

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Law of Taxation-I**
Semester-VII (Batch: 2013-18)

End Semester Examination: October-2016

Date: 24th October, 2016**Duration: 3 hours****Max. Marks: 50****Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write anything on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- **Wherever not provided, ITA, 1961 should be read as Income Tax Act 1961, PGBP is Profits & Gains of Business & Profession.**
- **Cite suitable authorities to support your answer, even where ever not provided. Mention correct section & complete name of Income Tax Act, 1961 for correct reference. Answers citing wrong sections of Income Tax Act, 1961, will not receive any credit.**

- | | Marks |
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| Q.1 What does not constitute business connection in India? Discuss with help of decided authorities. | (02) |
| Q.2 Discuss the following situations (any two) with help of suitable authorities, whether income generated by assessee is taxable under the head of Salaries: | (2x3=06) |
| (a) A widow of the pensioner, receiving pension from UN, charged to tax by Revenue. | |
| (b) Income received by Director & Managing Director of a company from company. | |
| (c) Assessee, an employee made an overdrawing in addition of his salary which was debited by the employer from his account. But no interest was charged, rather paid by the employer on the borrowings. Revenue charged the tax to assessee. | |
| Q.3 Discuss the following situations with help of suitable authorities, whether income generated to assessee is taxable under the head of House Property: | (2x3=06) |
| (a) Assessee received a licence fee out of the licence that he gave to the telecom company for installing of antenna & tower of later. | |
| (b) GB firm was occupying a house for its work related matters, & claimed benefits under section 23 (2) of ITA, 1961. | |
| Q.4 Discuss the following situations with the help of suitable authorities, under the head of PGBP: | (3x2=06) |
| (a) A soft drink manufacturer, claimed 100% depreciation on bottles and crates used by them.
Subsequently, such bottles were sold. Discuss taxability, if any. | |
| (b) A company is owning animals, which are being used for their business purpose. Cost of animals INR 5, 00,000. Due to an accident, the animals died and their carcass was sold for INR 45,000. What is the tax implication arising out of this incident? | |
| (c) Assessee paid a lump sum consideration for the purchase of a technique required for the processing of the goods that, it was manufacturing. The technique also involves | |

the working method in the oil well & other sources of mineral deposits and of the nature of capital as well as revenue nature. Assessee asked for the deductions for the said purchase but denied by revenue. Discuss in light of suitable sections of the ITA, 1961 with appropriate authorities.

Q.5 Discuss the following situations (**any two**) with the help of suitable authorities, whether income generated to assessee is taxable under the head of Capital Gains: (2x3=06)

- (a) The assessee was an individual and held 297 redeemable preference shares in M/s. GC Private Limited a company incorporated under the Companies Act. The face value of such of these preference shares was INR 1,000/- and, therefore, the total face value of these shares came to INR 2,97,000/-. The assessee had purchased these shares for INR 2,68,550/-. The Company decided to redeem the preference shares and the assessee received INR 2,97,000/- face value of the shares held by assessee in the year of account relevant to the assessment year under reference. Thus the value of the shares received by the assessee exceeded the value which was paid for these shares by INR 30,450/-. The Income Tax Officer, assessing the assessee sought to tax it under Capital Gains Tax.
- (b) Assessee holds tenancy rights conferred by the Royal seal & sign before the independence. He later decided to surrender it in favor of the state & received some consideration. Revenue decided to tax the consideration.
- (c) Under a scheme of amalgamation, the assessee was allotted certain shares of the amalgamating company in lieu of his holding in the amalgamating company. This was charged to an assessable profit to the assessee by Revenue in lieu of the exchange of the shares originally held by him. Now revenue demanded that Capital Gains Tax need to be paid by assessee.

Q.6 Discuss the following situations, with the help of suitable authorities, whether income generated to assessee is taxable under the head Income from other sources: (2x3=06)

- (a) Assessee was gaining income in previous year by letting out cinema halls, service charges for services given to various houses, displaying at walls & top of the house property hoardings of various concerns for advertisement purpose.
- (b) In a winding up of a company, the official liquidator invested some amount received from sale of assets to the interest bearing deposits. The resultant income from the deposits was taxed at the hands of the liquidator.

Q.7 Prosecution was launched against the assessee firm for alleged concealment of income and thereby willfully attempting to evade tax, and for making false statement on verification in terms under the Income Tax Act, 1961 relating to the assessment year 1988-89. Cognizance was taken by the Special Court, Economic Offences, of the State concerned through a complaint instituted by the Income Tax Authorities. Petitions under the Code of Criminal Procedure, 1973 were also filed by assessee firm and by a partner of the assessee firm before the High Court. The specific stand of the petitioners before the High Court was that the proceedings should not continue as applications for settlement were filed and pending before the Settlement Commission, Income Tax. The High Court did not accept the stand as no order granting any immunity had been passed by the Commission. Referring to the factual position it was held that no case for interference was made out at the relevant stage. (2x3=06)

Read the above facts and answer the following questions:

- (a) Whose contention is correct & why? Cite suitable section of the ITA, 1961 & authorities in support of your answer.

- (b) What would be your argument if the settlement commission has already passed the order in the matter before the final judgment of HC? Can the assessee firm decide to make an appeal to the Apex Court at this stage?

Q.8 Explain the following in detail (**any two**) according to the provisions of ITA, 1961: (2x3=06)

- (a) Methods of ALP
- (b) Meaning & importance of Associated Enterprise & SDT
- (c) An US Company invested in Indian Joint Venture and RBI permitted shares to be issued in the name of its 100% Mauritius Subsidiary. On sale of share to Indian JV partners, gains accrued in India. Discuss the taxability and the company on which the tax is to be levied and why?

Q.9 Write short note on **any two** of the following (word limit: 250 words): (2x3=06)

- (a) Exempted Income under the ITA, 1961
- (b) Deductions permitted under chapter VI-A of the ITA, 1961
- (c) Provisions of set off & carry forward of losses in the ITA, 1961
