

PAPER 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION

The provisions of direct tax laws, as amended by the Finance Act, 2022 and the significant notifications and circulars issued upto 31.10.2022, are relevant for May, 2023 examination. The relevant assessment year is A.Y.2023-24. The October, 2021 edition of the Study Material has to be read along with the Supplementary Study Paper 2022 available at <https://resource.cdn.icai.org/72303bos58234.pdf>, containing the provisions of direct tax laws which have been amended by the Finance Act, 2022 and notifications and circulars issued upto 31.10.2022. The webhosted Judicial Update available at <https://resource.cdn.icai.org/72695bos58611.pdf> is also relevant for May, 2023 Examination.

QUESTIONS AND ANSWERS

Case Scenario 1

Mr. Hari (aged 42 years) is a resident Indian who is a salaried employee. His salary income (computed) for the P.Y.2022-23 is ₹ 17,50,000. His brother Mr. Rajesh (aged 45 years) is a resident Indian carrying on retail trade business in which he incurred a loss of ₹ 5,25,000 (computed) for the P.Y.2022-23. He also trades in Virtual Digital Assets. The details of assets transferred by Mr. Hari and Mr. Rajesh during the P.Y.2022-23 are given hereunder:

Particulars	Mr. Hari		Mr. Rajesh	
Land and building		₹		₹
Date of acquisition	1.4.2021			
Cost of acquisition		20,00,000		
Date of transfer	28.2.2023			
Expenses on transfer		1,00,000		
Sale consideration		30,00,000		
Virtual Digital Asset				
Number of units	40		50	
Date of acquisition	1.4.2020		31.5.2020	
Cost of acquisition (of 40 units/50 units, respectively)		5,20,000		2,50,000
Date of transfer	1.9.2022		1.3.2023	
Expenses on transfer		2,000		1,000
Sale consideration (of 40 units/50 units, respectively)		4,90,000		3,50,000

FMV on the date of transfer (of 40 units/50 units, respectively)		5,10,000		4,10,000
Person to whom transferred	Mr. Ganesh (who is engaged in the business of trading in foodgrains)		Mr. Vallish (who is engaged in the business of trading VDAs)	
Turnover of the transferee (Mr. Ganesh and Mr. Vallish) in the F.Y.2021-22	₹ 90 lakh		₹ 15 lakh	
Turnover of the transferee (Mr. Ganesh and Mr. Vallish) in the F.Y.2022-23	₹ 110 lakh		₹ 22 lakh	

During the P.Y.2022-23, Mr. Hari has dividend income of ₹ 10 lakh from shares of Indian companies. He has paid interest of ₹ 4 lakh on loan borrowed for investment in shares. Both Mr. Hari and Mr. Rajesh have deposited ₹ 1,50,000 in PPF. Mr. Hari has interest on savings account of ₹ 22,000 while Mr. Rajesh has income from fixed deposits of ₹ 50,000.

CII for F.Y.2020-21 – 301; F.Y. 2021-22 – 317 and F.Y.2022-23 – 331.

On the basis of the facts given above, choose the most appropriate answer to Q.1 to Q.6 below, based on the provisions of the Income-tax Act, 1961 -

1. What is the tax treatment of loss from transfer of virtual digital asset by Mr. Hari?
 - (a) It is a long-term capital loss which cannot be set-off against capital gains on transfer of land and building; it has to be carried forward for set-off against long-term capital gains of the subsequent year.
 - (b) It is a short-term capital loss which can be set-off against capital gains on transfer of land and building.
 - (c) Such loss cannot be set-off against any other source of income in the P.Y.2022-23 but can be carried forward for set-off against income from transfer of virtual digital asset in the subsequent year
 - (d) Such loss can neither be set-off against any other source of income in the P.Y. 2022-23 nor can it be carried forward to the subsequent year for set-off against income from same source.
2. What is the income includible in the total income of Mr. Rajesh on account of transfer of virtual digital asset?
 - (a) ₹ 99,000

- (b) ₹ 1,00,000
 - (c) ₹ 1,59,000
 - (d) ₹ 1,60,000
3. What is the amount of tax deductible by Mr. Ganesh and Mr. Vallish under section 194S from consideration paid to Mr. Hari and Mr. Rajesh for transfer of virtual digital asset?
- (a) Nil, in both cases, since their turnover of P.Y.2021-22 does not exceed ₹ 100 lakhs
 - (b) ₹ 4,900 and Nil, respectively. Tax is deductible by Ganesh since his turnover for P.Y.2022-23 exceeds ₹ 100 lakhs. No tax is deductible by Mr. Vallish since his turnover does not exceed ₹ 100 lakhs.
 - (c) ₹ 5,100 and ₹ 4,100, respectively. Tax is deductible@1% of higher of actual consideration and fair market value of virtual digital assets.
 - (d) ₹ 4,900 and ₹ 3,500, respectively. Tax is deductible@1% of sale consideration, since the same is in excess of the prescribed threshold limits.
4. What is the income includible in the total income of Mr. Ganesh and Mr. Vallish on receipt of virtual digital asset for inadequate consideration?
- (a) ₹ 20,000 and Nil, respectively. In the hands of Mr. Vallish, taxability does not arise since the virtual digital asset is not a capital asset.
 - (b) Nil, in both cases.
 - (c) ₹ 20,000 and ₹ 60,000, respectively.
 - (d) Nil and ₹ 60,000, respectively.
5. What is the total income (rounded off) of Mr. Hari for A.Y.2023-24? Assume that he has not opted for section 115BAC.
- (a) ₹ 32,23,670
 - (b) ₹ 32,82,000
 - (c) ₹ 33,02,000
 - (d) ₹ 33,12,000
6. What would be the tax payable (rounded off) by Mr. Rajesh for A.Y.2023-24? What is the amount of business loss, if any, to be carried forward to A.Y.2024-25? Assume that he has not opted for section 115BAC.
- (a) Tax payable Nil; business loss to be carried forward ₹ 3,75,000

- (b) Tax payable ₹ 30,890; business loss to be carried forward ₹ 4,75,000
- (c) Tax payable ₹ 27,700; business loss to be carried forward ₹ 4,75,000
- (d) Tax payable ₹ 45,820; business loss to be carried forward ₹ 4,75,000

Case Scenario 2

Helpage is a charitable trust registered under section 12AB, with its main object falling under the residuary clause "any other object of general public utility". During the P.Y.2022-23, it received ₹ 80 lakh as voluntary contributions. The trust also borrowed ₹ 40 lakh on 1.7.2022 from Indian bank to purchase land for construction of an office building from where it can carry out its functions. The trust repaid principal of ₹ 10 lakh to Indian bank on 31.3.2023. The trust incurred revenue expenditure of ₹ 17 lakh and capital expenditure of ₹ 60 lakh towards purchase of land for construction of office building during the P.Y.2022-23. Out of the revenue expenditure of ₹ 17 lakh, ₹ 15 lakh was paid during the P.Y.2022-23 itself. Out of the remaining ₹ 2 lakh, ₹ 1 lakh was paid in April, 2023 and ₹ 1 lakh was paid in January, 2024. During the P.Y.2022-23, the trust also paid ₹ 3 lakh towards revenue expenditure incurred during the P.Y.2021-22 and ₹ 1 lakh towards revenue expenditure incurred during the P.Y.2020-21.

The trust also received ₹ 30 lakhs by way of corpus donations during the P.Y.2022-23, out of which it deposited ₹ 25 lakhs in post office savings bank account (the balance in post office savings bank account after such deposit is ₹ 32 lakhs). The trust also withdrew ₹ 5 lakhs from post office savings bank account and applied towards purchase of land for construction of office building.

The trust has donated to Eduaid, another trust registered under section 12AB with main object of providing education to poor, ₹ 12 lakhs out of its current year income. The trust has applied ₹ 2 lakh out of its current year income for medical treatment of brother of the trustee, who met with an accident while working in his factory.

On the basis of the facts given above, choose the most appropriate answer to Q.7 to Q.11 below, based on the provisions of the Income-tax Act, 1961 -

7. What would be the application of the trust for the P.Y.2022-23 (excluding unconditional accumulation of 15%), assuming that it has fulfilled the relevant conditions stipulated under section 12A?
- (a) ₹ 43 lakhs
 - (b) ₹ 55 lakhs
 - (c) ₹ 56 lakhs

- (d) ₹ 60 lakhs
8. If the trust does not get its accounts audited before the specified date referred to in section 44AB, what would be the consequence?
- (a) No deduction would be allowed if the trust fails get its accounts audited before the specified date referred to in section 44AB.
 - (b) Capital expenditure incurred on account of purchase of land for construction of office building would not be allowed.
 - (c) Amount donated to Eduaid would not be allowed.
 - (d) Both capital expenditure incurred on account of purchase of land and the amount donated to Eduaid would not be allowed.
9. What is the amount of income which would be chargeable to tax under section 115BBI for A.Y.2023-24?
- (a) ₹ 2,00,000
 - (b) ₹ 5,00,000
 - (c) ₹ 7,00,000
 - (d) ₹ 12,00,000
10. What is the quantum of penalty which can be levied under section 271AAE? Assume that the specified violation has occurred only once during the P.Y.2022-23.
- (a) ₹ 2,00,000
 - (b) ₹ 4,00,000
 - (c) ₹ 5,00,000
 - (d) ₹ 7,00,000
11. Assuming for the purpose of this MCQ, that the trust has receipts of ₹ 22 lakh from trade, commerce and business in P.Y.2022-23 while advancing the object of general public utility, what is the tax consequence?
- (a) The registration of the trust would be cancelled since it has violated the stipulated condition for grant of exemption.
 - (b) The registration of the trust would not be cancelled though the trust would be denied exemption for violating the stipulated condition.
 - (c) The trust would be denied exemption and the entire income of the trust would be

chargeable to tax at the maximum marginal rate.

- (d) Neither the registration of the trust would be cancelled nor would it be denied exemption as it has not violated the stipulated condition.
12. Mr. Aadesh, a resident Indian, purchased an apartment in Ashiana Gardens, a gated housing complex, from M/s. Ashiana Constructions Ltd., an Indian company, for ₹ 48 lakhs. In addition, he paid ₹ 1 lakh for club membership fees and ₹ 1 lakh for car parking fee. The stamp duty value of the apartment on the date of transfer was ₹ 49.80 lakhs. Is Mr. Aadesh liable to deduct tax at source in respect of this transaction? If so, how much?
- (a) No, Aadesh is not liable to deduct tax at source, as both the consideration and the stamp duty value do not exceed ₹ 50 lakh.
- (b) No, Aadesh is not liable to deduct tax at source, as the lower of stamp duty value and the consideration, is less than ₹ 50 lakh.
- (c) Yes, Aadesh is liable to deduct tax of ₹ 49,800
- (d) Yes, Aadesh is liable to deduct tax of ₹ 50,000
13. A Ltd. is a pharmaceutical company in which public are substantially interested. It issued bonus shares to all its shareholders. The company gives free samples of medicines to medical practitioners. B Ltd., trading in electronic goods, offers sales discount to its customers from the listed retail price. B Ltd. also provides free air tickets to Bangkok to its dealers on achieving sales targets. Are A Ltd. and B Ltd. required to deduct tax at source under section 194R? If so, in respect of which transactions? Assume that all transactions took place on or after 1.7.2022 and the value of such transaction(s) with each resident exceeds the prescribed threshold limit under section 194R.
- (a) A Ltd. is required to deduct tax at source on issue of bonus shares and distribution of free samples of medicine. B Ltd. is required to deduct tax at source on sales discount to customers and provision of free air tickets to dealers.
- (b) A Ltd. is required to deduct tax on distribution of free samples of medicine but not on issue of bonus shares. B Ltd. is required to deduct tax at source on sales discount to customers and provision of free air tickets to dealers.
- (c) A Ltd. is required to deduct tax on distribution of free samples of medicine but not on issue of bonus shares. B Ltd. is required to deduct tax at source on provision of free air tickets to dealers but not on sales discount to customers.
- (d) A Ltd. is required to deduct tax on distribution of free samples of medicine but not on issue of bonus shares. B Ltd. is not required to deduct tax at source on sales discount to customers and provision of free air tickets to dealers.

14. Mr. Aakash filed his original return of income under section 139(1) for A.Y.2022-23 and A.Y.2023-24 on 31.7.2022 and 31.7.2023, respectively. He however filed an updated return of income under section 139(8A) for A.Y.2022-23 on 31.10.2023. What is the time limit for completion of assessment under section 143(3) in respect of A.Y.2022-23 and A.Y.2023-24?
- (a) 31.12.2023 and 31.12.2024, respectively
 - (b) 31.12.2024, in both cases
 - (c) 31.12.2025 and 31.12.2024, respectively
 - (d) 31.12.2024 and 31.12.2025, respectively.
15. Mr. Ram, a resident individual aged 40 years, has total income of ₹ 4,15,00,000 for A.Y.2023-24 which comprises of salary (computed) of ₹ 1,80,00,000, long-term capital gains of ₹ 60,00,000 u/s 112, long-term capital gains of ₹ 45,00,000 u/s 112A, short-term capital gains of ₹ 1,00,00,000 u/s 111A, dividend of ₹ 10,00,000 and interest income of ₹ 20,00,000. What would be his tax liability for A.Y.2023-24, assuming that he does not opt for section 115BAC?
- (a) ₹ 1,17,01,690
 - (b) ₹ 1,17,13,650
 - (c) ₹ 1,10,65,990
 - (d) ₹ 1,10,77,950
16. M/s. Alpha & Co. is a partnership firm with five partners sharing profits and losses equally. Its return for the A.Y.2023-24 was selected for scrutiny u/s 143(3). The controversy was in relation to the loan of ₹ 50 lakhs from one partner, Mr. Raghav, credited in the books of the firm. The firm's explanation that Mr. Raghav has given a loan for ₹ 50 lakhs carrying interest@12%, as approved by the partnership deed, was not accepted since Mr. Raghav's explanation for the source of income in his hands was not found satisfactory by the Assessing Officer. Accordingly, the Assessing Officer treated the said amount as cash credits in the hands of the firm, M/s. Alpha & Co., and subjected the same to tax@78%. Discuss the correctness of the action of the Assessing Officer.
17. On 31.3.2023, A Ltd. has an outstanding interest liability of ₹ 3.50 crores towards loan payable to IFCI Ltd., a public financial institution. On the same date, it issued debentures to IFCI Ltd. in lieu of the outstanding interest and deducted the said interest while computing profits and gains of business of A.Y.2023-24. The Assessing Officer, however, rejected the deduction of interest on loan claimed by A Ltd. Discuss the validity of the action of the Assessing Officer.

18. Examine whether the following persons are required to file return of income for A.Y.2023-24, giving brief reasons for your answer –

(i)	Mr. Albert, aged 31 years, whose turnover from business is ₹ 70 lakhs for the P.Y.2022-23 and whose total income computed as per books of account is ₹ 2 lakhs. This is the first year of his business. He has no other income. He is not claiming any deduction under Chapter VI-A or section 10AA.
(ii)	Mr. Ashish, aged 42 years, has gross receipts of ₹ 5 lakhs from profession and profits and gains of ₹ 2.50 lakhs (computed) from profession for the P.Y. 2022-23. In addition, he has interest of ₹ 4 lakhs on fixed deposits and ₹ 50,000 from savings bank account.
(iii)	M/s. ABC & Co., a law firm, whose gross receipts from profession for the P.Y.2022-23 is ₹ 9 lakhs.
(iv)	XYZ (P) Ltd. which has incurred expenditure of an amount of ₹ 95,000 towards consumption of electricity in the F.Y.2022-23.
(v)	Mr. Vallish, aged 58 years, who has deposited ₹ 50 lakhs in his savings bank account with SBI on 28th March, 2023. The said sum was received as a gift from his son, Mr. Rishi, aged 30 years, who is employed in a company. Mr. Vallish used the said sum to purchase a flat for ₹ 30 lakhs on 25 th April, 2023 for self-residence. The balance money was transferred to a 1-year fixed deposit on 28 th April, 2023. Mr. Vallish does not maintain any other bank account. He is not in receipt of any other source of income other than interest on this fixed deposit.

19. The business premises of Mr. Arjun was searched on 17.4.2022 under section 132, consequent to which the Assessing Officer has in his possession documents revealing information pertaining to shares purchased in the P.Y.2016-17 for ₹ 23 lakhs and in the P.Y.2017-18 for ₹ 25 lakhs.
- Can the Assessing Officer issue notice under section 148 for bringing to tax income escaping assessment?
 - Would your answer change if the shares purchased in the P.Y.2016-17 were for ₹ 30 lakhs instead of ₹ 23 lakhs?
 - What would be your answer if, consequent to the search, the Assessing Officer has in his possession, documents revealing information pertaining to expenditure of ₹ 52 lakhs incurred for the marriage of his daughter in the P.Y.2016-17 instead of the information pertaining to shares? Examine.
20. ABC Co-operative society is engaged in marketing of agricultural produce grown by its members. The profits and gains attributable to such business for A.Y.2023-24 is ₹ 60 lakhs (computed). It has employed ten new employees with salary of ₹ 20,000 p.m. on 1.5.2022. Salary is paid by account payee cheque. It gets its books of accounts audited under section 44AB. It also earns interest of ₹ 32 lakhs on fixed deposits with banks.

Compute its total income and tax liability for A.Y.2023-24 and advise whether it should opt for the special provisions under section 115BAD.

What would be your answer if ABC Co-operative society is a Co-operative bank engaged in the business of banking, all other facts remaining the same? Assume that it is not a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

21. Beta LLP, a limited liability partnership in India is engaged in export of computers through two units, namely, Unit I and Unit II. Unit I is setup in Special Economic Zone (SEZ) and Unit II is set up in a Domestic Tariff Area (DTA). The LLP furnishes the following information relating to its 4th year of operation ended on 31-3-2023:

Items	(Amount in ₹ lakhs)	
	Unit I	Unit II
Export Turnover	1800	1150
Domestic Turnover	300	650
Duty Draw Back	52	48
Profit on sale of Import Entitlement	33	Nil
Salaries paid	700	388
Other expenses	775	620
Net Profit of the year	710	840

Additional Information:

(i) **Unit I:**

- Expenses of ₹ 41 lakhs are disallowable under section 43B and export sales proceeds received in India amounted to ₹ 1600 lakhs.
- Export sales of ₹ 1800 lakhs include freight and insurance of ₹ 300 lakhs attributable to delivery outside India; and realization of ₹ 1600 lakhs includes amount of insurance and freight charges of ₹ 180 lakhs attributable to delivery outside India.

(ii) **Unit II:**

- Export sales received in India was ₹ 970 lakhs.
- Expenses charged which are to be disallowed as per section 40A(3) are of ₹ 55 lakhs.

Determine the total income and tax liability of Beta LLP for the A.Y.2023-24.

22. SF Ltd. is engaged in manufacturing and sale of pharmaceutical products. The net profit of the company as per statement of profit and loss for the year ended 31st March, 2023 is ₹ 930 lakhs, after debiting or crediting the following items:
- (i) The opening and closing stock for the year were ₹ 66 lakhs and ₹ 63 lakhs respectively. Opening stock was overvalued by 10% and Closing stock was undervalued by 10%.
 - (ii) Payment of ₹ 65 lakhs on 15th October 2022 to a foreign company for obtaining know how for a product launched in the month of November 2022.
 - (iii) Profit on sale of 2200 shares of M/s. MS Ltd., a listed company ₹ 2,97,000. These shares were sold on 27.11.2022 for ₹ 220 per share. The highest price of MS Ltd. quoted on the stock exchange as on 31.01.2018 was ₹ 195 per share. The said shares were acquired for ₹ 85 per share on 12.08.2016. STT was paid both at the time of purchase and sale of shares.
 - (iv) Electricity charges of ₹ 8 lakhs for the month of February 2023 and March 2023 was unpaid up to the due date of filing of return.
 - (v) Loss of ₹ 2.2 lakhs due to hedging contract against future price fluctuations in respect of import of raw material, used in the course of manufacturing.
 - (vi) Depreciation charged to the Statement of Profit and Loss was ₹ 48 lakhs.
 - (vii) Credits to statement of Profit and Loss include dividend of ₹ 5,20,000 received on September 9, 2022 from a foreign company, in which it holds 30% voting rights.
 - (viii) ₹ 32 lakhs received from Zen Ltd. under an agreement in the form of non-compete fees for not carrying out any business in a particular product.
 - (ix) Advance received amounting to ₹ 22 lakhs on proposed sale of land, forfeited due to non-receipt of balance amount of ₹ 70 lakhs on time, as per terms of agreement. The land was purchased during FY 2018-19.
 - (x) Excess on sale of unlisted shares - ₹ 18 lakhs (Sold on 18th January 2023).
 - (xi) Loss of ₹ 2 lakh from hedging contracts entered into for mitigating the loss arising due to fluctuation in foreign currency payment towards an imported machinery purchased from Japan for ₹ 70 lakhs, which was installed and put to use in the month of November 2022.

Additional Information:

- (1) Normal depreciation allowable as per the Income-tax Act, 1961 ₹ 35 lakhs.

- (2) Depreciation on plant and machinery imported and installed during November 2022 and on technical know-how has not been considered while calculating normal depreciation as per Income-tax Act, 1961 given in (1) above.
- (3) During the year F.Y. 2022-23, the company has employed 59 additional employees. All these employees contribute to a recognized provident fund. 36 out of 59 employees joined on 1-6-2022 on a salary of ₹ 15,000 per month, 18 joined on 1-7-2022 on a salary of ₹ 35,200 per month, and 5 joined on 1-11-2022 on a salary of ₹ 22,000 per month. The salaries of 10 employees who joined on 1-6-2022 are being settled by bearer cheques every month. Audit under section 44AB has been done before the due date.
- (4) The unlisted shares were acquired on 18.2.2018 for ₹ 80 lakhs.
- (5) Cost Inflation Index F.Y. 2016-17 - 264, F.Y. 2017-18 - 272, F.Y. 2022-23- 331.

You are required to compute the total income and tax liability of the company for the A.Y.2023-24 clearly stating the reasons for treatment of each of the items given above. The return of income of the company is to be filed applying the provisions of section 115BAA.

23. (i) Gamma Inc., a US company, received income by way of fees for technical services of ₹ 3 crore from Delta Ltd., an Indian company, in pursuance of an agreement between Delta Ltd. and Gamma Inc. entered into in the year 2012, which is approved by the Central Government. Expenses incurred for earning such income is ₹ 22 lakhs. Examine the taxability of the above sum in the hands of Gamma Inc as per the provisions of the Income-tax Act, 1961 and the requirement, if any, to file return of income, assuming that Gamma Inc does not have a permanent establishment in India.
- (ii) If Gamma Inc. has a permanent establishment in India and the contract/agreement with Delta Ltd. and other Indian companies for rendering technical services is effectively connected with such PE in India, examine the taxability based on the following details provided –

	Particulars	Amount (₹)
(1)	Fees for technical services received from Delta Ltd.	3 crore
(2)	Expenses incurred for earning such income referred to in (1) above	22 lakhs
(3)	Fees for technical services received from other Indian companies in pursuance of approved agreement entered into between the years 2010 to 2015	5 crore
(4)	Expenses incurred for earning such income referred to in (3) above	35 lakhs

(5)	Expenditure not wholly and exclusively incurred for the business of such PE [not included in (2) & (4) above]	12 lakhs
(6)	Amounts paid by the PE to HO (not being in the nature of reimbursement of actual expenses)	15 lakhs

What are the other requirements, if any, under the Income-tax Act, 1961 in this case?

24. (i) Phi & Co. is engaged in providing scientific research services to several non-resident clients. Such services are also provided to Zeta Inc., which guarantees 12% of the total loans of Phi & Co. Examine whether transfer pricing provisions are attracted in respect of this transaction.
- (ii) Without prejudice to the answer to (i) above, assuming that transfer pricing provisions are attracted in this case and that the Assessing Officer had made a primary adjustment of ₹ 310 lakhs to transfer price in the P.Y.2020-21 vide order dated 1.4.2022 and the same was accepted by Phi & Co., what are the consequent requirements as per the Income-tax Act, 1961 and the implications of non-compliance with the said requirements? Assume that the transaction is denominated in Indian Rupees and no amount has been repatriated upto 31.3.2023. The one year marginal cost of fund lending rate of State Bank of India as on 1.4.2022 is 9%.
25. Mr. Hari, aged 32 years, is a resident individual having income from the following sources:
- (i) Income from a sole-proprietary business in Pune = ₹ 40 lakhs.
 - (ii) Share of profit from a partnership firm in Mumbai = ₹ 25 lakhs.
 - (iii) Agricultural Income (gross) from coffee estates in Country X, a foreign country with which India has no DTAA, CXD 36000. Tax deducted on the above income CXD 9,000
 - (iv) Brought forward business loss of F.Y.2021-22 in Country X was CXD 5,000 which is not permitted to be set off against other income as per the laws of that country.
 - (v) Mr. Hari has deposited ₹ 1,50,000 in public provident fund and paid medical insurance premium of ₹ 28,000 by account payee cheque to insure his health. He has also paid ₹ 52,000 as insurance premium to insure the health of his mother and father, who are resident Indians aged 65 years and 68 years, respectively. He also incurred ₹ 20,000 on the medical treatment of his dependent sister, who is a person with disability. His sister does not claim deduction under section 80U.

Compute total income and net tax liability of Mr. Hari for the A.Y. 2023-24, after providing for deduction under section 91, assuming that 1 CXD = ₹ 50 and that he does not opt for section 115BAC.

SUGGESTED ANSWERS

MCQ No.	Most Appropriate Answer
1.	(d)
2.	(b)
3.	(d)
4.	(d)
5.	(d)
6.	(c)
7.	(b)
8.	(d)

MCQ No.	Most Appropriate Answer
9.	(c)
10.	(a)
11.	(d)
12.	(d)
13.	(c)
14.	(b)
15.	(c)

16. As per section 68, where any sum is found credited in the books of an assessee maintained for any previous year and the assessee offers no explanation about the nature and source or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the sum so credited may be charged as income of the assessee of that previous year.

The first proviso to section 68 provides that where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by the assessee in whose books such sum is credited would not be deemed to be satisfactory, unless -

- the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited and
- in the opinion of the Assessing Officer, such explanation has been found to be satisfactory.

Such cash credits would be taxable@78% [tax@60% under section 115BBE *plus* surcharge@25% *plus* cess@4%].

Since Mr. Raghav was unable to explain the source of the sum of ₹ 50 lakhs in his hands to the satisfaction of the Assessing Officer, such sum credited in the books of Alpha & Co. as loan from Mr. Raghav would be treated as cash credit in the hands of the firm and subject to tax@78%. Accordingly, the action of the Assessing Officer, in this case, is correct.

17. As per section 43B, interest payable by the assessee on interest on loan from a public financial institution is allowable as deduction only in the year in which such interest is actually paid by the assessee. The proviso to section 43B permits deduction if such sum

is paid on or before the due date of filing of return under section 139(1) in respect of the previous year in which the liability to pay such sum was incurred.

Explanation 3C to section 43B clarifies that if any sum payable by the assessee as interest on any such loan is converted into a loan or borrowing or advance **or debenture on any other instrument by which the liability to pay is deferred to a future date**, the interest so converted and not “actually paid” shall **not** be deemed as actual payment, and hence, would not be allowed as deduction.

In this case, since A Ltd. has converted the interest of ₹ 3.50 crores payable to IFCI Ltd. on loan borrowed from it, the interest so converted into debentures and not actually paid shall not be deemed as actual payment, and hence, would not be allowed as deduction while computing its profits and gains of business for A.Y.2023-24. Accordingly, the action of the Assessing Officer in rejecting the deduction of interest on loan claimed by A Ltd. while computing its profits and gains of business for A.Y.2023-24, is correct.

18. Requirement of filing return of income

(i)	Yes, Mr. Albert is required to file his return of income for A.Y.2023-24. As per section 139(1)(b), an individual is required to file his return if his total income, without giving effect to deductions under, <i>inter alia</i>, Chapter VI-A and section 10AA, exceeds the basic exemption limit. In this case, Mr. Albert's total income of ₹ 2,00,000 is lower than the basic exemption limit of ₹ 2,50,000. However, such person referred to in section 139(1)(b) who is not required to file his return on account of his total income being lower than the basic exemption limit would be required to file return of income if, <i>inter alia</i>, his turnover in business exceeds ₹ 60 lakhs. In this case, since Mr. Albert's turnover from business for the P.Y.2022-23 is ₹ 70 lakhs, he has to file return of his income for A.Y.2023-24.
(ii)	Yes, Mr. Ashish is required to file his return of income for A.Y.2023-24. Mr. Ashish's total income for A.Y.2023-24 without giving effect to Chapter VI-A deductions is ₹ 7 lakhs [₹ 2.50 lakhs from profession + ₹ 4 lakhs interest on fixed deposits + ₹ 0.50 lakhs interest on savings bank account], which exceeds the basic exemption limit of ₹ 2,50,000. Hence, he is required to file his return of income for A.Y.2023-24 as per section 139(1)(b). Note - The threshold limit of ₹ 10 lakhs for gross receipts in profession has to be looked into only in a case where an individual referred to in section 139(1)(b) is not required to file his return of income thereunder i.e., only if Ashish's total income without giving effect to Chapter VI-A deductions is lower than the basic exemption limit.

(iii)	Yes, M/s. ABC & Co. is required to file its return of income for A.Y.2023-24. As per section 139(1)(a), a firm is compulsorily required to file its return of income. The threshold limit of ₹ 10 lakhs for gross receipts in profession is relevant only for a person other than a company or a firm.
(iv)	Yes, XYZ (P) Ltd. is required to file its return of income for A.Y.2023-24. As per section 139(1)(a), a company has to mandatorily file its return of income. The condition of filing of return of income where expenditure towards consumption of electricity exceeds ₹ 1 lakh applies to a person other than a company or a firm.
(v)	Yes, Mr. Vallish is required to file his return of income for A.Y.2023-24. Gift of ₹ 50 lakhs received from son is not taxable under section 56(2)(x) in the hands of Mr. Vallish, since his son is his relative, and gifts from a relative are excluded from the applicability of section 56(2)(x). The only income of Mr. Vallish for the P.Y.2022-23 would be interest on savings account for a period of 4 days from 28th March, 2023 to 31st March, 2023 on ₹ 50 lakhs, which would be lower than the basic exemption limit. As per section 139(1)(b), an individual is required to file his return if his total income exceeds the basic exemption limit. In this case, Mr. Vallish's total income is lower than the basic exemption limit of ₹ 2,50,000. However, such person referred to in section 139(1)(b) who is not required to file his return on account of his total income being lower than the basic exemption limit would be required to file return of income if, <i>inter alia</i>, the deposit in his savings account is ₹ 50 lakhs or more during the previous year. Since a deposit of ₹ 50 lakhs has been made in the savings account of Mr. Vallish in the P.Y.2022-23, he is required to file his return of income for A.Y.2023-24.

19. Where search is initiated under section 132, the Assessing Officer shall be deemed to have information suggesting that income has escaped assessment. In such a case, where search was initiated on or after 1.4.2021, the relevant assessment year can be any assessment year which is not time-barred under section 149. As per section 149(1)(a), the time limit for issue of notice under section 148 for the relevant assessment year is upto 3 years from the end of the relevant assessment year. However, if the Assessing Officer has in his possession, books of account which reveal that income chargeable to tax, represented in the form of an asset or expenditure in respect of a transaction or in relation to an event or occasion or an entry or entries in the books of account, which has escaped assessment amounts to or is likely to amount to ₹ 50 lakh or more, notice can be issued beyond 3 years but not more than 10 years from the end of the relevant assessment year. For this purpose, "asset" includes immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.

- (i) In this case, since search was conducted under section 132 on 17.4.2022, the Assessing Officer is deemed to have information suggesting that income chargeable to tax has escaped assessment in the case of Mr. Arjun. In this case, the Assessing Officer has in his possession, books of account which reveal that income chargeable to tax, represented in the form of an asset, has escaped assessment. Shares are included in the definition of "asset". However, the income chargeable to tax, represented in the form of shares, which has escaped assessment amounts to ₹ 48 lakhs (i.e., ₹ 23 lakhs + ₹ 25 lakhs). Since the amount is lower than ₹ 50 lakhs, notice cannot be issued beyond 3 years from the end of the relevant assessment year. In this case, the relevant assessment years are A.Y.2017-18 (relevant to P.Y.2016-17) and A.Y.2018-19 (relevant to P.Y.2017-18). The three-year period for A.Y.2017-18 and A.Y.2018-19 expired on 31.3.2021 and 31.3.2022, respectively. Accordingly, notice cannot be issued under section 148 in April, 2022 due to expiry of the three-year time limit under section 149(1)(a).
- (ii) In this case, the income chargeable to tax, represented in the form of shares, which has escaped assessment amounts to ₹ 55 lakhs (i.e., ₹ 30 lakhs + ₹ 25 lakhs). Since the amount is more than ₹ 50 lakhs, an extended period of 10 years from the end of the relevant assessment year (i.e., from the end of 31.3.2018 and 31.3.2019) would be available under section 149(1)(b) for issue of notice, which has not expired in April, 2022. Therefore, Assessing Officer can issue notice under section 148 for A.Y.2017-18 and A.Y.2018-19 with the prior approval of specified authority.
- (iii) If the Assessing Officer has in his possession documents revealing information pertaining to expenditure of ₹ 52 lakhs incurred for the marriage of his daughter in the P.Y.2016-17, then, the income escaping assessment, represented in the form of expenditure in relation to an event or occasion would be ₹ 52 lakhs. Therefore, he can issue notice under section 148 in April, 2022 (with the prior approval of specified authority), since an extended period of 10 years from the end of the relevant assessment year (i.e., end of 31.3.2018) would be available under section 149(1)(b), which has not expired as on that date.

Note – Notice cannot be issued under section 148 in respect of the relevant assessment year beginning on or before 1.4.2021, if on the date of issue of such notice, the time limit prescribed for issue of notice under erstwhile section 153A has expired. In cases (ii) and (iii) above, the time limit for issue of notice under erstwhile section 153A in case of relevant assessment year beginning on or before 1.4.2021, has also not expired in April, 2022. Since search had taken place in the P.Y.2022-23 relevant to A.Y.2023-24, the Assessing Officer could have issued notice for six assessment years immediately preceding A.Y.2023-24 (i.e., from A.Y.2017-18 to A.Y.2022-23) under the erstwhile section 153A.

20. Computation of total income & tax liability of ABC Co-operative Society for A.Y.2023-24 (under the regular provisions of the Act)

Particulars	₹	₹
Profits and gains of business or profession		60,00,000
Income from other sources – Interest on bank fixed deposits		<u>32,00,000</u>
Gross Total Income		92,00,000
Less: Deductions under Chapter VI-A		
Deduction u/s 80JJAA [30% of ₹ 20,000 x 10 employees x 11 months]	6,60,000	
Deduction u/s 80P [ABC Co-operative society is entitled for deduction under section 80P on the whole of the amount of profits and gains of business attributable to the activity of marketing of agricultural produce grown by its members]	<u>60,00,000</u>	
		<u>66,60,000</u>
Total Income		<u>25,40,000</u>
Tax liability:		
Upto ₹ 10,000 – 10%	1,000	
₹ 10,000 – ₹ 20,000 – 20%	2,000	
₹ 20,000 – ₹ 25,40,000 – 30%	<u>7,56,000</u>	
		7,59,000
Add: Health and education cess@4%		<u>30,360</u>
Tax liability		<u>7,89,360</u>
Alternate Minimum Tax		
Total Income		25,40,000
Add: Deduction under section 80JJAA		<u>6,60,000</u>
Adjusted Total Income		<u>32,00,000</u>
Alternate Minimum Tax@15% of ₹ 32,00,000		4,80,000
Add: Health and education cess@4%		<u>19,200</u>
Alternate Minimum Tax		<u>4,99,200</u>
Since AMT is lower than the tax payable under the regular provisions of the Act, the tax liability of the co-operative society would be ₹ 7,89,360.		

Computation of total income & tax liability of ABC Co-operative Society under section 115BAD for A.Y.2023-24

Particulars	₹	₹
Profits and gains of business or profession		60,00,000
Income from other sources – Interest on bank fixed deposits		<u>32,00,000</u>
Gross Total Income		92,00,000
Less: Deductions under Chapter VI-A		
Deduction u/s 80JJAA [30% of ₹ 20,000 x 10 employees x 11 months]	6,60,000	
Deduction u/s 80P [Not allowable where the co-operative society opts for section 115BAD]	—	
		<u>6,60,000</u>
Total Income		85,40,000
Tax liability		
22% of ₹ 85,40,000		18,78,800
Add: Surcharge@10%		<u>1,87,880</u>
		20,66,680
Add: Health and education cess@4%		<u>82,667</u>
Tax liability		21,49,347
Tax liability (rounded off)		21,49,350

Since the tax liability under section 115BAD is higher than the tax liability under the regular provisions of the Act, ABC Co-operative Society should not opt for section 115BAD.

If ABC Co-operative Society is engaged in the business of banking

Computation of total income & tax liability of ABC Co-operative Bank for A.Y.2023-24 (under the regular provisions of the Act)

Particulars	₹	₹
Profits and gains of business or profession		60,00,000
Income from other sources – Interest on bank fixed deposits		<u>32,00,000</u>
Gross Total Income		92,00,000
Less: Deductions under Chapter VI-A		
Deduction u/s 80JJAA [30% of ₹ 20,000 x 10 employees x 11 months]	6,60,000	

Deduction u/s 80P [Not allowable in case of co-operative banks]	<u>Nil</u>	<u>6,60,000</u>
Total Income		<u>85,40,000</u>
Tax liability:		
Upto ₹ 10,000 – 10%	1,000	
₹ 10,000 – ₹ 20,000 – 20%	2,000	
₹ 20,000 – ₹ 85,40,000 – 30%	<u>25,56,000</u>	
		<u>25,59,000</u>
Add: Health and education cess@4%		<u>1,02,360</u>
Tax liability		<u>26,61,360</u>
Alternate Minimum Tax		
Total Income		85,40,000
Add: Deduction under section 80JJAA		<u>6,60,000</u>
Adjusted Total Income		<u>92,00,000</u>
Alternate Minimum Tax@15% of ₹ 92,00,000		13,80,000
Add: Health and education cess@4%		<u>55,200</u>
Alternate Minimum Tax		<u>14,35,200</u>
Since AMT is lower than the tax payable under the regular provisions of the Act, the tax liability of the co-operative bank would be ₹ 26,61,360.		

Computation of total income & tax liability of ABC Co-operative Bank under section 115BAD for A.Y.2023-24

Particulars	₹	₹
Profits and gains of business or profession		60,00,000
Income from other sources – Interest on bank fixed deposits		<u>32,00,000</u>
Gross Total Income		<u>92,00,000</u>
Less: Deductions under Chapter VI-A		
Deduction u/s 80JJAA [30% of ₹ 20,000 x 10 employees x 11 months]	6,60,000	
Deduction u/s 80P [Not allowable]	<u> </u>	
		<u>6,60,000</u>
Total Income		<u>85,40,000</u>

Tax liability	
22% of ₹ 85,40,000	18,78,800
Add: Surcharge@10%	<u>1,87,880</u>
	20,66,680
Add: Health and education cess@4%	<u>82,667</u>
Tax liability	<u>21,49,347</u>
Tax liability (rounded off)	21,49,350

Since the tax liability under section 115BAD is lower than the tax liability under the regular provisions of the Act, ABC Co-operative Bank should opt for section 115BAD. However, once it has exercised this option for P.Y.2022-23 relevant to A.Y.2023-24, it would apply for subsequent assessment years as well and cannot be withdrawn for the same or any other previous year.

21. Computation of total income and tax liability of Beta LLP for A.Y.2023-24

Particulars	₹ (in lakh)
Profit from Unit I [₹ 710 lakhs + ₹ 41 lakhs, being disallowance u/s 43B]	751.00
Profit from Unit II [₹ 840 lakhs + ₹ 55 lakhs, being disallowance u/s 40A(3)]	<u>895.00</u>
	1646.00
Less: Deduction under section 10AA [See Working Note below]	<u>525.40</u>
Total Income	<u>1120.60</u>
Particulars	₹ (in lakh)
Tax on total income@30%	336.18
Add: Surcharge@12%, since total income > ₹1 crore	<u>40.34</u>
	376.52
Add: Health and Education cess@4%	<u>15.06</u>
Tax liability (as per normal provisions)	391.58

Computation of Adjusted total income and Alternate Minimum tax of Beta LLP as per the provisions of section 115JC for A.Y. 2023-24

Particulars	₹ (in lakh)
Total income as per the normal provisions	1120.60
Add: Deduction under section 10AA	<u>525.40</u>
Adjusted Total Income	<u>1646.00</u>
Tax@18.5% of Adjusted Total Income	304.51

Add: Surcharge @12% as the adjusted total income is > ₹ 1 crore	<u>36.54</u>
	341.05
Add: Health and Education cess@4%	<u>13.64</u>
Alternate Minimum Tax as per section 115JC	<u>354.69</u>

Since the tax liability as per the normal provisions of the Act is more than the alternate minimum tax payable, the total income as per normal provisions shall be liable to tax and the tax liability for A.Y. 2023-24 shall be ₹ 391.58 lakhs.

Working Note:

Computation of deduction under section 10AA in respect of Unit I located in a SEZ

Particulars	₹ (in lakh)
Total turnover of Unit I	1800.00
(₹ 1800 lakhs + ₹ 300 lakhs) – ₹ 300 lakhs, being freight and insurance attributable to delivery outside India included therein. Since such freight and insurance has been excluded from export turnover, the same has to be excluded from total turnover also ¹	
Export Turnover of Unit I	
Export sale proceeds received in India	1600.00
Less: Insurance and freight attributable to delivery outside India not includible in export turnover	<u>180.00</u>
	<u>1420.00</u>
Profit “derived from” Unit I	
Net profit for the year	710.00
Add: Disallowance under section 43B	<u>41.00</u>
	751.00
Less: Items of business income which are in the nature of ancillary profits and hence, do not constitute profit ‘derived from’ business for the purpose of deduction under section 10AA	
Duty drawback	52
Profit on sale of import entitlement	<u>33</u>
	<u>85.00</u>
	<u>666.00</u>

¹ CIT v. Dell International Services India P. Ltd. (2012) 206 Taxman 107 (Karnataka)

Deduction under section 10AA $\text{Profit derived from Unit I} \times \frac{\text{Export turnover of Unit I}}{\text{Total turnover of Unit I}} \times 100\%$ $= 100\% \text{ of } 666 \times 1420/1800 =$	525.40
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22. Computation of total Income and tax liability of SF Ltd. for the A.Y. 2023-24 under section 115BAA

	Particulars	Amount (in ₹)	
I	Profits and gains of business and profession		
	Net profit as per Statement of profit and loss		9,30,00,000
	Add: (i) Stock valuation adjustments		
	Overvaluation of opening stock [₹ 66,00,000 x 10/110]	6,00,000	
	Undervaluation of closing stock [₹ 63,00,000 x 10/90]	7,00,000	
	Add: Items debited but to be considered separately or to be disallowed		
	(ii) Payment towards know-how for a product	65,00,000	
	[Payment towards obtaining know-how is capital expenditure i.e., an intangible asset and eligible for depreciation. Since the same is debited in statement of profit and loss, it has to be added back]		
	(iv) Electricity charges unpaid upto the due of filing return of income	-	
	[Electricity charges are not included within the scope of section 43B ² , therefore no disallowance would be attracted. Since the same is already debited in statement of profit and loss, no further adjustment is required]		
	(v) Loss due to hedging contract in respect of raw material	-	
	[Loss due to hedging contract against future price fluctuations in respect of import of raw material for manufacturing is not deemed to be speculative transaction. Hence, the same is		

² CIT vs Andhra Ferro Alloys (P.) Ltd. (2012) 349 ITR 255 (AP)

allowable as deduction while computing income from manufacturing. Since the same is already debited in statement of profit and loss, no further adjustment is required]		
(vi) Depreciation as per books of account	48,00,000	
(xi) Loss from hedging contract in respect of imported machinery from Japan [Loss from hedging contracts entered for mitigating loss arising due to fluctuation in foreign currency payment towards import of machinery has to be added to the actual cost of the machinery as per section 43A. Since the same is wrongly debited to statement of profit and loss, same has to be added back].	2,00,000	
AI(3) Salary paid to employees through bearer cheques [Salary paid through bearer cheques (10 employees x ₹ 15,000 x 10 months) will attract disallowance u/s 40A(3) and hence, the same has to be added back]	15,00,000	
		<u>1,43,00,000</u>
		10,73,00,000
Less: Items credited but chargeable to tax under other head/ expenses allowed but not debited		
(iii) Profit on sale of shares of M/s MS Ltd. [Capital Gain arising on sale of shares of MS Ltd. is taxable under the head "Capital Gains". Since the profit on sale of shares has been credited to the statement of profit and loss, the same has to be deducted while computing business income]	2,97,000	
(vii) Dividend received from foreign company [Dividend income from foreign company is taxable under the head "Income from other sources". Since the said dividend has been credited to the statement of profit and loss, the same has to be deducted while computing business income]	5,20,000	
(viii) Non-compete fees for not carrying out any business in a particular product [Non-compete fees for not carrying out any business in a particular product would be	-	

chargeable to tax as business income under section 28(va). Since the same is already credited in statement of profit and loss, no further adjustment is required]		
(ix) Advance forfeited in respect of sale of land	22,00,000	
[With effect from A.Y.2015-16, advance forfeited in respect of sale of land due to non-receipt of balance amount of consideration would be taxable under the head "Income from other sources". Since the same has been credited to the statement of profit and loss, the same has to be deducted while computing business income]		
(x) Profit on sale of unlisted shares	18,00,000	
[Profit on sale of unlisted shares is taxable under the head "Capital Gains". Since profits have been credited to the statement of profit and loss, the same has to be deducted while computing business income]		
		<u>48,17,000</u>
		10,24,83,000
Less: Depreciation as per Income-tax Act, 1961 [other than imported plant & machinery and know-how]	35,00,000	
Deprecation on:	₹	
Plant & Machinery imported	70,00,000	
Add: Loss on hedging contract	<u>2,00,000</u>	
	<u>72,00,000</u>	
- Normal depreciation @7.5% of ₹ 72,00,000 [only 50% of the 15% allowable since machinery is put to use for less than 180 days]	5,40,000	
- Additional depreciation not allowable, since company is opting for section 115BAA	-	
Know-how @ 12.5% of ₹ 65,00,000 [50% of 25% since know how was obtained on 15th October 2022, which is used for less than 180 days]	<u>8,12,500</u>	<u>48,52,500</u>
		9,76,30,500

II	Capital Gains		
	Long term capital gain on sale of unlisted shares [Since shares were held for more than 24 months]		
	Full value of consideration 98,00,000 [₹ 18,00,000 + ₹ 80,00,000]		
	Less: Indexed cost of acquisition [80,00,000 x 331/272] <u>97,35,294</u>	64,706	
	Long term capital gain on sale of listed shares of M/s. MS Ltd. [Since shares were held for more than 12 months]		
	Full value of consideration 4,84,000 (2,200 x ₹ 220)		
	Less: Cost of acquisition <u>4,29,000</u> [Higher of (i) and (ii) below]	55,000	
	(i) Actual cost of acquisition ₹ 1,87,000 (2,200 x ₹ 85)		
	(ii) ₹ 4,29,000, being lower of fair market value as on 31.1.2018 (i.e., ₹ 4,29,000, being 2,200 x 195) and sale consideration (i.e., ₹ 4,84,000)		
			1,19,706
III	Income from Other Sources		
	Advance forfeited on sale of land 22,00,000		
	Dividend from foreign company <u>5,20,000</u>		
			27,20,000
	Gross Total Income		10,04,70,206
	Less: Deduction under section 80JJAA [Deduction under section 80JJAA is allowable though company is opting for concessional tax rate under section 115BAA. For computation of amount, see working note below]		11,70,000
	Total income		9,93,00,206
	Total income (rounded off)		9,93,00,210

Computation of tax liability of SF Ltd. for the A.Y. 2023-24 u/s 115BAA

Particulars	₹
Tax on long-term capital gains u/s 112A would be nil, since such gain does not exceed ₹ 1 lakh	Nil
Tax on long term capital gain @20% under section 112 on unlisted shares [₹ 64,706 x 20%]	12,941
Tax on remaining income including dividend received from foreign company @22% remaining income is ₹ 9,91,80,504 [₹ 9,93,00,210 – ₹ 55,000 – ₹ 64,706]	<u>2,18,19,711</u>
	2,18,32,652
Add: Surcharge@10%	<u>21,83,265</u>
	2,40,15,917
Add: Health and education cess@4%	<u>9,60,637</u>
Tax liability	<u>2,49,76,554</u>
Tax liability (rounded Off)	2,49,76,550

Working Note - Computation of deduction u/s 80JJAA

No of eligible additional employees [59 (-) 18 (-) 5 = 36]	36
[18 employees who joined on 1.7.2022 do not qualify as “additional employees” since their monthly emoluments exceed ₹ 25,000 and 5 employees who joined on 1.11.2022 also do not qualify as additional employees, since they have not employed for more than 240 days during the P.Y.2022-23]. In respect of these 5 employees deduction in respect of their additional employee cost would eligible for deduction in subsequent previous year.	
Additional employee cost means the total emoluments paid or payable to additional employees employed during the P.Y.2022-23. However, the additional employee cost in respect of 10 employees who joined on 1.6.2022, whose salary is paid by bearer cheque would be Nil.	
Additional employee cost	
[₹ 15,000 x 26 employees (36 - 10) x 10 months] = ₹ 39,00,000	₹ 39,00,000
Eligible deduction = 30% of ₹ 39,00,000	₹ 11,70,000

23. (i) Where Gamma Inc., a US company, does not have a PE in India

In this case, Gamma Inc. would be eligible for a concessional rate of tax@10% (plus surcharge@2% and HEC@4%) of ₹ 3 crore under section 115A on the fees for technical services received from Delta Ltd., an Indian company, since the same is in pursuance of an agreement entered into after 31.3.1976, which has been approved

by the Central Government. No deduction, however, would be allowed in respect of expenditure of ₹ 22 lakhs incurred to earn such income. Also, Gamma Inc. would be exempted from filing its return of income in India under section 139 if tax deductible at source@10% under section 115A (*plus* surcharge@2% and HEC@4%) has been fully deducted from such income. If, however, tax has not been deducted or has been deducted at a lower rate, if any, specified in the DTAA with US, then, benefit of exemption from filing of return of income would not be available.

- (ii) **Where Gamma Inc., a US company, has a PE in India and rendering technical services is effectively connected with the PE in India.**

Since Gamma Inc. carries on business through a PE in India, in pursuance of an agreement with Delta Ltd. or other Indian companies entered into after 31.3.2003, and the income by way of fees for technical services is effectively connected with the PE in India as per section 44DA, such income shall be computed under the head "Profits and gains of business or profession" in accordance with the provisions of the Income-tax Act, 1961 and subject to tax@40% *plus* surcharge@2% and HEC@4%.

Accordingly, expenses of ₹ 57 lakhs (₹ 22 lakhs + ₹ 35 lakhs) incurred for earning fees for technical services of ₹ 8 crore (₹ 3 crore + ₹ 5 crore) is allowable as deduction therefrom. However, expenditure of ₹ 12 lakhs which is not incurred wholly and exclusively for the business of the PE and the amount of ₹ 15 lakhs paid by the PE to the HO is **not** allowable as deduction.

Gamma Inc. is required to maintain books of account u/s 44AA and get the same audited under section 44AB and furnish report on or before the specified date i.e., date one month prior to the due date for furnishing the return of income u/s 139(1).

24. (i) Provision of scientific research services falls within the scope of international transaction under section 92B. Phi & Co. and Zeta Inc. are deemed to be associated enterprises as per section 92A(2)(d), since Zeta Inc. guarantees not less than 10% of the total borrowings of Phi & Co. Since there is an international transaction between associated enterprises, transfer pricing provisions are attracted in this case.
- (ii) Where the Assessing Officer has made a primary adjustment of ₹ 310 lakhs to the transfer price and the same has been accepted by Phi & Co., secondary adjustment has to be made in the books of account as per section 92CE, since the primary adjustment made by the Assessing Officer and accepted by Phi & Co exceeds ₹ 100 lakhs and the primary adjustment is in relation to P.Y.2020-21. The excess money determined based on the primary adjustment has to be repatriated to India within 90 days from the date of order, failing which the same would be deemed as an advance and interest would be attracted at the one-year marginal cost of fund lending rate of State Bank of India as on 1.4.2022 + 3.25%, since the international transaction has been denominated in Indian Rupees. In this case, since the excess money has not been repatriated within 90 days, the same would be deemed to be an advance made

by Phi & Co. to Zeta Inc. and interest would be attracted@12.25% (9% + 3.25%) from 1.4.2022, being the date of the order of the Assessing Officer. The interest would amount to ₹ 37.975 lakhs (i.e., 12.25% of ₹ 310 lakhs) for the P.Y.2022-23.

Alternatively, Phi & Co. can opt to pay additional income-tax@20.9664% (tax@18% plus surcharge@12% plus cess@4%) on ₹ 310 lakhs, which would amount to ₹ 65 lakhs. In such a case, secondary adjustment is not required to be made.

25. Computation of total income and net tax liability of Mr. Hari for A.Y. 2023-24

Particulars	₹	₹
Profits and gains from business and profession		
Income from sole proprietary concern in India	40,00,000	
Share of profit from a partnership firm in India of ₹ 25 lakhs, is exempt	<u>Nil</u>	
Business profit	40,00,000	
Less: Business Loss ³ in Country X (CXD 5000 x ₹ 50/CXD)	<u>2,50,000</u>	37,50,000
Income from Other Sources		
Agricultural income from coffee estates in Country X, is taxable in India (CXD 36000 x ₹ 50/CXD)		<u>18,00,000</u>
Gross Total Income		55,50,000
Less: Deductions under Chapter VI-A		
Under section 80C [deposit in PPF]	1,50,000	
Under section 80D	75,000	
[Medical insurance premium paid ₹ 28,000 for self, restricted to ₹ 25,000; ₹ 52,000 for senior citizen parents, restricted to ₹ 50,000]		
Under section 80DD		
[Flat deduction of ₹ 75,000 irrespective of the expenditure incurred on dependent sister, being a person with disability]	<u>75,000</u>	
		<u>3,00,000</u>
Total Income		52,50,000

³ Since the eight year has not expired from the assessment year in which such business loss was incurred, such business loss can be set-off against current year business income.

Tax on ₹ 52,50,000 [(30% x ₹ 42,50,000) plus ₹ 1,12,500]		13,87,500
Add: Surcharge@10%, since total income exceeds ₹ 50 lakh but does not exceed ₹ 1 crore.		<u>1,38,750</u>
		15,26,250
Add: HEC@4%		<u>61,050</u>
		15,87,300
Average rate of tax in India [i.e., ₹ 15,87,300/₹ 52,50,000 x 100]	30.23%	
Average rate of tax in Country X [i.e., CXD 9000/CXD 36000]	25%	
Doubly taxed income [₹ 18,00,000 – ₹ 2,50,000]	15,50,000	
Rebate under section 91 on ₹ 15,50,000@25% (lower of average Indian tax rate and rate of tax in Country X)		<u>3,87,500</u>
Net tax liability [₹ 15,87,300 – ₹ 3,87,500]		<u>11,99,800</u>

Note: Since Mr. Hari is resident in India for the P.Y.2022-23, his global income would be subject to tax in India. He is eligible for deduction under section 91 since the following conditions are fulfilled:-

- He is a resident in India during the relevant previous year.
- Agricultural income accrues or arises to him outside India in Country X during that previous year.
- Such agricultural income is not deemed to accrue or arise in India during the previous year.
- The income in question i.e., agricultural income, has been subjected to income-tax in Country X in his hands and he has paid tax on such income in Country X.
- There is no agreement under section 90 for the relief or avoidance of double taxation between India and Country X, where the income has accrued or arisen.