in the previous year 2008-09. 16

The earlier Partnership deed did not authorise payment of remuneration or interest to partners. The Partnership deed was revised by the partners on 1st June, 2008 to authorise payment of remuneration of Rs. 1 lac per month to each working partner and simple interest at 15% per annum to X and Y on their capital. X, Y and Z are actively associated with the affairs of the firm.

The Profit & Loss Account of the firm for the year ended 31st March, 2009 shows a net profit of Rs. 10 lacs after debiting/crediting the following :

- (a) Interest amounting to Rs. 15 lacs paid to X and Y on the balances standing to their capital accounts from 1st April, 2008 to 31st March, 2009.
- (b) Remuneration to the partners including partner in representative capacity Rs. 30 lacs.
- (c) Interest amounting to Rs. 2 lacs paid to Z on loan provided by him in his individual capacity at 16% interest.
- (d) Royalty of Rs. 5 lacs paid to partner X, who is litterateur and a professional script writer, for use of his scripts as per an agreement between the firm and X.

FJS

P. T. O.

(2)

FJS

Marks

- (e) Two separate payments of Rs. 18,000 and Rs. 15,000 made in cash on 1st February, 2009 to Altaf, a hairdresser against his bill for services rendered in January, 2009 and two payments of Rs. 19,000 and Rs. 10,000 made in cash on 1st February and 2nd February, 2009 respectively to Priyam, assistant cameraman against her bill for services provided in January, 2009.
- (f) Amount of Rs. 5 lacs provided in the books on 31st March, 2009 as liability for remuneration to Shreyashi, a film artist and a non-resident. Tax deducted at source under Section 195 from the amount so credited was paid on 3rd June, 2009.
- (g) Amount of Rs. 6 lacs provided as gratuity for the year on the basis of actuarial valuation. Gratuity paid to retired employees is Rs. 1.50 lacs.
- (h) Interest of Rs. 1.20 lacs received on income-tax refund under Section 244(1A) in respect of assessment year 2007-08.

The firm has also provided the following additional information :

The amount due to A, the former partner was Rs. 15 lacs. The dues were settled on 30th September, 2008 by transferring a plot of land purchased two years back having a book value of Rs. 10 lacs. The difference of Rs. 5 lacs was credited to partners' capital accounts in their profit sharing ratio. The fair market value of the plot on the date of transfer was Rs. 16 lacs.

Compute total income of the firm for the assessment year 2009-10 stating the reasons for treatment of each item.

- 2. (a) Mr. Bhargava, a leading advocate on corporate law decided to reduce his practice and to accept briefs only for paying his taxes and making charities with the fees received on such briefs. In a particular case he agreed to appear to defend one company in the Supreme Court on condition that he would be provided with Rs. 5 lacs for a public charitable trust that he would create. He defended the company and was paid the sum by the company and created a trust of that sum by executing a trust deed. Decide whether the amount received by Mr. Bhargava is assessable in his hands as income from profession. 3
- (b) The Finance Act, 2008 brought in a new provision effective from 1st April, 2009 for granting deduction for 100% of profit derived by an undertaking from the business of operating and maintaining a hospital located anywhere in India, other than excluded area, subject to certain conditions. State briefly those conditions. 2

FJS

- (c) Mr. Bansal, a resident Indian and aged 67 years has derived the following incomes during the previous year 2008-09 : 5

| | Rs. |
|---|----------|
| (i) Income from business in India | 2,50,000 |
| (ii) Commission (Gross) from a company in Hong Kong (Tax paid in Hong Kong Rs. 60,000) | 3,00,000 |
| (iii) Dividend (Gross) from a company in Hong Kong (Tax paid in Hong Kong Rs. 18,000) | 90,000 |
| (iv) Interest on fixed deposit and savings account with banks in India | 2,00,000 |

India has no double tax avoidance agreement with Hong Kong. Compute the Income and tax payable by Mr. Bansal for assessment year 2009-10.

3. (a) Ayush, an employee of a management consultancy firm was sent to UK in connection with a project of the firm's client for two months in a previous year. In addition to his salary, the firm paid per diem allowance for the period when he worked in UK to meet expenses on boarding and lodging. Tax was not deducted at source from such allowance by the employer. Ayush did not include such allowance in computation of his taxable salary for the relevant assessment year. In course of assessment of Ayush under Section 143(3), the Assessing Officer sent a notice to him asking him to explain why the per diem allowance received by him should not be charged to tax ? Ayush sought your advice. 4
- (b) Sri Sajjan, converted the capital asset acquired by him in the year 1988, into stock in trade at the fair market value on 1st March, 2008. Sri Sajjan sold the entire stock in trade so converted, on 25th November, 2008. Sri Sajjan seeks your advice as to the tax implications of the transaction with reference to the provisions of Indian Income-tax Act for the assessment year 2009-2010. 5
- (c) Intelysis Limited charged depreciation on its fixed assets at the rates prescribed in the Income-tax rules in its accounts consistently. The assessing officer disallowed the same and considered depreciation computed at the rates prescribed in the Companies Act, 1956, for the purpose of computation of 'book profit' under Section 115JB of the Income-tax Act for the assessment year 2008-09. Examine the correctness of the action of the assessing officer. 3

- (d) East Bengal Club, a renowned football club has engaged Raghu, a resident in India as its coach at a remuneration of Rs. 6 lacs annually. The club wants to know from you whether it is liable to deduct tax at source from such remuneration. 3
4. (a) A shareholder of a Demerged Indian company received shares from the Resulting company in the scheme of Demerger. The shareholder wants to transfer the said shares received subsequent to the Demerger for consideration. Your advice is sought on the tax consequences as to the shares received on Demerger and sought to be transferred. 4
- (b) The assessment was made under Section 143(1) for assessment year 2005-06. The assessee has received a notice under Section 148 on 6th April, 2008 for reopening of assessment. Can the assessee challenge the legality of the notice on the ground of change of opinion ? 3
- (c) Is it possible for the Assessing Officer to initiate proceeding under Section 147 in respect of income involving matters which are the subject-matter of an appeal ? 2
- (d) The Assessing Officer has no power to make any adjustment to income returned by the assessee while processing the return of income under Section 143(1). Examine the correctness of the statement. 5
5. (a) Tai Ltd. filed its return of income for assessment year 2008-09 on 6th June, 2008. The return is selected for regular assessment under Section 143(3) for which notice under Section 143(2) is served on the company on 3rd October, 2009. The company responded to the notice u/s 143(2). State whether the service of the notice is within time and if not, whether the assessment order can be challenged by the assessee. 4
- (b) Ms. J, a Sikkimese woman married Mr. K, a non-Sikkimese on 1st January, 2008. During the previous year 2008-09 she received rent of Rs. 12 lacs from letting out of house properties situated in the State of Sikkim. Is she liable to Income-tax for assessment year 2009-10 ? Will your answer be different, if she married Mr. K on 16th April, 2008 ? 3
- (c) Betki Limited is a company in which 70% shares are held by Ruhu Limited. Betki Limited in its annual general meeting held on 18th May, 2008 declared a dividend amounting to Rs. 40 lacs to its shareholders for the year ended 31st March, 2008 and it paid dividend distribution tax on 28th May, 2008. 6

Ruhu Limited did not declare any dividend for the year ended 31st March, 2008. It, however, declared an interim dividend amounting to Rs. 60 lacs on 1st December, 2008 for the year ended 31st March, 2009. What is the amount of tax on dividend payable by Ruhu Limited ? What would be your answer, if 60% of shares in Ruhu Limited are held by Hilsha Limited, a domestic company ? Does the position further change, if Hilsha Limited is a foreign company ?

6. (a) Antaryami settled 1/4th share of his property under a trust for the education and maintenance of his minor daughter, Poulomi. Under the terms of the trust deed the income accruing to the trust, after meeting the expenses of maintenance and education of Poulomi, was to be accumulated and paid over to her on her attaining majority. The Assessing Officer assessed the income arising from 1/4th share of the property, settled for the benefit of Poulomi, in the hands of Antaryami. Examine the correctness of the assessment. 4
- (b) Happy Home is a public charitable trust created under a trust deed for providing relief to physically challenged persons and registered under Section 12A of the Income-tax Act. The following are the particulars of receipts of the trust during the year ended 31st March, 2009 : 6

| | Rs. in lacs |
|---|-------------|
| (i) Income from Properties held by trust (net) | 15 |
| (ii) Income (net) from business (incidental to main objects) | 14 |
| (iii) Voluntary contributions from public (including the corpus donation Rs. 7 lacs) | 18 |
| | <u>27</u> |

The trust applied Rs. 18 lacs towards various activities and programmes undertaken for the benefit of physically challenged persons during the year. The trust has also paid Rs. 8 lacs towards repayment of a loan taken two years back for the purpose of construction of its centre for training the handicapped persons in various handicraft works and sports.

Determine the tax liability, if any of the trust for the assessment year 2009-10 and also state how the trust can mitigate such liability.

7. (a) EF Limited, an Indian company is engaged in manufacturing electronic components. 74% of shares of the company are held by EF Inc., incorporated in USA. EF Limited has borrowed funds from EF Inc. at LIBOR plus 150 points. The LIBOR prevalent at the time of borrowing is 4% for US \$. The 5

borrowings allowed under the External Commercial Borrowings guidelines issued under Foreign Exchange Management Act are LIBOR plus 200 basis points. Discuss whether the borrowing made by EF Limited is at arm's length. ('LIBOR' means London Inter-Bank Offer Rate)

- (b) Sridhar purchased a residential flat from Devraj in 2005. However, deed of conveyance has not been registered in the name of Sridhar till date. Sridhar has let out the flat at a monthly rent of Rs. 15,000 to Mohan. Sridhar claims that rent received is not chargeable under the head "income from house property", but the same is chargeable under the head "income from other sources" and he can claim deduction for expenses on repair and insurance premium on actual basis and also depreciation. Examine the correctness of Sridhar's claim. 3
- (c) IT Limited under its Employment Stock Option Plan allotted 500 equity shares to its finance manager, Ms. Cynthia on 15th May, 2008, when she exercised her option. The option was granted on 15th January, 2007 and the shares vested with Cynthia on 15th January, 2008. The company's shares are quoted in Bombay Stock Exchange where the opening price and closing price of the date of vesting were Rs. 250 and 256 respectively. The company recovered Rs. 50 per share from Cynthia. Compute the value of fringe benefit for the assessment year 2009-10. If fringe benefit tax thereon is recovered by the company from Cynthia, can she claim such tax as a part of cost when she sells the shares? 4
8. (a) Mr. Manocha has a house property in Delhi, which was lying vacant for last 3 years. He constructed the property in 1990 at a cost of Rs. 40 lacs. He has let out the same at a monthly rent of Rs. 30,000 for a period of three years with effect from 1st January, 2009. The quarterly corporation tax is Rs. 30,000. He took a premium of Rs. 1,20,000 from the tenant and also security deposit of Rs. 1,00,000. The house was constructed on a land measuring 4,000 sft. It has three floors each measuring 960 sft. Compute the value of the house property for wealth tax purpose as at valuation date 31.3.2009. 7
- (b) An association of persons (AOP) consisting two members Akash and Vikash owns an urban land valued at Rs. 60 lakh on the valuation date 31.3.2009. Examine the tax implications under the Wealth Tax Act. 3