**University of Delhi – B.Com.(H) Sem V**
**Corporate Tax Planning**
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**AY 2020-21**
**Session started from 10 August 2020 and Ended on 28 November 2020**
**COVID-19 Situation**

## Lecture 3

**Double Taxation Relief [AY 2020-21 (PY 2019-20)]**
90(1), 90(2), 90A(1), 90A(2),

**Incidence of Tax [Sec. 5]**
***Income is accrued outside India/ Received outside India: Rs. 7,00,000***

| | |
|---|---|
| ROR: | Taxable |
| RNoR: | Depends whether it is from business/ profession and if the business/ profession is controlled (or set up) in India: Taxable; otherwise, exempt |
| NR: | Not Taxable |

**Case of double taxation and why do we need double taxation relief?**
*Example:*
Mr. X (ROR and age is 67 years) during the PY 2019-20 has a rental income from a house in Delhi Rs. 6,00,000 and Rs. 7,00,000 the income accrued in USA (and also received there). Suppose, the tax rate in India is 40% and in USA the tax rate is 60%.
*Solution:*

| **Income accrued as well as received outside India** | **7,00,000** |
|---|---|
| USA [60%] | 4,20,000 |
| India [40%] | 2,80,000 |
| Total tax | 7,00,000 |
| Remaining income in your hand | **Nil** |

That is why, we need double taxation relief.

**Double taxation relief can be given under section 90, 90A and 91.**
Section 90 and 90A are having theory applications and section 91 is having numerical applications as has been explained below –

**Section 91**
Conditions:
1. Resident
2. Accrued as well as received outside India (income is not deemed to accrue in India under section 9)
3. Income is earned in the country with which no DTAA is signed
4. Tax has been paid in that country on such income.

Relief under section 91(1) = Doubly taxed income* Lower of IRT/ FRT

***Example 1 (Section 91):***
Mr. X (ROR and age is 67 years) during the PY 2019-20 has a rental income from a house in Delhi Rs. 6,00,000 and Rs. 7,00,000 the income accrued in USA (and also received there). Tax paid in foreign country is Rs. 1,35,980. Compute the amount of tax payable by Mr. X for the AY 2020-21.
*Solution:*

*Step 1: Computation of total income of Mr. X for the AY 2020-21:*

| | | |
|---|---|---|
| | IFHP [Rs. 6,00,000 – 30% of Rs. 6,00,000] | 4,20,000 |
| | IFOS: | |
| | Income accrued as well as received outside India | 7,00,000 |
| | Gross total income | 11,20,000 |
| Less: | Deductions under section 80 | Nil |
| | Total income | 11,20,000 |

*Step 2: Computation of tax liability of Mr. X for the AY 2020-21:*

| | | |
|---|---|---|
| | Tax on Rs. 11,20,000 | |
| | [Rs. 1,10,000 + 30% of Rs. 1,20,000] | 1,46,000 |
| Less: | Rebate under section 87A | |
| | (not applicable because TI exceeds Rs. 5,00,000) | Nil |
| | | 1,46,000 |
| Add: | Surcharge | |
| | (Nil because TI does not exceed Rs. 50 lakhs) | Nil |
| | | 1,46,000 |
| Add: | Cess @ 4% | 5,840 |
| | | 1,51,840 |

*Step 3: Compute IRT as well as FRT:*

IRT = $\frac{\text{Tax liability in Step 2} * 100}{\text{Total income as per Step 1}}$

Therefore, IRT = $\frac{\text{Rs. } 1,51,840 * 100}{\text{Rs. } 11,20,000}$ = 13.56%

FRT = $\frac{\text{Tax paid in foreign country} * 100}{\text{Total income of foreign country}}$

Therefore, FRT = $\frac{\text{Rs. } 1,35,980 * 100}{\text{Rs. } 7,00,000}$ = 19.43%

*Step 4: Compute relief under section 91(1):*

Relief under section 91(1) = Doubly taxed income* Lower of IRT/ FRT

Therefore relief = Rs. 7,00,000*13.56%

= Rs. 94,920

*Step 5: Tax payable in India = Step 2 – Step 4*

= Rs. 1,51,840 – Rs. 94,920

= Rs. 56,920

## Lecture 4

***Example 2 (Section 91):***

Mr. Y (ROR and age is 67 years) during the PY 2019-20 has earned a royalty income of Rs. 6,00,000 in France (and also received there). Tax paid in foreign country is Rs. 1,20,000. His taxable salary is Rs. 8,00,000 in India. Compute the amount of tax payable by Mr. Y for the AY 2020-21.

*Solution:*

*Step 1: Computation of total income of Mr. Y for the AY 2020-21:*

| | | |
|---|---|---|
| | Salary income | 8,00,000 |
| | IFOS: | |
| | Royalty income | **6,00,000** |
| | Gross total income | 14,00,000 |
| Less: | Deduction under section 80QQB | **3,00,000** |
| | Total income | 11,00,000 |

*Step 2: Computation of tax liability of Mr. Y for the AY 2020-21:*

| | | |
|---|---|---|
| | Tax on Rs. 11,00,000 | |
| | [Rs. 1,10,000 + 30% of Rs. 1,00,000] | 1,40,000 |
| Less: | Rebate under section 87A | |
| | (not applicable because TI exceeds Rs. 5,00,000) | Nil |
| | | 1,40,000 |
| Add: | Surcharge | |
| | (Nil because TI does not exceed Rs. 50 lakhs) | Nil |
| | | 1,40,000 |
| Add: | Cess @ 4% | 5,600 |
| | | 1,45,600 |

*Step 3: Compute IRT as well as FRT:*

IRT = $\frac{\text{Tax liability in Step 2* 100}}{\text{Total income as per Step 1}}$

Therefore, IRT = $\frac{\text{Rs. 1,45,600* 100}}{\text{Rs. 11,00,000}}$ = 13.24%

FRT = $\frac{\text{Tax paid in foreign country * 100}}{\text{Total income of foreign country}}$

Therefore, FRT = $\frac{\text{Rs. 1,20,000* 100}}{\text{Rs. 6,00,000}}$ = 20%

*Step 4: Compute relief under section 91(1):*

Relief under section 91(1) = **Doubly taxed income*** Lower of IRT/ FRT

Therefore relief = Rs. 3,00,000*13.24%

= Rs. 39,720

Here, the foreign income is Rs. 6,00,000 out of which Rs. 3,00,000 is allowed deduction under section 80QQB and thus, the doubly taxes income becomes Rs. 3,00,000 [Rs. 6,00,000 – Rs. 3,00,000 (Deduction under section 80QQB)].

*Step 5: Tax payable in India = Step 2 – Step 4*

= Rs. 1,45,600 – Rs. 39,720

= Rs. 1,05,880

***How to compute 80QQB?***

*Case 1:*

| | |
|---|---|
| *Lump sum basis received* | *Rs. 7,00,000* |
| *Deduction under section 80QQB* | *Rs. 3,00,000* |

*Case 2:*

*18% received [Rs. 9,00,000]*
*On 15% basis, the royalty received would have been*
*[Rs. 9,00,000/18*15]* — *Rs. 7,50,000*
*Deduction under section 80QQB*
*[Rs. 7,50,000 or Rs. 3,00,000; Lower]* — *Rs. 3,00,000*

***Example 3 (Section 91):***
Mr. K (ROR and age is 83 years) during the PY 2019-20 has earned a rental income of Rs. 12,00,000 in France (and also received there). Tax paid in foreign country is Rs. 1,20,000 on this income. His taxable salary is Rs. 1,00,000 in India. Compute the amount of tax payable by Mr. K for the AY 2020-21 assuming he has deposited Rs. 1,60,000 in his PPF account and donated Rs. 20,000 towards PM CARES Fund during 2019-20.
*Solution:*
*Step 1: Computation of total income of Mr. K for the AY 2020-21:*

| | | |
|---|---|---|
| | Salary income | 1,00,000 |
| | HP [Rs. 12,00,000 – 30% (Standard deduction) | 8,40,000 |
| | Gross total income | 9,40,000 |
| Less: | Deduction under section 80C | 1,50,000* |
| less: | Deduction under section 80G [Rs. 20,000*100%] | 20,000 |
| | Total income | **7,70,000** |

* The total amount of deductions under section 80CCC, 80C and 80CCD(1) cannot exceed Rs. 1,50,000.

*Step 2: Computation of tax liability of Mr. K for the AY 2020-21:*

| | | |
|---|---|---|
| | Tax on Rs. 7,70,000 [20% of (Rs. 7,70,000 – Rs. 5,00,000)] | 54,000 |
| Less: | Rebate under section 87A (not applicable because TI exceeds Rs. 5,00,000) | Nil |
| | | 54,000 |
| Add: | Surcharge (Nil because TI does not exceed Rs. 50 lakhs) | Nil |
| | | 54,000 |
| Add: | Cess @ 4% | 2,160 |
| | | 56,160 |

*Step 3: Compute IRT as well as FRT:*
IRT = Tax liability in Step 2* 100 / Total income as per Step 1

Therefore, IRT = Rs. 51,160* 100 / Rs. 7,70,000 = 7.29%

FRT = Tax paid in foreign country * 100 / Total income of foreign country

Therefore, FRT = Rs. 1,20,000* 100 / Rs. 12,00,000 = 10%

*Step 4: Compute relief under section 91(1):*

Relief under section 91(1) = **Doubly taxed income*** Lower of IRT/ FRT
Therefore relief = Rs. 7,70,000*7.29%
= Rs. 56,133

Here, the doubly taxed income is Rs. 8,40,000 but the total income is only Rs. 7,70,000 and thus, relief under section 91(1) cannot be allowed on more than Rs. 7,70,000.

*Step 5: Tax payable in India = Step 2 – Step 4*
= Rs. 56,160 – Rs. 56,133
= Rs. 30 (Rounded off)

But in real life, when you will furnish the return of income, tax payable will be Nil.

## Lecture 5

***Example 4 (Section 91):***

Mr. Faisal (ROR and age is 83 years) during the PY 2019-20 has earned a rental income of Rs. 12,00,000 in France (and also received there). Tax paid in France is Rs. 1,20,000 on this income. He also earned a business income of Rs. 8,00,000 from Germany (and also received there) on which he has paid the tax of Rs. 2,40,000. His taxable salary is Rs. 1,00,000 in India. Compute the amount of tax payable by Mr. Faisal for the AY 2020-21 assuming he has deposited Rs. 1,60,000 in his PPF account and donated Rs. 20,000 towards PM CARES Fund during 2019-20. Further, he has already paid Rs. 11,000 as advance tax for the PY 2019-20.

*Solution:*

*Step 1: Computation of total income of Mr. Faisal for the AY 2020-21:*

| | | |
|---|---|---|
| | Salary income | 1,00,000 |
| | HP [Rs. 12,00,000 – 30% (Standard deduction)] | 8,40,000 |
| | PGBP | 8,00,000 |
| | Gross total income | 17,40,000 |
| Less: | Deduction under section 80C | 1,50,000* |
| less: | Deduction under section 80G [Rs. 20,000*100%] | 20,000 |
| | Total income | **15,70,000** |

* The total amount of deductions under section 80CCC, 80C and 80CCD(1) cannot exceed Rs. 1,50,000.

*Step 2: Computation of tax liability of Mr. Faisal for the AY 2020-21:*

| | | |
|---|---|---|
| | Tax on Rs. 15,70,000 | |
| | [Rs. 1,00,000 + 30% of (Rs. 15,70,000 – Rs. 10,00,000)] | 2,71,000 |
| Less: | Rebate under section 87A | |
| | (not applicable because TI exceeds Rs. 5,00,000) | Nil |
| | | 2,71,000 |
| Add: | Surcharge | |
| | (Nil because TI does not exceed Rs. 50 lakhs) | Nil |
| | | 2,71,000 |
| Add: | Cess @ 4% | 10,840 |
| | | 2,81,840 |

*Step 3: Compute IRT as well as FRT:*

IRT = Tax liability in Step 2* 100 / Total income as per Step 1

Therefore, IRT = Rs. 2,81,840* 100 = 17.95%

Rs. 15,70,000

FRT= Tax paid in foreign country * 100
Total income of foreign country

Therefore, $FRT_{(France)}$ = Rs. 1,20,000* 100 / Rs. 12,00,000 = 10%

and

$FRT_{(Germany)}$ = Rs. 2,40,000* 100 / Rs. 8,00,000 = 30%

*Step 4: Compute relief under section 91(1):*

Relief under section 91(1) = **Doubly taxed income*** Lower of IRT/ FRT

Therefore $relief_{(France)}$ = Rs. 8,40,000*10%
= Rs. 84,000

and $relief_{(Germany)}$ = Rs. 8,00,000*17.95%
= Rs. 1,43,600

Total amount of relief under section 91(1) = Rs. 2,27,600 [Rs. 84,000 + Rs. 1,43,600].

*Step 5: Tax payable in India = Step 2 – Step 4 – Prepaid taxes*
= Rs. 2,81,840 - Rs. 2,27,600 – Rs. 11,000
= Rs. 43,240 (Rounded off)

***Clarification is required in Example 4 because total of doubly taxed income exceeds the total income.***

***Example 5 (Section 91):***

Mr. Khan (ROR and age is 73 years) during the PY 2019-20 has earned a rental income of Rs. 12,00,000 in South Korea (and also received there). Tax paid in South Korea is Rs. 1,80,000 on this income. He also earned a business income of Rs. (8,00,000) from Canada (and also received there). His taxable salary is Rs. 1,00,000 in India and interest from fixed deposits is Rs. 9,00,000 in India. Compute the amount of tax payable by Mr. Khan for the AY 2020-21 assuming he has deposited Rs. 1,60,000 in his PPF account and has already paid Rs. 11,000 as advance tax for the PY 2019-20.

*Solution:*

*Step 1: Computation of total income of Mr. Khan for the AY 2020-21:*

| | | |
|---|---|---|
| | Salary income | 1,00,000 |
| | HP [Rs. 12,00,000 – 30% (Standard deduction)] | 8,40,000 |
| | PGBP (Provisions of set-off applied) | (8,00,000) |
| | IFOS: Interest from fixed deposits | 9,00,000 |
| | Gross total income | 10,40,000 |
| Less: | Deduction under section 80C | 1,50,000* |
| | Deduction under section 80TTB | 50,000 |
| | Total income | **8,40,000** |

* The total amount of deductions under section 80CCC, 80C and 80CCD(1) cannot exceed Rs. 1,50,000.

*Step 2: Computation of tax liability of Mr. Khan for the AY 2020-21:*

Tax on Rs. 8,40,000

| | | |
|---|---|---|
| | [Rs. 10,000 + 20% of (Rs. 8,40,000 – Rs. 5,00,000)] | 78,000 |
| Less: | Rebate under section 87A | |
| | (not applicable because TI exceeds Rs. 5,00,000) | Nil |
| | | 78,000 |
| Add: | Surcharge | |
| | (Nil because TI does not exceed Rs. 50 lakhs) | Nil |
| | | 78,000 |
| Add: | Cess @ 4% | 3,120 |
| | | 81,120 |

*Step 3: Compute IRT as well as FRT:*

IRT = Tax liability in Step 2* 100 / Total income as per Step 1

Therefore, IRT = Rs. 81,120* 100 / Rs. 8,40,000 = 9.66%

FRT= Tax paid in foreign country * 100 / Total income of foreign country

Therefore, FRT(South Korea) = Rs. 1,80,000* 100 / Rs. 12,00,000 = 15%

*Step 4: Compute relief under section 91(1):*

Relief under section 91(1) = **Doubly taxed income*** Lower of IRT/ FRT

Therefore relief(South Korea) = Rs. 8,40,000*9.66%
= Rs. 81,144

*Step 5: Tax payable in India = Step 2 – Step 4 – Prepaid taxes*
= Rs. 81,120 – Rs. 81,144* (Rounded off Issue) – Rs. 11,000
= Rs. (11,000)

There is a refund of Rs. 11,000.

## Lecture 6

***Example 6:***

X (28 years) is ROR in India. His income is Rs. 3,46,000 from a business in India and Rs. 1,92,000 from a business in a foreign country with whom India has an ADT agreement. According to ADT (Avoidance of Double Taxation) agreement, income is taxable in the country in which it is earned and not in the other country. **However**, in the other country, such income can be included for computation of tax rate. According to the tax laws of the foreign country, business income of Rs. 1,92,000 is taxable @ 23 percent. During the previous year, X has deposited Rs. 42,000 in his public provident fund account (out of which Rs. 10,000 is deposited out of foreign income). He has also received an interest of Rs. 32,000 on Government Securities. Find out X's tax liability under the Income Tax Act for the assessment year 2020-21. **(Delhi 2008)**

**Solution:**

Step 1: Computation of Net Taxable Income of X for the assessment year 2020-21:

| Particulars | Amount (Rs.) |
|---|---|
| Business Income | 3,46,000 |

| | | |
|---|---|---|
| | Income from other sources | 32,000 |
| | Indian Income | 3,78,000 |
| Add: | Foreign Income | 1,92,000 |
| | Gross Total Income (GTI) | 5,70,000 |
| Less: | Deductions under section 80C | 42,000 |
| | Net Taxable Income (NTI) | 5,28,000 |

Step 2: Tax on NTI of Rs. 5,28,000 of X for the assessment year 2020-21:

| | | Amount (Rs.) |
|---|---|---|
| | [Rs. 12,500 + 20% (Rs. 5,28,000 - Rs. 5,00,000)] | 18,100 |
| Add: | Surcharge | NIL |
| | Total | 18,100 |
| Add: | Cess @ 4% | 724 |
| | Net tax liability | 18,824 |

Step 3: Indian Rate of Tax (IRT) = $\frac{Tax\ calculated\ in\ step\ (2)}{Net\ Taxable\ Income\ of\ step\ (1)} * 100$

18,824/5,28,000 * 100 = 3.57%

Foreign Rate of Tax = 23%

Step 4: Relief under section 91 = Rs. 1,92,000 * 3.57% = Rs. 6,854

Step 5: Net tax to be paid in India by X for the assessment year 2020-21
= Rs. 18,824 – Rs. 6,854 = Rs. 11,970 (Rounded off)

Note: Deduction of PPF has no relation with foreign income.

***Example 7:***

Mr. C (age: 47 years), an Indian resident has derived the following income during the previous year 2019-20:

| | Amount (Rs.) |
|---|---|
| Income from profession | 4,94,000 |
| Share of profit from a partnership firm in Singapore | 50,000 |
| (Tax paid in Singapore for his income in equivalent Rupees is Rs. 10,000) | |
| Interest from bank deposits in India | 28,000 |

Mr. C, wants to know whether he is eligible for any double tax relief and if so, its quantum. Also, tell Mr. C the amount of tax to be payable by him. India does not have any double taxation avoidance agreement with Singapore. Mr. C has paid Rs. 7,000 as advance tax.

**(Delhi 2007)**

*Solution:*

Step 1: Computation of total income of Mr. C for the assessment year 2020-21:

| | | Rs. | |
|---|---|---|---|
| | PGBP | | |
| | Income from profession | 4,94,000 | |
| | Share of profit from a firm | 50,000 | 5,44,000 |
| Add: | Income from other sources (Interest) | | 28,000 |
| | Gross total income/ Total income | | 5,72,000 |

Step 2: Computation of tax payable by Mr. C for the assessment year 2020-21:

Tax (including cess) on Rs. 5,72,000 [12,500 + 20% of (5,72,000 – 5,00,000)]
27,976

Step 3: IRT = Tax computed in step (2)/Total income under step (1)* 100
= 27,976/ 5,72,000* 100 = 4.90%
FRT = Tax paid in foreign country/ Foreign Income
= 10,000/ 50,000* 100 = 20%

Step 4: Relief under section 91(1) = Double Taxed income* Lower of IRT or FRT
50,000* 4.90% = 2,450

Step 5: Tax payable by Mr. C = Tax in step (2) – Relief under section 91(1) – Prepaid Taxes
= 27,976 – 2,450 – 7,000
= 18,530 (Rounded off)

## Lecture 7

## Specific Management Decisions

**Situation 1: Purchase of an asset from own money** or from borrowed money
Situation 2: Purchase of an asset or take it on lease
Situation 3: Make the product or Buy it
Situation 4: Shut down or continue

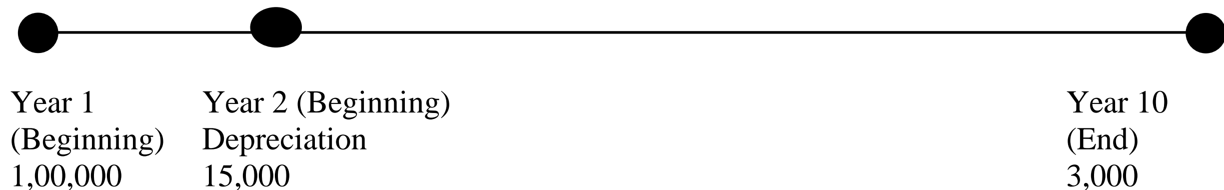
**How do we decide in different situations?**

**Purchase of an asset from own money**

For example, the machine is costing Rs. 1,00,000 and the expected life of the machine is 10 years. After 10 years, the machine will be discarded at Rs. 3,000.

***Calculation of net cash outflow:***

| | | Rs. | |
|---|---|---|---|
| | Investment in the beginning of Year 1 | XX | **1,00,000** |
| Less: | PV of Tax savings on Depreciation | XX | |
| Less: | PV of Sale value at the end of the useful life | XX | **3,000** |
| Less: | PV of Tax savings on STCL | XX | |
| Add: | PV of Tax loss on STCG | XX | |
| | **Net cash outflow** | **XXX** | |



| Year 1 (Beginning) | Year 2 (Beginning) Depreciation | Year 10 (End) |
|---|---|---|
| 1,00,000 | 15,000 | 3,000 |

*Note 1:*
Year 1 (Beginning) = **Year 0 (End)**
Year 2 (Beginning) = **Year 1 (End)**
Year 11 (Beginning) = **Year 10 (End)**

*Note 2:*
*Understanding the tax saving on any expenditure which is allowed as deduction under the head PGBP:*

| | *WDV* | *Depreciation* | *Tax rate [30%]* |
|---|---|---|---|
| *Year 1* | *1,00,000* | *15,000* | |

| | | | |
|---|---|---|---|
| | *Profits* | *10,00,000* | *10,00,000* |
| *Less:* | *Depreciation* | *Nil* | *15,000* |
| | *Taxable Profits* | *10,00,000* | *9,85,000* |
| | *Tax [30%]* | *3,00,000* | *2,95,500* |

*Tax saving [3,00,000 – 2,95,500] = Rs. 4,500 [Rs. 15,000*30%] which is exactly equal to [Depreciation x Tax Rate]*

*Note 3:*

*Computation of depreciation under section 32:*

| | | |
|---|---|---|
| | *WDV of the block on 1st day of the PY* | *XX* |
| *Add:* | *Actual cost of the asset acquired and put to use during the PY* | *XX* |
| | | *XX* |
| *Less:* | *Net sale value of any asset of that block during the PY [Sale – Expenses on sale]* | *XX* |
| | *WDV of the block on 31st March of the PY* | *XX* |
| *Less:* | *Depreciation for the PY* | *XX* |
| | WDV of the block on 1st day of the next year | *XX* |

*Note 4:*

*Computation of capital gain in case of depreciable assets [Sec. 50]:*

In case of depreciable assets, the capital gain/ loss is always short-term computed under section 50(1) or section 50(2), as the case may be.

Applicability of section 50(1):

| | | |
|---|---|---|
| | *Net sale value of any asset of that block during the PY [Sale – Expenses on sale]* | *XX* |
| *Less:* | *WDV of the block on 1st day of the PY* | *XX* |
| | *Actual cost of the asset acquired and put to use during the PY* | *XX* |
| | *STCG [50(1)]* | *XX* |

*Section 50(1) is applicable only and only when Net sale exceeds the total of opening WDV + Actual cost of asset acquired and put to use during the PY. Thus, section 50(1) always given me a STCG.*

Applicability of section 50(2):

| | | |
|---|---|---|
| | *Net sale value of any asset of that block during the PY [Sale – Expenses on sale]* | *XX* |
| *Less:* | *WDV of the block on 1st day of the PY* | *XX* |
| | *Actual cost of the asset acquired and put to use during the PY* | *XX* |
| | *STCG [50(2)]* | *XX* |

*Section 50(2) is applicable only and only when block of assets ceases to exist on the last day of the relevant previous year. Thus, section 50(2) can give a STCG or a STCL.*

## Lecture 8

*Example:*

A company is thinking of purchasing a machine for Rs. 1,00,000 having an expected useful life of 10 years. The machine is expected to be discarded at the end of 10th year for Rs. 3,000. The machine is eligible for depreciation @ 15% under section 32. Ignore additional depreciation. Compute the cash outflow assuming the effective tax rate is 34.944% [30% + 12% + 4%]. The cost of capital is 10%.

*Solution:*
Done in Excel

**Lecture 9**

**Purchase of an asset from borrowed money**
***Calculation of net cash outflow:***

| | | Rs. |
|---|---|---|
| | PV of Interest Payments | XX |
| | PV of Principal Payments | XX |
| | Gross cash outflow | XX |
| Less: | PV of Tax Savings on Interest payment | XX |
| Less: | PV of Tax savings on Depreciation | XX |
| Less: | PV of Sale value at the end of the useful life | XX |
| Less: | PV of Tax savings on STCL | XX |
| Add: | PV of Tax loss on STCG | XX |
| | **Net cash outflow** | **XXX** |

| Year 1 (Beginning) | Year 2 (Beginning) | Year 10 (End) |
|---|---|---|
| | Depreciation 15,000 | 3,000 |
| | Interest Payment | Interest + Principal |
| Down Payment 10,000 | Interest Rs. 10,800 [Rs. 90,000*12%] Principal [Rs. 90,000/10] Rs. 9,000 | |

*Example:*
A company is thinking of purchasing a machine for Rs. 1,00,000 having an expected useful life of 10 years. The machine is expected to be discarded at the end of 10th year for Rs. 3,000. The machine is eligible for depreciation @ 15% under section 32. Ignore additional depreciation. The machine will be purchased from borrowed amount. Down payment will be Rs. 10,000 and remaining amount will be taken as a loan @ 12% p.a. Further, principal will also be paid equally at every year end during the loan term of 10 years. Compute the cash outflow assuming the effective tax rate is 34.944% [30% + 12% + 4%]. The cost of capital is 10%.
*Solution:*
Done in Excel

**Lecture 10**

**Taking the asset on lease**
***Calculation of net cash outflow:***

| | | Rs. | |
|---|---|---|---|
| | PV of lease rent + PV of Lease Fee/ Gross cash outflow | XX | 1,04,385 |
| Less: | PV of tax savings on lease rent paid/ payable [Rs. 1,04,385*34.944%] | XX | 36,476 |
| | **Net cash outflow** | **XXX** | **67,909** |

Year 1 Year 2 Year 10

*Example:*
A company is thinking of taking a machine on lease rent of Rs. 15,000 per year for 10 years. Lease management fee of Rs. 3,000 is payable at the beginning only. Compute the cash outflow assuming the effective tax rate is 34.944% [30% + 12% + 4%]. The cost of capital is 10%.
*Solution:*

| Year (Beginning) | Lease management fee (Rs.) | Lease rent (Rs.) | Total (a) | PV (.10) (b) | Total PV of Lease [(a)*(b)] |
|---|---|---|---|---|---|
| 1 | 3,000 | 15,000 | 18,000 | 1 | 18,000 |
| 2 | ---- | 15,000 | 15,000 | 0.909 | 13,636 |
| 3 | ---- | 15,000 | 15,000 | 0.826 | 12,397 |
| 4 | ---- | 15,000 | 15,000 | 0.751 | 11,270 |
| 5 | ---- | 15,000 | 15,000 | 0.683 | 10,245 |
| 6 | ---- | 15,000 | 15,000 | 0.621 | 9,314 |
| 7 | ---- | 15,000 | 15,000 | 0.564 | 8,467 |
| 8 | ---- | 15,000 | 15,000 | 0.513 | 7,697 |
| 9 | ---- | 15,000 | 15,000 | 0.467 | 6,998 |
| 10 | ---- | 15,000 | 15,000 | 0.424 | 6,361 |
| | | | | | **1,04,385** |

**Choosing between Make the component/ product or buy it from the market:**
*Relevant cost when you make:*
All Variable costs + Fixed cost (only if these are incurred additionally)
*Relevant cost when you buy:*
Purchasing price

*Example:*
XYZ Ltd. needs a component in an assembly operation. It is contemplating a proposal to either make or buy the aforesaid component.

1. If the company decides to **make** the component itself, it would need to buy a machine for Rs. 8 lakhs which would be used for 5 years. Manufacturing costs in each of the 5 years would be Rs. 12 lakhs, Rs. 14 lakhs, Rs. 16 lakhs, Rs. 20 lakhs and Rs. 25 lakhs respectively. The relevant depreciation rate is 15%. The machine will be sold for Rs. 1 lakh at the beginning of the sixth year.
2. If the company decides to buy the component from the supplier, the component would cost Rs. 18 lakhs, Rs. 20 lakhs, Rs. 22 lakhs, Rs. 28 lakhs and Rs. 34 lakhs respectively in each of the five years.

The relevant discounting rate and tax rate are 14% and 34.944% respectively. Additional depreciation is not available. Should XYZ Ltd. make the component or buy it from outside?
**(Delhi 2010; 15 marks)**

*Solution:*
*If buy the component from the market (assuming the cost is incurred at year end):*

| | Rs. |
|---|---|
| PV of Buying cost | 80,26,498 |

| | | |
|---|---|---|
| Less: | Tax savings on PV of Buying cost | |
| | [Rs. 80,26,498*34.944%] | 28,04,779 |
| | Net cash outflow | 52,21,719 |

*If make the component (assuming the manufacturing cost is incurred at year end):*

| | | Rs. |
|---|---|---|
| | PV of the Cost of the Machine [Rs. 8,00,000*1] | 8,00,000 |
| | PV of Manufacturing cost | 56,92,423 |
| Less: | PV of Tax savings on Depreciation | |
| | [Rs. 3,18,436*34.944%] | 1,11,274 |
| Less: | PV of Sale value [Rs. 1,00,000*0.519] | 51,900 |
| Less: | Tax savings on PV of Manufacturing cost | |
| | [Rs. 56,92,423*34.944%] | 19,89,160 |
| | Net cash outflow | 43,40,089 |

*Conclusion:*

It is better to manufacture the component in own factory because it results in cash savings of Rs. 8,81,630 [Rs. 52,21,719 – Rs. 43,40,089]. Apart from this extra cash inflow, the company can claim the benefit of tax savings on STCL of Rs. 40,627 [Rs. 2,54,964 (Rs. 1,00,000 – Rs. 3,54,964)*34.944%*0.456] in the sixth year provided it has an equal amount of STCG also. Further, if it assumed that there a long-term capital gain, then the net tax benefit will be will be Rs. 24,183 [Rs. 2,54,964*20.8%*0.456].

*Clarification of doubt raised by a participant –*

| | | | |
|---|---|---|---|
| PY 2020-21 | 12,00,000 | 1 April 2020 | 1 |
| PY 2021-22 | 14,00,000 | 1 April 2021 | .877 |
| PY 2022-23 | 16,00,000 | 1 April 2022 | .769 |
| PY 2023-24 | 20,00,000 | 1 April 2023 | .675 |
| PY 2024-25 | 25,00,000 | 1 April 2024 | .592 |
| PY 2025-26 | (1,00,000) | 1 April 2025 | .519 |

**Choosing between Repair or shut down the machine:**

Depends upon case to case

## Lecture 11

### Business Restructuring

Some of the common examples of business restructuring for the purpose of taxation are:

1. **Amalgamation**
   **[Sec. 2, 72A and Relevant section of the topic ‘PGBP’]**
2. Demerger
3. Slump sale
4. Conversion of firm into a company
5. Conversion of sole proprietorship into a company
6. Transfer of assets between holding company and a subsidiary company

**Amalgamation [Sec. 2(1B)]**

X Ltd. [Amalgamating Company]
30% shareholders of X Ltd. are already the shareholders in Y Ltd.
[**70%***75% = 52.5% of the total shareholders] must agree for amalgamation.
Y Ltd. [Amalgamated Company]

*If amalgamation is valid under section 2(1B):*
*All the benefits mentioned under different provisions and allowed to the amalgamating company would now be allowed to the amalgamated company.*

**Lecture 12**

**Case 12 [20]:**
X owns a block of assets (consisting of plants A and B, depreciation rate is 15%). On April 1, 2019, WDV of block of assets is Rs. 10,40,000. On July 7, 2019, block of assets is transferred to Y by X in a scheme of amalgamation for Rs. 30,70,000. Find out tax consequences as well as the amount of depreciation allowed, in the following two cases:

1. X is an amalgamating company and Y is an *Indian* amalgamated company and the block of assets is transferred by X to Y in scheme of amalgamation as per section 2(1B). Y does not own any other asset.
2. Y is a *foreign* amalgamated company (assume in the aforesaid case).

**(Delhi 2010, 6 marks)**

**Solution:**
*Section 47(vi): Any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company.*

1.
(a) Depreciation: Rs. 41,344 [Rs. 1,56,000/366*97].
(b) X is not required to compute any capital gain on transfer of the block because transfer to an Indian amalgamated company is not treated as transfer.
(c) Compute WDV of the block on 1/04/2020 (in the hands of Y):

| | | |
|---|---|---|
| | WDV of the block on 1/04/2019 | Nil |
| Add: | Cost of assets acquired (Y) | Nil |
| | Block Acquired | 10,40,000 |
| | | 10,40,000 |
| Less: | Sale (Y) | Nil |
| | WDV of the block on 31/03/2020 | 10,40,000 |
| Less: | Depreciation for PY 2019-20 | 1,14,656 |
| | WDV of the block on 1/04/2020 | 9,25,344 |

2.
(a) Depreciation: Rs. 1,14,656 [Rs. 1,56,000/366*269]
(b) Computation of capital gain in the hands of X [Sec. 50(2)]

| | | |
|---|---|---|
| | Sale | 30,70,000 |
| Less: | Expenses on sale | Nil |
| Less: | WDV on 1/04/2019 | 10,40,000 |
| Less: | Actual cost acquired | Nil |

| | | |
|---|---|---|
| | STCG | 20,30,000 |

(c) Compute WDV of the block on 1/04/2020 (in the hands of Y):

| | | |
|---|---|---|
| | WDV of the block on 1/04/2019 | Nil |
| Add: | Cost of assets acquired (Y) | Nil |
| | Block Acquired | 30,70,000 |
| | | 30,70,000 |
| Less: | Sale (Y) | Nil |
| | WDV of the block on 31/03/2020 | 30,70,000 |
| Less: | Depreciation for PY 2019-20 | 1,14,656 |
| | WDV of the block on 1/04/2020 | 29,55,344 |

## Lecture 13

**Case 1 [20]:**

A Ltd. (an industrial undertaking) wants to amalgamate with B Ltd. (an Indian Company) on June 30, 2020. You are required to find out the tax implications in respect of the following losses/ allowances of A Ltd. in the assessment of B Ltd. (i.e., amalgamated company).

1. Unabsorbed depreciation allowance of the previous year 2018-19: Rs. 98,000;
2. Brought forward business loss of the previous year 2012-13: Rs. 15,00,000;
3. Brought forward capital loss Rs. 30,000 of the previous year 2018-19;
4. Brought forward speculative loss: Rs. 70,000 of the previous year 2018-19.
5. A Ltd. incurred capital expenses of Rs. 4,00,000 in 2017-18 for promoting family planning amongst its employees. The company could not claim deduction in respect of such expenses in previous years 2018-19 and 2019-20.

**Solution:**

It is a case of tax planning and thus, provisions applicable for assessment year 2021-22 are discussed. Tax implications:

1. Unabsorbed depreciation of Rs. 98,000 of the amalgamating company (A Ltd.) can be treated as the unabsorbed depreciation of the amalgamated company (B Ltd.) provided conditions of section 2(1B) as well as section 72A are satisfied. Further, this unabsorbed depreciation can be adjusted up to unlimited number of years by the amalgamated company as per the rules of set off or carry forward and set off of losses.
2. The brought forward business loss (if non-speculative in nature) of Rs. 15,00,000 of the amalgamating company (A Ltd.) can be treated as the business loss of the PY 2020-21, i.e., the year in which the amalgamation is effected. The amalgamated company (B Ltd.) can adjust this loss in the PY 2020-21 and if not fully adjusted, it can carry it forward till the PY 2028-29 and set off.

It is necessary that conditions of section 2(1B) as well as section 72A are satisfied.

3. Capital losses cannot be transferred to the amalgamated company even if conditions of section 2(1B) as well as section 72A are satisfied.
4. Speculative losses cannot be transferred to the amalgamated company even if conditions of section 2(1B) as well as section 72A are satisfied.
5. Capital expenses on family planning is allowed as deduction in 5 equal annual instalments. Each installment is Rs. 80,000 [Rs. 4,00,000/5].

| | |
|---|---|
| PY 2017-18: | Claimed [A Ltd.] |
| *PY 2018-19:* | *Could not claim because there must have been insufficient profits [A Ltd.] Rs. 80,000* |
| *PY 2019-20:* | *Could not claim because there must have been insufficient profits [A Ltd.] Rs. 80,000* |
| PY 2020-21: | Amalgamation took place. In this year, the amalgamating company has unabsorbed depreciation of Rs. 1,60,000. |

Unabsorbed depreciation of Rs. 1,60,000 of the amalgamating company (A Ltd.) can be treated as the unabsorbed depreciation of the amalgamated company (B Ltd.) provided conditions of section 2(1B) as well as section 72A are satisfied. Further, this unabsorbed depreciation can be adjusted up to unlimited number of years by the amalgamated company as per the rules of set off or carry forward and set off of losses.

*Rs. 80,000 as Capital expenses on family planning*

*This expense can be treated as the expense of the amalgamated company (B Ltd.) provided conditions of section 2(1B) are satisfied.*

P&L Account of B Ltd.

| | | | |
|---|---|---|---|
| Capital Expenses on F/P | 80,000 | | |

PY 2021-22: Rs. 80,000 as Capital expenses on family planning

This expense can be treated as the expense of the amalgamated company (B Ltd.) provided conditions of section 2(1B) are satisfied

P&L Account of B Ltd.

| | | | |
|---|---|---|---|
| | | Gross Profit | 60,000 |
| Capital Expenses on F/P | 60,000 | | |
| Unabsorbed deprecation | 20,000 | | |

**Demerger**

Valid demerger [Sec. 2(19AA)]

**Benefits to the demerged company**
**Benefits to the shareholders of demerged company**
**Benefits to the resulting company**

**Pending point is:**

Shareholders of demerged company will demand stake in the resulting company.

To give shares to the shareholders of demerged company, it is necessary to know the Net Worth of the undertaking of the demerged company.

*Tomorrow, I will discuss the calculation of net worth of the undertaking/ unit of the demerged company.*

**Lecture 14**

**Case 14 [20]:**

From the following information determine the **value of shares to be issued by resulting company** to the shareholders of demerged company (D company) assuming unit I is proposed to be demerged:

**Balance Sheet of D Company**

| | Unit I | Unit II | Head Office (Common to both units) | Total |
|---|---|---|---|---|
| | Rs. | Rs. | Rs. | Rs. |
| Assets: | | | | |

| | | | | |
|---|---|---|---|---|
| Fixed Assets (WDV) | 15,00,000 | 20,00,000 | 3,00,000 | 38,00,000 |
| Current Assets | 7,00,000 | 8,00,000 | 2,00,000 | 17,00,000 |
| Total | **22,00,000** | 28,00,000 | **5,00,000** | **55,00,000** |
| Liabilities: | | | | |
| Share Capital: | | | | |
| 2,50,000 Shares of Rs.10 each | ---- | ---- | 25,00,000 | 25,00,000 |
| General Reserve | ---- | ---- | 10,00,000 | 10,00,000 |
| Loans | 3,00,000 | 6,00,000 | **3,00,000** | 12,00,000 |
| Current Liabilities | 2,00,000 | 4,00,000 | **2,00,000** | 8,00,000 |
| Total | **5,00,000** | 10,00,000 | 40,00,000 | **55,00,000** |

Also determine the value of shares to be allotted by the resulting company to a shareholder of demerged company who is holding 100 shares of Rs. 10 each in the demerged company.

**Solution:**

**Net Worth of Demerged company [Unit I]:**

| | | |
|---|---|---|
| | Specific Assets of Unit I | 22,00,000 |
| Less: | Specific Liabilities of Unit I | 5,00,000 |
| Less: | Common Liabilities share of Unit I [5,00,000* 22,00,000 / 55,00,000] | 2,00,000 |
| | Net Worth of Unit I | 15,00,000 |

Therefore, the value of shares to be issued by the resulting company = Rs. 15,00,000

**Value of shares to be allotted to a shareholder having 100 shares:**
100/2,50,000* 100 = 0.0004% of the total shareholding
Therefore, I will get Rs. 600 [Rs. 15,00,000*0.0004%] worth of shares.
Rs. 600 can be distributed as 100 shares * Rs. 6 per share (or Rs. 60 shares * Rs. 10 share).

Section 2(*19AA*) "demerger", in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956 (1 of 1956), by a demerged company of its one or more undertakings to any resulting company in such a manner that—

(*i*) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;

(*ii*) all the liabilities relatable to the undertaking, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of the demerger;

(*iii*) the property and the liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger:

[4][**Provided** *that the provisions of this sub-clause shall not apply where the resulting company records the value of the property and the liabilities of the undertaking or undertakings at a value different from the value appearing in the books of account of the demerged company, immediately before the demerger, in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015;*]

(*iv*) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis except where the resulting company itself is a shareholder of the demerged company;

(*v*) the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become shareholders of the resulting company or companies by virtue of the demerger,

otherwise than as a result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting company;

(*vi*) the transfer of the undertaking is on a going concern basis;

(*vii*) the demerger is in accordance with the conditions, if any, notified under sub-section (5) of section 72A by the Central Government in this behalf.

*Explanation 1.*—For the purposes of this clause, "undertaking" shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity.

*Explanation 2.*—For the purposes of this clause, the liabilities referred to in sub-clause (*ii*), shall include—

(*a*) the liabilities which arise out of the activities or operations of the undertaking;

(*b*) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and

(*c*) in cases, other than those referred to in clause (*a*) or clause (*b*), so much of the amounts of general or multipurpose borrowings, if any, of the demerged company as stand in the same proportion which the value of the assets transferred in a demerger bears to the total value of the assets of such demerged company immediately before the demerger.

*Explanation 3.*—For determining the value of the property referred to in sub-clause (*iii*), any change in the value of assets consequent to their revaluation shall be ignored.

(*19AAA*) "demerged company" means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company;

**Slump Sale:**

Section 2(*42C*) "slump sale" means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

*Explanation 1.*—For the purposes of this clause, "undertaking" shall have the meaning assigned to it in *Explanation 1* to clause (*19AA*).

*Explanation 2.*—For the removal of doubts, it is hereby declared that the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities ;

**Special provision for computation of capital gains in case of slump sale [Sec. 50B]**

(1) Any profits or gains arising from the slump sale effected in the **previous year** shall be chargeable to income-tax as capital gains arising from the transfer of **long-term capital assets** and shall be deemed to be the income of the previous year in which the **transfer took place** :

***Provided*** that any profits or gains arising from the transfer under the slump sale of any capital asset being one or more **undertakings owned and held by an assessee for not more than**

**thirty-six months** immediately preceding the date of its transfer shall be deemed to be the capital gains arising from the transfer of **short-term capital assets.**

(2) In relation to capital assets being an undertaking or division transferred by way of such sale, the "**net worth" of the undertaking or the division,** as the case may be, shall be **deemed to be the cost of acquisition and the cost of improvement** for the purposes of sections 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48.

*Explanation 1.*—For the purposes of this section, "net worth" shall be the **aggregate value of total assets** of the undertaking or division **as reduced by the value of liabilities** of such undertaking or division as appearing in its books of account :

**Provided** that any change in the value of assets on account of **revaluation of assets** shall be **ignored** for the purposes of computing the net worth.

*Explanation 2.*—For computing the net worth, the aggregate value of total assets shall be,—

(*a*) in the case of depreciable assets, the written down value of the block of assets determined in accordance with the provisions contained in sub-item (*C*) of item (*i*) of sub-clause (*c*) of clause (*6*) of section 43;

(*b*) in the case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD, *nil;* and

(*c*) in the case of other assets, the **book value** of such assets.

**Case 15 [20]:**

A started a unit on 7 July 2016. The Balance Sheet of the unit on 31.03.2020 is as under:

| *Liabilities* | *Rs.* | *Assets* | *Rs.* |
|---|---|---|---|
| Creditors | 2,50,000 | Debtors | 2,00,000 |
| Bills Payable | 1,50,000 | Stock | 2,50,000 |
| Revaluation Reserve | 6,00,000 | Bills Receivable | 50,000 |
| Capital | 13,00,000 | Plant and Machinery (WDV) | 3,00,000 |
| | | Building (WDV) | 5,00,000 |
| | | Land (purchased on 1.2.2019) | 10,00,000 |
| | 23,00,000 | | 23,00,000 |

*Other information:*

a. Land was revalued in 2020 and the amount was credited to Revaluation Reserve Account.
b. Sold the unit on 01.05.2020 for lump-sum consideration of Rs. 20,00,000.

Compute the capital gains in slump sale. **(Delhi 2010, 5 marks) [Ans. Rs. 7,00,000]**

**Solution:**

More than 36 months: Long-term

| | | AY 2021-22 |
|---|---|---|
| | Sale | 20,00,000 |
| Less: | Net worth | |
| | [COA + COI] | 13,00,000 |
| | LTCG | 7,00,000 |

*Note: Calculation of Net worth [Assets – Liabilities]*

2,00,000 + 2,50,000 + 50,000 + 3,00,000 + 5,00,000 + [10,00,000 – 6,00,000] – 2,50,000 – 1,50,000 = 13,00,000

**Lecture 15**

**CONVERSION of firm into a company:**

**Section 47**(*xiii*) Any transfer of a **capital asset or intangible asset by a firm to a company** as a result of **succession** of the firm by a company in the business carried on by the firm

**Provided** that—

(*a*) all the **assets and liabilities** of the firm or of the association of persons or body of individuals relating to the business immediately before the succession become the assets and liabilities of the company;

(*b*) all the **partners of the firm** immediately before the succession become the shareholders of the company in the **same proportion in which their capital accounts** stood in the books of the firm on the date of the succession;

(*c*) the **partners of the firm do not receive** any consideration or benefit, directly or indirectly, in any form or manner, **other than by way of allotment of shares in the company**; and

(*d*) the **aggregate** of the shareholding in the company **of the partners** of the firm **is not less than fifty per cent** of the total voting power in the company and their shareholding continues to be as such for a period of **five years** from the date of the succession;

**Case 16 [20]:**

The following is the Balance Sheet of a firm as on 31.03.2020:

| Liabilities | Rs. | Assets | Rs. |
|---|---|---|---|
| Capital Accounts<br>A 6,00,000<br>B 3,00,000<br>C 3,00,000 | 12,00,000 | Land at cost (acquired on 10.06.2013) | 4,00,000 |
| Creditors | 4,00,000 | Building (WDV) | 6,00,000 |
| Other Liabilities | 2,00,000 | P&M (WDV) | 3,00,000 |
| | | Debtors | 2,00,000 |
| | | Stock | 3,00,000 |
| | 18,00,000 | | 18,00,000 |

The partners share profit/ loss in the ratio of 2:1:1.

The firm wants to be a company on 01.04.2020. Discuss what steps the firm and company should take to avoid the tax on capital gains.

The firm revalued its assets as under for transfer to the company:

| | Amount (Rs.) |
|---|---|
| Land | 15,00,000 |
| Building | 9,00,000 |
| Plant & Machinery | 4,00,000 |
| Debtors | 2,00,000 |
| Stock | 4,00,000 |

The liabilities will be transferred at the book value.

**Solution:**

Transferring the capital assets as well as the intangible assets in case of conversion of firm into a company is not treated as transfer under section 47(xiii) and thus, the firm is not supposed to compute the income under the head Capital Gains. However, to get this exemption of income tax under the head Capital Gains, following conditions must be satisfied –

1. …………….

2. The partners must be having the shares as follows: Rs. 14,00,000 (A), Rs. 7,00,000 (B) and Rs. 7,00,000 (C).

Capital A/C [31.03.2020]

| | A | B | C | | A | B | C |
|---|---|---|---|---|---|---|---|
| Closing balance | 14,00,000* | 7,00,000* | 7,00,000* | Opening Balance | 6,00,000 | 3,00,000 | 3,00,000 |
| | | | | Realization profit [2:1:1] | 8,00,000 | 4,00,000 | 4,00,000 |
| | | | | | | | |

Realization A/C

| Land | 4,00,000 | Creditors | 4,00,000 |
|---|---|---|---|
| Building (WDV) | 6,00,000 | Other Liabilities | 2,00,000 |
| P&M (WDV) | 3,00,000 | PC | 28,00,000 |
| Debtors | 2,00,000 | | |
| Stock | 3,00,000 | | |
| Realization profit | 16,00,000* | | |
| | | | |

Calculation of Purchase Consideration:

| | | |
|---|---|---|
| | Assets [Agreed Value] | |
| | 15,00,000 + 9,00,000 + 4,00,000 + 2,00,000 + 4,00,000 | 34,00,000 |
| Less: | Liabilities [Agreed value] | |
| | 4,00,000 + 2,00,000 | 6,00,000 |
| | PC | 28,00,000 |

3. 50% or more of the shareholding must remain of these partners for at least 5 years.
4. The new company has to give shares only for Rs. 28,00,000.

***How much capital gain is exempt in the hands of the firm?***

| | | Capital Assets | Stock |
|---|---|---|---|
| | Land | 15,00,000 | |
| | Building (WDV) | 9,00,000 | |
| | P&M (WDV) | 4,00,000 | |
| | Debtors | 2,00,000 | |
| | Stock | | 4,00,000 |
| | Transferred value | 30,00,000 | 4,00,000 |
| Less: | Book Values | | |
| | [4,00,000 + 6,00,000 + 3,00,000 + 2,00,000] | 15,00,000 | 3,00,000 |
| | Capital Gain [Sec. 47(xiii) – **Not a correct figure**] | **15,00,000** | |
| | PGBP (Taxable in the hands of the firm) | | 1,00,000 |

***Rs. 16,00,000 computed here is having no relation with the Realization profit of Rs. 16,00,000***

**Section 2(*14*) "capital asset" means—**

(*a*) property of **any kind** held by an assessee, whether or not connected with his business or profession;

(*b*) any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992),

but does not include—

(*i*) any stock-in-trade [other than the securities referred to in sub-clause (*b*)], consumable stores or raw materials held for the purposes of his business or profession ;

(*ii*) personal effects, that is to say, movable property (including wearing apparel and furniture) held for personal use by the assessee or any member of his family dependent on him, but excludes—

(*a*) jewellery;

(*b*) archaeological collections;

(*c*) drawings;

(*d*) paintings;

(*e*) sculptures; or

(*f*) any work of art.

*Explanation 1.*—For the purposes of this sub-clause, "jewellery" includes—

(*a*) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel;

(*b*) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel.

(*iii*) agricultural land in India, not being land situate—

(*a*) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand; or

(*b*) in any area within the distance, measured aerially,—

(*I*) not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (*a*) and which has a population of more than ten thousand but not exceeding one lakh; or

(*II*) not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in item (*a*) and which has a population of more than one lakh but not exceeding ten lakh; or

(*III*) not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (*a*) and which has a population of more than ten lakh.

*Explanation.*—For the purposes of this sub-clause, "population" means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year;

(*iv*) 6 per cent Gold Bonds, 1977, or 7 per cent Gold Bonds, 1980, or National Defence Gold Bonds, 1980, issued by the Central Government;

(*v*) Special Bearer Bonds, 1991, issued by the Central Government ;

(*vi*) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 notified by the Central Government.

*Explanation.*—For the removal of doubts, it is hereby clarified that "property" includes and shall be deemed to have always included any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever;

**CONVERSION of sole proprietary concern into a company:**

**Section 47(*xiv*)** Where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any **capital asset or intangible asset** to the company :

**Provided** that—

(*a*) all the **assets and liabilities** of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;

(*b*) the shareholding of the sole proprietor in the company is not less than **fifty per cent** of the total voting power in the company and his shareholding continues to remain as such for a period of **five years** from the date of the succession; and

(*c*) the **sole proprietor does not receive** any consideration or benefit, directly or indirectly, in any form or manner, **other than by way of allotment of shares** in the company;

**CONVERSION of company into LLP:**

**Section 47(*xiiib*)** Any transfer of a **capital asset or intangible asset** by a private company or unlisted public company (hereafter in this clause referred to as the company) to a limited liability partnership or any transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership in accordance with the provisions of section 56 or section 57 of the Limited Liability Partnership Act, 2008:

**Provided** that—

(*a*) all the **assets and liabilities** of the company immediately before the conversion become the assets and liabilities of the limited liability partnership;

(*b*) all the **shareholders of the company** immediately before the conversion become the **partners of the limited liability partnership** and their capital contribution and profit sharing ratio in the limited liability partnership are in the **same proportion** as their **shareholding in the company on the date of conversion**;

(*c*) **the shareholders of the company do not receive** any consideration or benefit, directly or indirectly, in any form or manner, **other than by way of share in profit and capital contribution** in the limited liability partnership;

(*d*) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less **than fifty per cent** at any time during the period of **five years** from the date of conversion;

(*e*) the total sales, turnover or gross receipts in the business of the **company** in **any of** the **three previous years preceding the previous year in which the conversion takes** place **does not exceed sixty lakh rupees**;

(*ea*) the total value of the assets as appearing in the books of account of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed five crore rupees; and

(*f*) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of three years from the date of conversion.

**Lecture 16**

**TRANSFER of assets between holding and subsidiary company:**

Section 47 (*iv*) any transfer of a capital asset by a company to its subsidiary company, if—

(*a*) the parent company or its nominees hold the whole of the share capital of the subsidiary company, and
(*b*) the subsidiary company is an Indian company;
(*v*) any transfer of a capital asset by a subsidiary company to the holding company, if—
(*a*) the whole of the share capital of the subsidiary company is held by the holding company, and
(*b*) the holding company is an Indian company :
**Provided** that nothing contained in clause (*iv*) or clause (*v*) shall apply to the transfer of a capital asset made after the 29th day of February, 1988, as stock-in-trade;

**Section 45(2):**
Notwithstanding anything contained in sub-section (1), the profits or gains arising from the transfer by way of conversion by the owner of a capital asset into, or its treatment by him as stock-in-trade of a business carried on by him shall be chargeable to income-tax as his income of the previous year in which such stock-in-trade is sold or otherwise transferred by him and, for the purposes of section 48, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

For example, converting the capital asset into stock in trade in PY 1996-97 and sells the stock in trade in PY 2016-17, the profits and gains will be computed in the PY 2016-17 and not when the assets were converted into stock-in-trade.
At the time of conversion, while computing income under the head Capital Gains, FMV of the Capital Asset on the date of conversion shall be deemed to the sale value.

**Section 2(*47*):**
"transfer", in relation to a capital asset, includes,—
(*iv*) in a case where the asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment ; or

**Withdrawal of exemption in certain cases.**
**Section 47A.**
(1) Where at any time before the expiry of a period of 8 years from the date of the transfer of a capital asset referred to in clause (*iv*) or, as the case may be, clause (*v*) of section 47,—
(*i*) such capital asset is converted by the transferee company into, or is treated by it as, stock-in-trade of its business; or
(*ii*) the parent company or its nominees or, as the case may be, the holding company ceases or cease to hold the whole of the share capital of the subsidiary company,
the amount of profits or gains arising **from the transfer of such capital asset not charged** under section 45 by virtue of the provisions contained in clause (*iv*) or, as the case may be, clause (*v*) of section 47 shall, notwithstanding anything contained in the said clauses, be deemed to be income chargeable under the head "Capital gains" of the previous year in which **such transfer** took place.

**Case 20 [20]:**
S Ltd. is a wholly-owned subsidiary of A Ltd. Both are Indian companies and maintain books of account on the basis of financial year. **On April 10, 1984**, S Ltd. transfers a capital asset (i.e., unlisted shares) to A Ltd. (acquired on April 6, 1981 for Rs. 50,000, fair market value on

April 1, 2001 is Rs. 60,000) for Rs. 1,50,000. A Ltd. sells the asset on **May 10, 2019** for Rs. 6,40,000. Determine the assessable profits of **A Ltd.** and **S Ltd.** under the following situations:

a. Before the sale of asset, A Ltd. has not converted it into stock-in-trade and it does not cease to hold entire share capital of S Ltd.
b. A Ltd. has converted the capital asset into stock-in-trade before its sale on May 10, 2019 (date of conversion: **June 10, 1987**, fair market value: Rs. 3,10,000).
c. Though A Ltd. does not convert capital asset into stock-in-trade, it ceases to hold entire share capital of S Ltd. on June 10, 1988 when 5% shareholding in S Ltd. is transferred by way of sale to the public.

As per *base year 1981-82,* the CII for 1981-82 is 100, for 1984-85 is 125, for 1987-88 is 150 and for 1988-89 is 161. As per *base year 2001-02,* CII for 2019-20 is 289.

**(Delhi 2014, 15 marks)**

*Situation (a):*

**Working:**

| | **S Ltd. (Subsi)** | PY 84-85 | **A Ltd. (Holding)** | PY 19-20 Capital Asset | **Any Third Party** |
|---|---|---|---|---|---|
| Rs. 50,000 On PY 81-82 | | Rs. 1,50,000 | | Rs. 6,40,000 | |

**S Ltd.:** There is no need to compute capital gain by S Ltd. in the AY 1985-86 under section 47(v) because –

i) A Ltd. continues to hold entire share capital of S Ltd. and

ii) A Ltd. is an Indian company.

Since A Ltd. has neither converted the capital asset into stock in trade nor does it cease to hold the entire share capital of S Ltd. the exemption given to S Ltd. under section 47(v) will not be withdrawn under section 47A(1).

**A Ltd.:**

| | | AY 2020-21 |
|---|---|---|
| | Sale | 6,40,000 |
| Less: | Expenses on sale | Nil |
| Less: | Indexed cost of Acquisition | |
| | [Rs. 60,000* 289] / 100 | 1,73,400 |
| | LTCG | 4,66,600 |

*Determination of holding period to determine whether the asset is long-term or short-term:*
[6 April 1981 to 9 May 2019]: More than 24 months

*Sec. 49(1): Cost of asset to the previous owner:*

Cost of asset to the assessee (A Ltd.) = Cost of asset to the previous owner
Rs. 50,000

Cost of Acquisition (A Ltd. ) = Cost of asset to the assessee or the FMV of the asset on 1 April 2001 (whichever is higher, depends upon the discretion of the assessee)
= Rs. 50,000 or Rs. 60,000 (whichever is higher)
= Rs. 60,000

**Lecture 17**

*Situation (b):*

**Working:**

| | **S Ltd.** (Subsi) | PY 84-85 | **A Ltd.** (Holding) | PY 19-20 Stock | **Any Third Party** |
|---|---|---|---|---|---|
| Rs. 50,000 On PY 81-82 | | Rs. 1,50,000 | | Rs. 6,40,000 | |

PY 87-88
Conversion
From C/Asset
To Stock
FMV of C/Asset on 10 June 1987 = Rs. 3,10,000

**S Ltd.:**

The capital asset should not have been converted into stock in trade till 9 April 1992. But the holding company converted it on 10 June 1987 and therefore, income under the head Capital Gain will be computed in the hands of S Ltd. for the AY 1985-86 as follows:

| | | AY 1985-86 |
|---|---|---|
| | Sale consideration | 1,50,000 |
| Less: | Expenses on sale | Nil |
| ~~Less:~~ | ~~Indexed cost of acquisition~~ | |
| | ~~[50,000 * 125] / 100~~ | ~~62,500~~ |
| | ~~LTCG~~ | ~~87,500~~ |
| Less: | Cost of Acquisition | 50,000 |
| | LTCG | 1,00,000 |

*Note: Concept of indexation started from the AY 1993-94.*

**A Ltd.**

Computation of Capital Gain for AY 2020-21:

| | | |
|---|---|---|
| | Sale consideration | **6,40,000** |
| Less: | Expenses on sale | Nil |
| Less: | Indexed cost of acquisition | |
| | [1,50,000* 150] / 125 | 1,80,000 |
| | LTCG | 1,30,000 |

Period of holding: 10 April 1984 to 9 June 1987: Long-term capital asset

Computation of PGBP for the AY 2020-21:

| | | |
|---|---|---|
| | Sale | 6,40,000 |
| Less: | Purchase value | 3,10,000 |
| | PGBP | 3,30,000 |

*Situation (c)*

**S Ltd.:**

The shareholding should not have been transferred till 9 April 1992. But the holding company transferred 5% shareholding on 10 June 1988 and therefore, income under the head Capital Gain will be computed in the hands of S Ltd. for the AY 1985-86 as follows:

AY 1985-86

| | | |
|---|---|---|
| | Sale consideration | 1,50,000 |
| Less: | Expenses on sale | Nil |
| ~~Less:~~ | ~~Indexed cost of acquisition~~ | |
| | ~~[50,000 * 125]~~ | ~~62,500~~ |
| | ~~100~~ | |
| | ~~LTCG~~ | ~~87,500~~ |
| Less: | Cost of Acquisition | 50,000 |
| | LTCG | 1,00,000 |

*Note: Concept of indexation started from the AY 1993-94.*

**A Ltd.:**

| | | AY 2020-21 |
|---|---|---|
| | Sale | 6,40,000 |
| Less: | Expenses on sale | Nil |
| Less: | Indexed cost of Acquisition | |
| | [Rs. 1,50,000* 289] | 4,33,500 |
| | 100 | |
| | LTCG | 2,06,500 |

*Determination of holding period to determine whether the asset is long-term or short-term:*
[10 April 1984 to 9 May 2019]: More than 24 months

Cost of Acquisition (A Ltd.) = Cost of asset to the assessee or the FMV of the asset on 1 April 2001 (whichever is higher, depends upon the discretion of the assessee)
= Rs. 1,50,000 or Rs. 60,000 (whichever is higher)
= Rs. 1,50,000

## Lecture 18

### Employee Remuneration
### (A topic of Tax Planning)
### AY 2021-22

| | | |
|---|---|---|
| | Salary | XX |
| + | Allowance | XX |
| + | Perquisites | XX |
| | Gross salary | XX |
| - | Deductions under section 16: | |
| | Standard deduction | XX |
| | Entertainment allowance | XX |
| | Tax on employment/ Professional tax | XX |
| | Taxable salary | XX |

**Tax treatment of retirement benefits:**

(1) Leave encashment:

(a) During continuity – Fully Taxable

(b) At the time of death – Fully Exempt
(c) At the time of retirement/ leaving the job:
- If a Government employee, Fully exempt
- If a non-Government employee, Least of the following is exempt:
i. AMS* Leaves standing to one' credit (in number of months) [Leave entitlement cannot exceeds of 30 days of actual service. Actual service/ completed year of service means any fraction of the year is ignored]
ii. Rs. 3,00,000 – Amount exempted earlier (if any)
iii. 10*AMS
iv. Leave encashment actually received

*Meaning of salary:*
BS + DA (FP) + Commission based on fixed percentage of turnover achieved by the employee

*Meaning of average monthly salary (AMS):*
AMS is taken on the basis of 10 months immediately preceeding the retirement. For example, if an employee retires on 31st December 2019, salary for this purpose is taken during 1 March 2019 to 31 December 2019.

*Computation of period standing to one's credit:*

| | | |
|---|---|---|
| | Leave entitlement | XX |
| Less: | Leaves actually availed | XX |
| | Period standing to one's credit | XX |

(2) Gratuity:
(a) During continuity – Fully Taxable
(b) At the time of death – **ISSUES** [Fully Exempt because on the basis of 2 circulars issued by CBDT related to tax treatment of leave encashment at the time of death]
(c) At the time of retirement/ leaving the job:
- If a Government employee, Fully exempt
- If a non-Government employee,
A. Employee covered under Payment of Gratuity Act 1972
Least of the following is exempt:
i. 15 days salary last drawn based on completed years of service in excess of 6 months
ii. Rs. 20,00,000 – Amount exempted earlier
iii. Gratuity actually received

*Meaning of Salary:*
BS + DA (whether FP or not)

*Calculation of 15 days:*

$$\frac{\text{Latest monthly salary} * 15}{26 \text{ (Maximum no. of working days)}}$$

B. Employee not covered under Payment of Gratuity Act 1972
Least of the following is exempt:
i. Half month average salary based on completed years of service

ii. Rs. 20,00,000 – Amount exempted earlier
iii. Gratuity actually received

*Meaning of Salary:*
Same as that of leave encashment

*10 months salary:*
Salary is taken for 10 months immediately **preceeding the month** of retirement.
Example, if employee retires on 31 December 2019, salary for this purpose is taken during 1 Feb 2019 to 30 November 2019.

*Calculation of half month salary:*

$$\frac{\text{10 Months salary}}{10} = \frac{\text{AMS}}{2}$$

(3) Pension:

Old Pension Scheme and New Pension Scheme **(NPS)**

Old pension scheme:
Uncommuted pension (Monthly): Fully taxable

Commuted pension (Lump sum):

- If Government employee, Fully exempt
- If non-Government employee, depends upn the following:

(a) Whether the employee received gratuity also,
Exemption = 1/3$^{rd}$ of full value

(b) Whether the employee does not receive gratuity,
Exemption = 1/2th of full value

**Example:**
Y retired from a private job on 30 June 2020 and after retirement, he started receiving pension of Rs. 40,000 per month. On 1 February 2021, he gets 80% of the pension commuted for Rs. 16,00,000. Compute his taxable pension for the assessment year 2021-22 assuming:
**a)** he has received gratuity of Rs. 3,00,000; or
**b)** he has not received any gratuity.

**Solution**
**a) Value of taxable pension: Rs. 12,29,333**
**b) Value of taxable pension: Rs. 8,96,000**

**NPS – Will discuss later**

**(4) Provident Funds**

| | **SPF [PF Act 1925]** | **RPF [PF Act 1952]** | **UPF [Not recognised by the CIT]** | **PPF [Gernal PF. Anyone can open this account]** |
|---|---|---|---|---|

| Employer's contribution | **E** | Exempt up to 12% of salary | **E** | Cannot |
|---|---|---|---|---|
| Employee's contribution | Deduction allowed U/S 80C | Deduction allowed U/S 80C | Deduction **not** allowed U/S 80C | Deduction allowed U/S 80C |
| Interest credited annually | **E** | E only till interest does not exceed 9.5% | **E** | E |
| Lump sum payment | **E** | E provided some conditions are satisfied | Employer contribution + Interest on employer contribution is taxable under Salaries. However, employee contribution is not at tall an income. Interest on employee contribution is taxable under Other Sources | E |

*Meaning of salary:*
Same as leave encashment.

**(5) Retrenchment compensation**
Maximum amount of exemption is Rs. 5,00,000

**(6) Compensation on voluntary retirement**
Maximum amount of exemption is Rs. 5,00,000

## Lecture 19
## ALLOWANCES + PERQUISITES

**Taxability of allowances:**
1. Exemption depends upon actual expenditure [10(14)]
a) Conveyance Allowance
b) Transfer/ Touring
c) Daily
d) Uniform
e) Helper

f) Academic/ Research

2. Exemption depends upon the provisions of the Income Tax Act
a) Children education: Exemption is Rs. 100 per month per child (maximum 2 children)
b) Hostel expenditure: 300 ……
c) Transport allowance: Rs. 3,200 per month (only for blind, deaf and dumb or orthopaedically handicapped)

3. Exemption depends upon the actual expenditure as well as the provisions of the Act
House rent allowance
Least
1. 50%/ 40%,
2. HRA actually received
3. Rent paid – 10% of salary

Note:
1. Salary: Same as that of leave encashment/ PF.
2. Salary is taken on 'due' basis.

4. Fully Exempt
Covered under section 10

5. Fully Taxable
No need to learn this category
Common examples: DA, CCA, Servant Allowance, etc.

**Perquisites**

Meaning of Perquisites [Sec. 17(2)] –
AY 21-22 [Change is in point of RPF + NPS + Contribution to Approved Superannuation Fund exceeds Rs. 7,50,000, then the excess is taxable]

**Valuation of Perquisites:**
1. Accommodation
a) Unfurnished
b) Furnished
c) Hotel

2. Interest-free loan/ Loan at concessional rate:
Computed on Maximum O/S balance each month and this balance means outstanding on the last day of each month.
Note:
1. If amount of loan does not exceed Rs. 20,000 in aggregate per year.
2. 3A

3. Domestic servants:

*Note:*
Gardener's Salary: When the accommodation is owned by the employer, gardeners expenses (gardeners salary is provided by the employer) is not taxable as a perquisite.

4. Household amenities:

## Lecture 20

5. Motor Car:

What we verify?
1. Car provided by the employer or car is of the employee
2. Expenses on running and maintenance are incurred by the employer or the employee
3. Car is used for official purpose, personal purpose or official as well as personal purpose.

*Situation I: Car is provided by the employer*

| *Use* | *Expenses incurred?* | *Value* |
|---|---|---|
| 1. Official | Does not matter | Nil provided the documents are maintained |
| 2. Personal | Employer/ Employee | 10% p.a. of actual cost (if owned by the employer) or hire charges paid/ payable (if hired by the employer)<br>+ Running and maintenance Expenses (if incurred by the employer)<br>+ Driver's expenses (if driver is provided by the employer)<br>- Amount recovered from the employee |
| 3. Official As well as Personal | Employer | Rs. 1,800/ Rs. 2,400 per month depending upon the engine capacity + Rs. 900 per month (if driver is also provided) |
| | Employee | Rs. 600/ Rs. 900 per month depending upon the engine capacity + Rs. 900 per month (if driver is also provided) |

***Example from the book [Concept Building Approach]***
*A Maruti WagonR [1,200 cc] which is owned by the employer has been given to the employee only for personal purposes on 8 July 2019. The actual cost of the car when purchased in November 2010 was Rs. 3,50,000 (written down value of the car is Rs. 1,50,000 on 8 July 2019). The expenses incurred by the employee during 8 July 2019 to 31 March 2020 on petrol Rs. 60,000, insurance Rs. 10,000, service Rs. 25,000 and driver's salary Rs. 70,000 were reimbursed by the employer during the previous year. The employee has paid Rs. 30,000 to the employer for the use of this car facility.*
Value of car = Rs. 1,61,250

***Example from the book [Concept Building Approach]***
*A Toyota Fortuner [2,750 cc] which is hired by the employer on a monthly hire charge of Rs. 55,000 has been given to the employee for official as well as personal purposes on 31 October 2019. The expenses incurred by the employee during 31 October 2019 to 31 March 2020 on diesel Rs. 1,10,000, insurance Rs. 28,000, service Rs. 43,000 and driver's salary Rs. 1,40,000 were reimbursed by the employer during the previous year. The employee has paid Rs. 9,000 to the employer for the use of car facility.*

Situation II: When car belongs to the employee and expenses are incurred by the employer:

| *Use* | *Value* |
|---|---|
| Official | Nil |
| Personal | Actual expenditure of the employer<br>Less: Amount recovered from the employee |

| | | |
|---|---|---|
| Off/ Personal | Actual expenditure of the employer | |
| | Less: | *Amount attributable towards official purpose:*<br>*Rs. 1,800/ Rs. 2,400 per month depending upon the engine capacity*<br>*+ Rs. 900 per month (if driver is provided by the employer)* |
| | Less: | Amount recovered from the employee |
| | *Note:* | If the assessee says that actual expenditure for official use of care is more than the amount specified above, the more amount is also allowed to be deducted provided specified documents are maintained |

***Example from the book [Concept Building Approach]***

*A Toyota Fortuner [2,750 cc] is owned by the employee but used for official as well as personal purposes from 8 November 2019. The expenses incurred by the employee during 8 November 2019 to 31 March 2020 on diesel Rs. 1,10,000, insurance Rs. 28,000, service Rs. 43,000 and driver's salary Rs. 1,40,000 were reimbursed by the employer during the previous year. The employee has paid only Rs. 9,000 to the employer for getting the benefit of running and maintenance expenses incurred by the employer. The employer has maintained the log-book of the car. The employer claims that the actual expenses incurred for official purpose is 80% of the actual expenditure.*

Value is Rs. 55,200.

Note: Car facility given to commute the distance from office to residence and back is 100% exempt from tax.

6. Education facility

**Lecture 21**

7. Medical facility

**Case 2 [20]:**

X has received offers from companies of Delhi for service as under:

| | Offer A (Rs.) | Offer B (Rs.) |
|---|---|---|
| Basic Salary | 10,00,000 | 7,50,000 |
| House Rent Allowance | ---- | 1,50,000 |
| Transport allowance (for coming to office from residence and back) | ---- | 19,200 |
| Contribution to approved superannuation fund by the employer | ---- | 70,000 |
| Mobile phone | ---- | 10,800 |
| Total | 10,00,000 | 10,00,000 |

*Additional information:*

a. His qualifying savings under section 80C will be Rs. 50,000.
b. He will pay house rent Rs. 15,000 p.m.
c. He needs a mobile phone for private purposes.

Which offer should he accept and why?

Further, is there any gain to the employer in case of offer 'B'? The rate of tax for the employer is 30% + surcharge @ 7% + cess @ 4% = 33.384%.

**[Delhi University B.Com.(H) 2008 (Modified)]**

**Solution:**

Computation of total income and tax liability of X for the assessment year 2021-22:

| | Particulars | Rs. | Offer A (Rs.) | Offer B (Rs.) |
|---|---|---|---|---|
| | Basic salary | | 10,00,000 | 7,50,000 |
| Less: | HRA received<br>Exempt<br>*Least of the following is exempt:*<br>a. HRA received is Rs. 1,50,000<br>b. Rent paid – 10% of salary (Rs. 1,80,000 – 10% of 7,50,000) i.e., 1,05,000<br>c. 50% of Rs. 7,50,000 i.e., 3,75,000 | 1,50,000<br>1,05,000 | | 45,000 |
| | Transport allowance | | | 19,200 |
| | Contribution to approved superannuation fund | | | Nil |
| | Mobile phones | | | Exempt |
| | Gross salary | | 10,00,000 | 8,14,200 |
| Less: | Standard deduction | | 50,000 | 50,000 |
| | Taxable salary | | 9,50,000 | 7,64,200 |
| Add: | Income from other heads | | Nil | Nil |
| | Gross total income | | 9,50,000 | 7,64,200 |
| Less: | Deduction under section 80C | | 50,000 | 50,000 |
| Less: | Deduction under section 80GG<br>Least of the following is exempt:<br>a. Rs. 60,000<br>b. Rent paid – 10% of total income (Rs. 1,80,000 – 10% of 9,00,000) i.e., 90,000<br>c. 25% of 9,00,000 i.e., 2,25,000 | | 60,000 | |
| | Total income | | 8,40,000 | 7,14,200 |
| | Tax on Total income | | 80,500 | 55,340 |
| Less: | Rebate under section 87A | | Nil | Nil |
| | | | 80,500 | 55,340 |
| Add: | Cess @ 4% | | 3,220 | 2,214 |
| | Tax payable (Rounded off) | | 83,720 | 57,550 |

*Computation of gain/ loss to employer:*

| | | Offer A (Rs.) | Offer B (Rs.) |
|---|---|---|---|
| | Total remuneration | 10,00,000 | 10,00,000 |
| Less: | Tax saved @ 33.384% | 3,33,840 | 3,33,840 |
| | Net burden | 6,66,160 | 6,66,160 |

There is a neither any gain nor any loss to the employer in any case.

Conclusion: It is better to accept offer B since tax liability is less and employer has no loss in giving offer B.

## Lecture 22

**Case 8 [20]:**

A Ltd. has offered you a job in Delhi at a basic salary of Rs. 15,000 per month and an option to choose any one of the following two packages:

| | Package I | Package II |
|---|---|---|
| 1. | HRA Rs. 4,500 per month<br>(Rent to be paid Rs. 4,500 per month) | Company owned unfurnished accommodation |

| | | (F.R.V. Rs. 54,000 per annum) |
|---|---|---|
| 2. | Education allowance Rs. 400 per month (for one child) | Education facility for one child in an institution owned by employer provided free of cost. However, the value of similar education in a similar institution in a similar locality is Rs. 300 per month. |
| 3. | Telephone allowance Rs. 1,500 per month | Free telephone facility at residence upto Rs. 1,000 per month |
| 4. | Medical allowance Rs. 2,000 per month | Medical reimbursement upto Rs. 24,000 per annum |
| 5. | Conveyance allowance Rs. 1,500 per month (for private use) | Motor car facility for private use with expenditure valued at Rs. 18,000 |

The company also offers the services of watchman, sweeper and gardener in both the above packages. The salary of each is Rs. 500 per month. Which package will you choose so that your tax liability is minimized? **(Delhi 2011, 10 marks)**

**Solution:**

Calculation of salary in case Package I is chosen:

| | Amount (Rs.) |
|---|---|
| Basic salary | 1,80,000 |
| HRA (4,500 – 3,000)*12 | 18,000 |
| Education allowance (400 - 100)*12 | 3,600 |
| Telephone allowance | 18,000 |
| Medical allowance | 24,000 |
| Conveyance allowance | 18,000 |
| Sweeper etc. [500*3*12] | 18,000 |
| Gross salary | 2,79,600 |
| Less: Standard deduction | 50,000 |
| Taxable salary | 2,29,600 |

Calculation of salary in case Package II is chosen:

| | Amount (Rs.) |
|---|---|
| Basic salary | 1,80,000 |
| RFA (15% of 1,80,000) | 27,000 |
| Education facility (exempt as less than Rs. 1,000) | ---- |
| Telephone facility | Exempt |
| Medical facility | 24,000 |
| Motor car | 18,000 |
| Sweeper etc. [500*3*12] | 18,000 |
| Gross salary | 2,67,000 |
| Less: Standard deduction | 50,000 |
| Taxable salary | 2,17,000 |

Conclusion: Here, package II is better.

It is assumed that gardener is **not provided** along with the rent-free unfurnished accommodation.

**Case 3 [20]:**

A Ltd. wishes to offer an employment to a finance manager on a monthly salary of Rs. 90,000. How would you frame the remuneration so as to minimize the tax liability of the employee and also ensure that the employer gets full tax advantage? **(Delhi 2009, 10 marks)**

**Solution:**

Option I: Paying Rs. 90,000 per month as salary:

| | | |
|---|---|---|
| | Gross salary [Rs. 90,000*12] | 10,80,000 |
| Less: | Standard deduction | 50,000 |
| | Taxable salary | 10,30,000 |
| Add: | Other income | Nil |
| | Total income | 10,30,000 |
| | Tax on TI (including cess @ 4%) | **1,26,360** |
| | Take-home pay [**10,80,000** – 1,26,360 (tax)] | **9,53,640** |

Option II: Paying Rs. 90,000 per month not as basic salary but in different components:

| Particulars | Expenditure incurred by the employer (Rs.) | Amount taxable in the hands of the employees (Rs.) |
|---|---|---|
| Basic salary | 4,00,000 | 4,00,000 |
| Employer's contribution towards RPF (exempt upto 12% of salary) | 48,000 | Exempt |
| Education allowance for two children (exempt upto Rs. 100 per month per child upto a maximum of 2 children) | 2,400 | Exempt |
| Research allowance (assumption that amount is used for research work) | 25,200 | Exempt |
| Uniform allowance (assumption that amount is used for official purposes) | 5,400 | Exempt |
| Rent-free house in Delhi (rent paid by employer) [15% of salary of Rs. 4,00,000 or rent paid by the employer, whichever is less] [assuming monthly rent of Rs. 28,750] | 3,45,000 | 60,000 |
| Car with driver for official and private purposes (cubic capacity of the engine is 1.4 litres) [(1,800+900)*12] Note: Nothing is deductible in respect of any amount recovered from the employee | 1,80,000 | 32,400 |
| Free telephone and mobile phone | 40,000 | Exempt |
| LTC (twice in a block of 4 years) [amount is actually used for travelling and it does not exceed economy class air fare] [one year's expenses are given on proportionate basis] | 34,000 | Exempt |
| Gross salary | **10,80,000** | 4,92,400 |
| Less: Deduction under section 16 | | 50,000 |
| Net salary | | 4,42,400 |
| Less: Deduction under section 80C (employee's contribution towards RPF) | | 48,000 |
| Total income | | 3,94,400 |
| Tax on net income | | 7,220 |
| Less: Rebate under section 87A | | 7,220 |
| | | Nil |
| Add: Cess @ 4% | | Nil |
| Net tax (Rounded off) | | **Nil** |

Take-home pay
[4,00,000 + 2,400 + 25,200 + 5,400 + 34,000 (LTC) – Nil – Rs. 48,000] **4,19,000**

Comparison of both the options

| | | Option I (Rs.) | Option II (Rs.) |
|---|---|---|---|
| | Take-home pay (without adjustment) | **9,53,640** | **4,19,000** |
| Less: | Payment by an employee for: | | |
| | House accommodation* | 3,45,000 | |
| | Car and driver | 1,80,000 | |
| | Telephone and mobile phone | 40,000 | |
| | Future savings (48,000 + 48,000) | 96,000 | |
| | Balance | **2,92,640** | **4,19,000** |

The difference of **Rs. 1,26,360** (4,19,000 *minus* 2,92,640) between two options is because of lower tax bill under option 2 (option 1: Rs. 1,26,360 and option 2: Rs. Nil).

## Lecture 22

Transfer Pricing:
Discussion on an example where the Indian company is a purchaser.

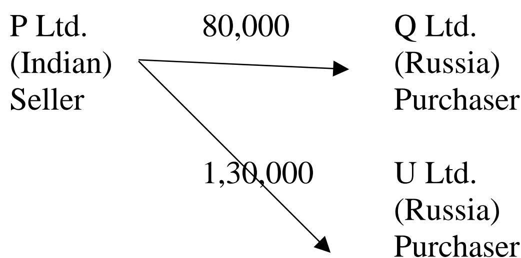
*How I determined unreasonable/ excessive payment under Section 40A(2)?*

| | | |
|---|---|---|
| | Recorded Purchasing Cost | 1,00,000 |
| Less: | Purchasing cost at ALP | 60,000 |
| | Excessive Amount [40A(2)] | 40,000 |

## Lecture 23

Discussion on an example where the Indian company is a seller.
Example:

*P Ltd. and Q Ltd. are Associated Enterprises*




Indian Company is doing what?

| | |
|---|---|
| Sales | 80,000 |
| Total PGBP | 87,00,000 |

Correction required:

| | |
|---|---|
| Reported PGBP | 87,00,000 |

| | | |
|---|---|---|
| ***Less:*** | ***Sales*** | ***80,000*** |
| ***Add:*** | ***Sales at ALP*** | ***1,30,000*** |
| | Rectified PGBP | 87,50,000 |

**Case 1 [20]:**

A Ltd. (an Indian company), sells computer monitor to its 100% subsidiary X Ltd. in United States @ $ 50 per piece. A Ltd. also sells its computer monitor to another company Y Ltd. in United States @ $ 80 per piece. Total income of A Ltd. for the assessment year 2020-21 is Rs. 12,00,000 which includes sales made for 100 computer monitors @ $ 50 to X Ltd. Compute the arm's length price and taxable income. The rate of one dollar may be assumed to be equivalent to Rs. 49 for the sake of simplicity. **(Delhi 2008)**

Solution:

Sales at ALP = Rs. 3,92,000 [$ 80* Rs. 49* 100 Monitors]

| | | |
|---|---|---|
| | Reported Total income | Rs. 12,00,000 |
| Less: | Sales Recorded | |
| | [$ 50* Rs. 49*100] | Rs. 2,45,000 |
| Add: | Sales at ALP | Rs. 3,92,000 |
| | Total income | Rs. 13,47,000 |

**Case 2 [20]:**

Situation 1:

From the following information determine the Arm's length price and taxable income of S Ltd., Indian subsidiary company of a foreign Company K Ltd.:

a. K Ltd. sold 1,000 mobile phones to S Ltd. @ $ 40 per unit.
b. K Ltd. sold 2,000 mobile phones to other Indian companies @ $ 50 per unit.
c. Total income of S Ltd. for assessment year 2020-21 is Rs. 15,00,000.

Assume the rate of a dollar = Rs. 46.

**Ans. Rs. 23,00,000 [$ 50* Rs. 46* 1,000]; Rs. 15,00,000 [Sec. 92(3)]**

Situation 2:

From the following information determine the Arm's length price and taxable income of S Ltd., Indian subsidiary company of a foreign Company K Ltd.:

a. K Ltd. sold 1,000 mobile phones to S Ltd. @ $ 50 per unit.
b. K Ltd. sold 2,000 mobile phones to other Indian companies @ $ 40 per unit.
c. Total income of S Ltd. for assessment year 2020-21 is Rs. 15,00,000.

Assume the rate of a dollar = Rs. 46.

**Ans. Rs. 18,40,000 [$ 40* Rs. 46* 1,000]; Rs. 19,60,000**

**Lecture 24**

**Case 5 [20]:**

A Ltd. is an Indian company. It has a manufacturing unit in Andhra Pradesh. It is a subsidiary company of X Ltd., a US company. X Ltd. gets royalty from A Ltd. on supply of technical information which is used by A Ltd. for manufacturing goods in its unit in Andhra Pradesh. For similar transfer of technical information to any unrelated entity, X Ltd. charges $ 8,000 per year. However, from A Ltd. it charges (a) $ 11,000 or (b) $ 6,000 per year which is subject to tax deduction by A Ltd. Exchange rate is Rs. 49 per US dollar. Income of A Ltd. for the assessment year 2020-21 **before** deducting payment for technical information to X Ltd. is Rs. 76,00,000. Find out the income of X Ltd. and A Ltd.

Solution:

Computation of total income of A Ltd. for the AY 2020-21:

| Particulars | (a) $ 11,000 | (b) $ 6,000 |
|---|---|---|
| Income before expense | 76,00,000 | 76,00,000 |
| Less: Actual royalty expense [$ 11,000*49; $ 6,000*49] | **5,39,000** | **2,94,000** |
| Income reported | 70,61,000 | 73,06,000 |
| Add: Actual royalty expense | 5,39,000 | 2,94,000 |
| Less: Royalty expense at ALP [$ 8,000*49] | 3,92,000 | 3,92,000 |
| | 72,08,000 | 72,08,000 |
| | | |
| Total income | 72,08,000 | **73,06,000 [Sec. 92(3)]** |
| Computation of total income of X Ltd. for the AY 2020-21: | | |
| Royalty income | 5,39,000 **Rs. 3,92,000 should be the income because this amount is allowed as an expense to A Ltd.** | 2,94,000 |
| | | |

*Note:*
The residential status of X Ltd. for the AY 2020-21 is non-resident because it is assumed that the POEM is outside India.

**Case 10 [20]:**

Sony (a Japanese company) and Y Ltd. (an Indian company) are associated enterprises. Y Ltd. manufactures mobile phones and sells them to Sony and LG (a Korean company). During the year, Y Ltd. supplied 1,20,000 mobile phones to Sony at a price of Rs. 2,000 per unit and 20,000 mobile phones to LG at a price of Rs. 3,200 per unit. The transactions of Y Ltd. with Sony and LG are comparable subject to the following differences:

1. While sale to Sony is on FOB basis, sales to LG are CIF (Cost, Insurance and Freight) basis. The freight and insurance paid by Sony for each unit is Rs. 300.
2. The sales to LG are under a free warranty for 1 year whereas sales to Sony are without such warranty. The estimated cost of executing such warranty may be taken at Rs. 350 per unit.
3. Sony placed large order and as such Y Ltd. offered a quantity discount of Rs. 50 per unit to Sony.

Compute the arm's length price and the amount of increase in the total income of Y Ltd. for the assessment year 2020-21, if any, due to such arm's length price.

**(Delhi 2016, Nov – 10M)**

Solution:
Whether the price of Rs. 2,000 and Rs. 3,200 is comparable or not?

Adjustment of prices charged from LG:

Price Charged currently Rs. 3,200

| | | |
|---|---|---|
| Less: | Adjustment for Insurance and Freight | Rs. 300 |
| Less: | Adjustment for warranty | Rs. 350 |
| Less: | Adjustment for large orders placed by Sony | Rs. 50 |
| | Actual adjusted price | Rs. 2,500 |

*Computation of ALP:*
Rs. 2,500*1,20,000 = Rs. 30 Crores
Currently the sales shown is
Rs. 2,000*1,20,000 = Rs. 24 Crores

*Thus, the total income of Y Ltd. will increase by Rs. 6 Crores [Rs. 30 Crores – Rs. 24 Crores].*

## Lecture 25

### Some Tax Planning Aspects

1. Sale of Assets used for Scientific Research
2. Receipt of insurance compensation
3. Distribution of assets at the time of liquidation

**Sale of Assets used for Scientific Research [Sec. 41(3)]**

Where an asset representing expenditure of a capital nature on scientific research within the meaning of clause (*iv*) of sub-section (1), ~~or clause (*c*) of sub-section (2B)~~, of section 35, ~~read with clause (*4*) of section 43~~, is sold, without having been used for other purposes, and the proceeds of the sale together with ~~the total amount of the deductions made under clause (*i*) or, as the case may be,~~ the amount of the deduction under clause (*ia*) of sub-section (2)~~, or clause (*c*) of sub-section (2B)~~, of section 35 **exceed** the amount of the capital expenditure, the excess or the amount of the deductions so made, whichever is the less, shall be chargeable to income-tax as income of the business or profession of the previous year in which the sale took place.

**Case 8 [20]:**

R purchased an asset for scientific research for Rs. 15,00,000 in the previous year 2010-11. During the previous year 2019-20, the said asset ceased to be used for scientific research. The following information is also submitted to you:

| | Amount (Rs.) |
|---|---|
| Profit from business before depreciation | 5,00,000 |
| WDV of BOA as on 01.04.2019 (15%) | 10,00,000 |

The scientific research asset (if used for business) shall be eligible for depreciation @ 15%. Compute the total income, if the scientific research asset is sold for Rs. 28,00,000 assuming:

a. It is sold without using for business; and
b. It is sold after using for business.

Assume CII for 2010-11 is 167 and for 2019-20 is 289.
*Solution:*
a. If it is sold without using for business:
In the PY 2010-11, Deduction allowed under section 35 would have been Rs. 15,00,000.

| | | | |
|---|---|---|---|
| | Profits before depreciation | 5,00,000 | |
| less: | Depreciation – Note | 1,50,000 | 3,50,000 |
| | Business income [Sec. 41(3)] | | **15,00,000** |

| | | | |
|---|---|---|---|
| | Lower of Rs. 28,00,000 or Rs. 15,00,000 | | |
| | PGBP (a) | | 18,50,000 |
| | *Computation of Capital Gains:* | | |
| | Sale | | 28,00,000 |
| Less: | ICA [15,00,000/167*289] | | 25,95,808 |
| | LTCG (b) | | 2,04,192 |
| | GTI [a + b] | | 20,54,192 |

*Note:*
*Calculation of depreciation:*

| | | |
|---|---|---|
| | WDV of the BOA on 01.04.2019 | 10,00,000 |
| Add: | Cost of the asset acquired during 2019-20 | Nil |
| | | 10,00,000 |
| Less: | Sale | Nil |
| | WDV on 31.03.2020 | 10,00,000 |
| | Depreciation [15%] | 1,50,000 |

b. If it is sold after using for business:
In the PY 2010-11, Deduction allowed under section 35 would have been Rs. 15,00,000.

| | | | |
|---|---|---|---|
| | Profits before depreciation | 5,00,000 | |
| less: | Depreciation – Note | Nil | 5,00,000 |
| | PGBP (a) | | 5,00,000 |
| | *Computation of Capital Gains:* | | |
| | Sale | | 28,00,000 |
| Less: | WDV opening | | 10,00,000 |
| Less: | Cost of asset acquired | | Nil |
| | STCG [Sec. 50(1)] (b) | | 18,00,000 |
| GTI [a + b] | | 23,00,000 | |

*Note:*
*Calculation of depreciation:*

| | | |
|---|---|---|
| | WDV of the BOA on 01.04.2019 | 10,00,000 |
| Add: | Cost of the asset acquired during 2019-20<br>[15,00,000 – 15,00,000 (Deduction already claimed)] | Nil |
| | | 10,00,000 |
| Less: | Sale | 10,00,000* |
| | WDV on 31.03.2020 | Nil |
| | Depreciation [15%] | Nil |

## Lecture 26

**Case 1 [20]:**

From the following information, compute the capital gain chargeable to tax for the assessment year 2020-21:

Amount (Rs.)

a. Residential house constructed on 10.06.2011, (the cost of construction excluding cost of land) 3,60,000
b. House destroyed by fire on 15.04.2018
c. Compensation received on 20.12.2019 from the insurance company 8,00,000
d. CII for 2011-12: 184, for 2018-19: 280 and for 2019-20: 289.

**[Ans. LTCG Rs. ]**

*Solution:*

AY 2020-21 [PY 2019-20]

| | | |
|---|---|---|
| | Full value of consideration | 8,00,000 |
| Less: | ICA [3,60,000* 280] / 184 | 5,47,826 |
| | LTCG | 2,52,174 |

**Case 3 [20]:**

a. The written down value of the block of assets as on 01-04-2019 was Rs. 5,00,000. An asset of the same block was acquired on 11-05-2019 for Rs. 3,00,000. There was a fire on 18-09-2019 because of which assets were destroyed and the assessee received a sum of Rs. 11,00,000 from the insurance company. Compute the capital gain assuming:
   i. All the assets were destroyed by fire.
   ii. Part of the block was destroyed by fire.
b. What will be the answer if assessee received Rs. 6,00,000 from insurance company and assume that:
   i. All the assets were destroyed by fire.
   ii. Part of the block was destroyed by fire.

*Solution:*

a.

i. All the assets destroyed

AY 2020-21 [Sec. 45(1A)]

| | | |
|---|---|---|
| | Full value of consideration [45(1A)] | 11,00,000 |
| Less: | Expense on sale | |
| Less: | WDV on 01.04.2019 | 5,00,000 |
| Less: | Actual cost of asset acquired and put to use | 3,00,000 |
| | STCG [50(2)] | 3,00,000 |

ii. Part of the block is destroyed

AY 2020-21 [45(1A)]

| | | |
|---|---|---|
| | Full value of consideration [45(1A)] | 11,00,000 |
| Less: | EOS | Nil |
| Less: | WDV on 01.04.2019 | 5,00,000 |
| Less: | Actual cost of asset ….. | 3,00,000 |
| | STCG [50(1)] | 3,00,000 |

*Note:*

| | | |
|---|---|---|
| | *WDV on 01.04.2019* | *5,00,000* |
| *Add:* | *Actual cost of ……* | *3,00,000* |
| | | *8,00,000* |
| *Less:* | *Net sale* | *8,00,000** |
| | *WDV on 31.03.2020* | *Nil* |

## Lecture 27

## Financial Management Decisions

1. Capital Structure decision making
Example, Requirement of Rs. 50 Crore and which option for raising money is better.

2. Dividend
[2(22), 115-O, 115BBDA, 10(34) and 194]

3. Issuing bonus shares or Distributing dividends – Better option to be decided?

4. Issuing bonus equity shares or issuing bonus redeemable preference shares – Better option to be decided?

5. Sec. 115……………..

1. Capital structure decision making:
*That option will be considered as the best option which maximises Rate of Return on Equity Share Capital.*

**Case 19 [20]:**
Bharat Ltd., a company engaged in manufacturing of electrical switches is a ***widely-held company***. It is considering a major expansion of its production facility and import of latest technology which is expected to improve its profitability from the present rate of 20% to at least 25% (**before interest and tax**). The finance manager has given the following proposals:

(Rs. in lakh)

| | A | B | C | D |
|---|---|---|---|---|
| Share Capital | 40 | 20 | 30 | 50 |
| 14% Preference Shares | 20 | 20 | ---- | 10 |
| 16% Non-Convertible Debentures | ---- | 20 | ---- | 40 |
| Term Loans from Institutions & Banks (20%) | ---- | 40 | 70 | ---- |
| Lease Finance (22%) | 40 | ---- | ---- | ---- |
| Total | 100 | 100 | 100 | 100 |

Additional information:

a. The rate of dividend on equity has not been below 24% in the past and date of dividend declaration is June 30 every year.
b. The tax rate faced by the company is 31.20%.

Your opinion with detailed reasons is sought on the above.

**(Delhi 2005; 2010, 10 marks)**

*Solution:*
No existing capital.
New investment of Rs. 1 Crore
Case of Planning: Assessment Year 2021-22
Operating profits = EBIT [Sales – VC = Contribution – FC = EBIT]

AY 2021-22

| A | B | C | D |
|---|---|---|---|

| | | | | | |
|---|---|---|---|---|---|
| | EBIT [25% of Rs. 1 Crore] | 25,00,000 | 25,00,000 | 25,00,000 | 25,00,000 |
| Less: | Interest | | | | |
| | NCD (16%) | ---- | 3,20,000 | ---- | 6,40,000 |
| | Loans (20%) | ---- | 8,00,000 | 14,00,000 | ---- |
| | Lease (22%) | 8,80,000 | ---- | ---- | ---- |
| | EBT | 16,20,000 | 13,80,000 | 11,00,000 | 18,60,000 |
| Less: | Tax [31.20%] | 5,05,440 | 4,30,560 | 3,43,200 | 5,80,320 |
| | EAT | 11,14,560 | 9,49,440 | 7,56,800 | 12,79,680 |
| Less: | CDT | Nil | Nil | Nil | Nil |
| Less: | Pref. Divi. [14%] | 2,80,000 | 2,80,000 | ---- | 1,40,000 |
| | N/I to ESH (a) | 8,34,560 | 6,69,440 | 7,56,800 | 11,39,680 |
| | ESC (b) | 40,00,000 | 20,00,000 | 30,00,000 | 50,00,000 |
| | ROR on ESC [a/b*100] | 20.87% | 33.47% | 25.23% | 22.79% |

Conclusion: Option A and D cannot be accepted because the company in the past is already earning a return for equity shareholders of around 24%. Thus, Option B is the best option of raising Rs. 1 crore for the expansion because this option maximises the rate of return for equity shareholders.

***Let us solve the above case assuming the AY is 2020-21.***

| | | | AY 2020-21 | | |
|---|---|---|---|---|---|
| | | A | B | C | D |
| | EBIT [25% of Rs. 1 Crore] | 25,00,000 | 25,00,000 | 25,00,000 | 25,00,000 |
| Less: | Interest | | | | |
| | NCD (16%) | ---- | 3,20,000 | ---- | 6,40,000 |
| | Loans (20%) | ---- | 8,00,000 | 14,00,000 | ---- |
| | Lease (22%) | 8,80,000 | ---- | ---- | ---- |
| | EBT | 16,20,000 | 13,80,000 | 11,00,000 | 18,60,000 |
| Less: | Tax [31.20%] | 5,05,440 | 4,30,560 | 3,43,200 | 5,80,320 |
| | EAT | 11,14,560 | 9,49,440 | 7,56,800 | 12,79,680 |
| Less: | CDT [11,14,560 * 20.555] / 120.555 | 1,90,036 | 1,61,882 | 1,29,037 | 2,18,189 |
| Less: | Pref. Divi. [14%] | 2,80,000 | 2,80,000 | ---- | 1,40,000 |
| | N/I to ESH (a) | 6,44,524 | 5,07,558 | 6,27,763 | 9,21,491 |
| | ESC (b) | 40,00,000 | 20,00,000 | 30,00,000 | 50,00,000 |
| | ROR on ESC [a/b*100] | 16.11% | 25.38% | 20.93% | 18.43% |

*Conclusion: Option B and C are acceptable keeping in mind the past return of 20%. Further, the best option is Option B because it maximises the rate of return on equity share capital.*

**Refer section 115-O from theoretical/ numerical point of view.**

Sec. 115-O

(1B) For the purposes of determining the tax on distributed profits payable in accordance with this section, any amount by way of ~~dividends referred to in sub-section (1) as reduced by the amount referred to in sub-section (1A) [hereafter referred to as net~~ distributed profits], shall be

increased to such amount as would, after reduction of the tax on such increased amount at the rate specified in sub-section (1), be equal to the net distributed profits:
**Provided** that this sub-section shall not apply in respect of dividend referred to in sub-clause (*e*) of clause (*22*) of section 2.

| | | |
|---|---|---|
| | ????? (3) | ????? (3) |
| | yyyy (2) | xxxx Less: 15% of ????? (4) |
| Distributable Profits | Rs. 500 (1) | Rs. 500 (5) |

| | | |
|---|---|---|
| | Let us assume this Rightside top ????? (3) | = Rs. 100 |
| Less: | 15% of ????? (3) [4] | = Rs. 15 |
| | Distributable Profits (5) | = Rs. 85 |

If 85 (5) = Rs. 500 (5)
Then 1 = Rs. 500/85
Therefore, 100 (3) = Rs. 500/85*100 = Rs. 588.24

Putting the values, I can say that

| | | |
|---|---|---|
| | ????? (3) | Rs. 588.24(3) |
| | yyyy (2) | Rs. 88.24 15% of 588.24 (4) [Dividend tax] |
| Distributable Profits | Rs. 500 (1) | Rs. 500 (5) |

Effectively, the dividend tax rate becomes 17.648% [Rs. 88.24/Rs. 500*100]. Therefore, the effective tax rate is calculated as –
15/85*100 =17.647%

Distributable profits = Dividend tax to be payable to the GOI [15% on Distributable profits]
+
**Dividend to be paid to Shareholders**

Sec. 115-O
(1) Notwithstanding anything contained in any other provision of this Act and subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2003 [90][*but on or before the 31st day of March, 2020*], whether out of current or accumulated profits shall be charged to additional income-tax (hereafter referred to as tax on distributed profits) at the rate of **fifteen per cent**:
**Provided** that in respect of dividend referred to in sub-clause (*e*) of clause (*22*) of section 2, this sub-section shall have effect as if for the words "fifteen per cent", the words "thirty per cent" had been substituted.

**Lecture 28**

**Case 20 [20]:**

Bharat Ltd., a company engaged in manufacturing of electrical switches is a ***widely-held company***. *The company's existing share capital is Rs. 80,00,000.* It is considering a major expansion of its production facility and import of latest technology which is expected to improve its profitability from the present rate of 20% to at least 25% (**before interest and tax**). The finance manager has given the following proposals:

(Rs. in lakh)

| | A | B | C | D |
|---|---|---|---|---|
| Share Capital | 40 | 20 | 30 | 50 |
| 14% Preference Shares | 20 | 20 | ---- | 10 |
| 16% Non-Convertible Debentures | ---- | 20 | ---- | 40 |
| Term Loans from Institutions & Banks (20%) | ---- | 40 | 70 | ---- |
| Lease Finance (22%) | 40 | ---- | ---- | ---- |
| Total | 100 | 100 | 100 | 100 |

Additional information:

a. The rate of dividend on equity has not been below 24% in the past and date of dividend declaration is June 30 every year.
b. The tax rate faced by the company is 31.20%.

Your opinion with detailed reasons is sought on the above.

*Solution:*

The existing capital is Rs. 80,00,000.

New investment of Rs. 1 Crore

Case of Planning: Assessment Year 2021-22

Operating profits = EBIT [Sales – VC = Contribution – FC = EBIT]

AY 2021-22

| | | A | B | C | D |
|---|---|---|---|---|---|
| | EBIT [25% of Rs. 1.80 Crore] | 45,00,000 | 45,00,000 | 45,00,000 | 45,00,000 |
| Less: | Interest | | | | |
| | NCD (16%) | ---- | 3,20,000 | ---- | 6,40,000 |
| | Loans (20%) | ---- | 8,00,000 | 14,00,000 | ---- |
| | Lease (22%) | 8,80,000 | ---- | ---- | ---- |
| | EBT | 36,20,000 | 33,80,000 | 31,00,000 | 38,60,000 |
| Less: | Tax [31.20%] | 11,29,440 | 10,54,560 | 9,67,200 | 12,04,320 |
| | EAT | 24,90,560 | 23,25,440 | 21,32,800 | 26,55,680 |
| Less: | CDT | Nil | Nil | Nil | Nil |
| Less: | Pref. Divi. [14%] | 2,80,000 | 2,80,000 | ---- | 1,40,000 |
| | N/I to ESH (a) | 22,10,560 | 20,45,440 | 21,32,800 | 25,15,680 |
| | ESC (b) | 1,20,00,000 | 1,00,00,000 | 1,10,00,000 | 1,30,00,000 |
| | ROR on ESC [a/b*100] | 18.42% | 20.45% | 19.39% | 19.35% |

Conclusion: Option B is the only option of raising Rs. 1 crore for the expansion because this option maximises the rate of return for equity shareholders.

## Lecture 29

**Section 2(22):**

(22) "dividend" includes—

(*a*) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the **release** by the company to its shareholders of all or any part of the **assets** of the company ;

**Example:**

Issuing of bonus Redeemable Preference shares **to Equity Shareholders/ Preference Shareholders/ Both**

P&L

To Redeemable Preference Shares

Redeemable Preference Shares

**To Bank [2(22)(a)]**

(*b*) any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, whether with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not ;

Example:

1. Issuing Bonus Debentures to Shareholders **[Whether Equity or Preference or both]**

2. Issuing Bonus **[Bonus Debentures or Bonus Preference or Bonus Equity]** to Preference Shareholders

(*c*) any distribution made to the **shareholders** of a company on its **liquidation**, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not ;

**Example:**

I got Rs. 80 on liquidation out of which Rs. 10 was from accumulated profits and Rs. 70 from the sale of assets and after meeting the liabilities.

While computing capital gain, my

Full value of consideration 70

…..

(*d*) any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits;

**Example:**

Distribution at the time of reduction of capital

(*e*) any payment by a company, *not being a company in which the public are substantially interested*, of any sum (whether as representing a part of the assets of the company or otherwise), by way of **advance** or **loan to a shareholder**, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) **holding not less than ten per cent of the voting power,** or to any **concern** in which **such** shareholder is a member or a partner and in which he has a substantial interest (hereafter in this clause referred to as the said concern) or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits ;

**Example:**

| | | |
|---|---|---|
| **1. Company** | **To** | **Person [At least 10% shares in the company giving loan/ advance]** |
| **2. Company** | **To** | **Concern**<br>A person who is having 10% shares in the company giving loan/ advance is having substantial interest in the concern receiving loan |
| **3. Company** | **To** | **Person [At least 10% shares in the company which is making some payment for his benefit]** |

Under section 2(22)(e), following are not treated as dividend:

1. any advance or loan made to a shareholder or the said concern by a company in the ordinary course of its business, where the **lending of money is a substantial part of the business of the company ;**
2. any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (*e*), to the extent to which it is so set off.

**Example of Sec. 2(22)(e) [PY 2019-20 or AY 2020-21]:**

X Ltd. (a closely held company) gave a loan of Rs. 3,00,000 to Shareholder C [8,000 shares], Rs. 40,000 to Shareholder D [1,200] and Rs. 90,000 to Shareholder E [800 shares]. Total shares of X Ltd. are 10,000. The X Ltd. is in fertilizer industry. The loan has been given from accumulated profits.

In this case, loan of Rs. 3,00,000 to shareholder C is treated as dividend under section 2(22)(e) because having 80% shares of X Ltd.

Loan of Rs. 40,000 to shareholder D is treated as dividend under section2(22)(e) because having 12% shares of X Ltd.

Loan of Rs. 90,000 to shareholder E is a genuine business transaction.

Assuming, X Ltd. has declared a dividend of Rs. 10 per share. The company has to give Rs. 80,000 to C, Rs. 12,000 to D and Rs. 8,000 to E. In this case, Rs. 1,00,000 is the amount of dividend declared by the company and provisions applicable for dividend of Rs. 1,00,000 will apply. However, if it assumed that C asked the company to adjust Rs. 50,000 dividend against his loan and only give him Rs. 30,000, then in that situation, the following will apply:

1. The dividend declared by the company would be Rs. 50,000.
2. Loan to C now will become Rs. 2,50,000.

but "dividend" does not include—

(*i*) a distribution made in accordance with sub-clause (*c*) or sub-clause (*d*) in respect of any share issued for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets ;

(*iv*) any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act, 1956 (1 of 1956);

(*v*) any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).

*Explanation 1.*—The expression "accumulated profits", wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946, or after the 31st day of March, 1948, and before the 1st day of April, 1956.

*Explanation 2.*—The expression "accumulated profits" in sub-clauses (*a), (b), (d*) and (*e*), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses, and in sub-clause (*c*) shall include all profits of the company up to the date of liquidation, but shall not, where the liquidation is consequent on the compulsory acquisition of its undertaking by the Government or a corporation owned or controlled by the Government under any law for the time being in force,

include any profits of the company prior to three successive previous years immediately preceding the previous year in which such acquisition took place.

*Explanation 3.*—For the purposes of this clause,—

(*a*) **"concern"** means a Hindu undivided family, or a firm or an association of persons or a body of individuals or **a company** ;

(*b*) a person shall be deemed to have a **substantial interest** in a concern, **other than a company,** if he is, at any time during the previous year, beneficially entitled to not less than 20% of the income of such concern ;

If the concern is a company, you will be having the substantial interest when you have at least 20% shares in the company.

**c**

**CDT under section 115-O in respect of dividend covered under section 2(22)(e) is 34.944% [30% + 12% + 4%].**

**Lecture 30**

**Case 3 [20]:**

Mr. N holds shares carrying 25% of voting power in a domestic company in which the public are not substantially interested. On 1 November 2019, he got a loan of Rs. 6 lakhs @ 15% from the company and as on date the company had an accumulated profit of Rs. 5 lakhs. Explain the tax implications in the hands of the company as well as in the hands of the shareholder.

**(Delhi 2007)**

*Solution:*

*Tax implications in the hands of the company:*

1. Rs. 5,00,000 is dividend under section 2(22)(e) on which the Company has to pay DDT under section 115-O @ 34.944% for the AY 2020-21.

It is dividend under section 2(22)(e) because the company giving the loan is a closely-held company and the shareholder who is receiving the loan is holding 10% or more (i.e., 25% in the present case) in such company, but only to the extent of accumulated profits.

2. The company has to deduct TDS under section 194 @ 10% before giving Rs. 5,00,000 to the shareholder.

*Note: It is assumed that the company has sufficient profits to give Rs. 5,00,000 to the shareholder.*

*Tax implications in the hands of shareholder:*

The shareholder has to claim refund of TDS by the company.

**TDS on Dividends.**

**194.** The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, shall, before making any payment [33][*by any mode*] in respect of any dividend or before making any distribution or payment to a shareholder, who is resident in India, of any dividend within the meaning of sub-clause (*a*) or sub-clause (*b*) or sub-clause (*c*) or sub-clause (*d*) or sub-clause (*e*) of clause (*22*) of section 2, deduct from the amount of such dividend, income-tax [34][*at the rate of ten per cent*] :

**Provided** that no such deduction shall be made in the case of a shareholder, being an individual, if—

(*a*) the dividend is paid by the company by [35][*any mode other than cash*]; and

(*b*) the amount of such dividend or, as the case may be, the aggregate of the amounts of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, does not exceed [36][*five thousand*] rupees:

**Lecture 31**

Practice of all sections related to dividends

**Lecture 32**

Discussion on Section 94(7) and 94(8)

**Lecture 33**

**Tax on distributed income to shareholders [Sec. 115QA]**

(1) Notwithstanding anything contained in any other provision of this Act, in addition to the income-tax chargeable in respect of the total income of a **domestic company** for any assessment year, any amount of distributed income by the company on buy-back of shares from a shareholder shall be charged to tax and such company shall be liable to pay additional income-tax at the rate of 20% on the distributed income:

[**Provided** *that the provisions of this sub-section shall not apply to such buy-back of shares (being the shares listed on a recognised stock exchange), in respect of which public announcement has been made on or before the 5th day of July, 2019 in accordance with the provisions of the Securities and Exchange Board of India (Buy-back of Securities) Regulations, 2018 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).* ]

*Explanation*.—For the purposes of this section,—

(*i*) "buy-back" means purchase by a company of its own shares in accordance with the provisions of [89][any law for the time being in force relating to companies];

(*ii*) "distributed income" means the consideration paid by the company on buy-back of shares as reduced by [90][the amount, which was received by the company for issue of such shares, determined in the manner as may be prescribed[91]].

(2) Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on the distributed income under sub-section (1) shall be payable by such company.

(3) The principal officer of the domestic company and the company shall be liable to pay the tax to the credit of the Central Government within fourteen days from the date of payment of any consideration to the shareholder on buy-back of shares referred to in sub-section (1).

(4) The tax on the distributed income by the company shall be treated as the final payment of tax in respect of the said income and no further credit therefor shall be claimed by the company or by any other person in respect of the amount of tax so paid.

(5) No deduction under any other provision of this Act shall be allowed to the company or a shareholder in respect of the income which has been charged to tax under sub-section (1) or the tax thereon.

**Tax on distributed income to unit holders [Sec. 115R]**

(2) Notwithstanding anything contained in any other provision of this Act, any amount of income distributed by the specified company or a Mutual Fund to its unit holders [***on or before***

***the 31st day of March, 2020***] shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income at the rate of—

(*i*) *25%* on income distributed to any person being an individual or a Hindu undivided family by a money market mutual fund or a liquid fund;

(*ii*) 30% on income distributed to any other person by a money market mutual fund or a liquid fund;

(*iii*) 10% on income distributed to any person by an equity oriented fund;

(*iv*) 25% on income distributed to any person being an individual or a Hindu undivided family by a fund other than a money market mutual fund or a liquid fund or an equity oriented fund; and

(*v*) 30% on income distributed to any other person by a fund other than a money market mutual fund or a liquid fund or an equity oriented fund:

**Provided** that where any income is distributed by a mutual fund under an infrastructure debt fund scheme to a non-resident (not being a company) or a foreign company, the mutual fund shall be liable to pay additional income-tax at the rate of five per cent on income so distributed:

**Provided further** that nothing contained in this sub-section shall apply in respect of any income distributed,—

(*a*) by the Administrator of the specified undertaking, to the unit holders; or

[95][**Provided also** that no additional income-tax shall be chargeable in respect of any amount of income distributed on or after the 1st day of September, 2019 by a specified Mutual Fund, out of its income derived from transactions made on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in convertible foreign exchange.]

*Explanation.*—For the purposes of this sub-section,—

(*vi*) "unit" means beneficial interest of an investor in the fund.]

(2A) For the purposes of determining the additional income-tax payable in accordance with sub-section (2), the amount of distributed income referred therein shall be increased to such amount as would, after reduction of the additional income-tax on such increased amount at the rate specified in sub-section (2), be equal to the amount of income distributed by the Mutual Fund.

(3) The person responsible for making payment of the income distributed by the Unit Trust of India or a Mutual Fund and the Unit Trust of India or the Mutual Fund, as the case may be, shall be liable to pay tax to the credit of the Central Government within fourteen days from the date of distribution or payment of such income, whichever is earlier.

## Lecture 34

### Setting Up of New Business
### Tax Planning [AY 2021-22]

**Forms of organisation [2 People are thinking]:**
**Do remember that all the discussion is based from tax point of view.**

*1. Sole proprietorship:*

- An owner cannot charge any interest on own capital and cannot charge any remuneration for own work done by him in his own business.

- Interest on loan payable to another member as well as remuneration payable to another member is allowed to be deducted while computing the income under the head PGBP.

*2. HUF*

- Interest on capital contributed by the family members is not allowed to be deducted while computing the income of HUF under the head PGBP.
- Remuneration payable to the family members is allowed to be deducted while computing the income under the head PGBP.

*3. Firm*

It is assumed the conditions of section 184 are fulfilled.

- A firm can pay interest on capital @ 12% p.a. to the partners [40(b)] provided the interest is authorised by the deed.
- A firm can pay remuneration to the partners [40(b)] which is authorised by the partnership deed or as per the book profit rule, whichever is less.

**Amounts not deductible.**

**40.** Notwithstanding anything to the contrary in sections 30 to 38, the following amounts shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession",—

(*b*) in the case of any firm assessable as such [PFAS],—

(*i*) any payment of salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as "remuneration") to any partner who is not a working partner; or

(*ii*) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is not authorised by, or is not in accordance with, the terms of the partnership deed; or

(*v*) any payment of remuneration to any partner who is a working partner, which **is authorised by**, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as the amount of such payment to all the partners during the previous year exceeds the aggregate amount computed as hereunder :—

| | | |
|---|---|---|
| (*a*) | **on the first Rs. 3,00,000 of the book-profit or in case of a loss** | **Rs. 1,50,000** or at the rate of **90 per cent of the book-profit, whichever is more;** |
| (*b*) | **on the balance of the book-profit** | **at the rate of 60 per cent :** |

*Explanation 1.*—Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as "partner in a representative capacity" and "person so represented", respectively),—

(*i*) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

(*ii*) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause.

*Explanation 2.*—Where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

*Explanation 3.*—For the purposes of this clause, "book-profit" means the net profit, as shown in the profit and loss account for the relevant previous year, computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to all the partners of the firm if such amount has been deducted while computing the net profit.

*Explanation 4.*—For the purposes of this clause, "working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;

*4. Company*

- A company can pay any interest on the amount of loan taken.
- A company can pay dividend to shareholders.
- A company can pay remuneration to the employees also.

**Conclusion:**

Decision required is
Whether we should start the business as a

Sole Proprietorship vs. HUF
Or
Firm vs. Company

The form of organisation which minimises the tax liability is considered as the best option from tax planning point of view.

**Lecture 35**

**Example:**

A and B (both aged less than 48 years) want to start a new business the profits of which are expected to be Rs. 40,00,000. The following options are available:

1. If the business is started as a partnership firm, each partner will contribute Rs. 20,00,000 as capital and Rs. 10,00,000 as loan. Both the capital and loan will fetch 14% p.a. interest. Each partner will get the remuneration of Rs. 5,00,000 p.a. The profits of the firm will be distributed between the partners in ratio of 2:1.

2. If the business is started as a company, each individual will join the company as a money-lender, employee/ director and shareholder. Each will invest Rs. 18,00,000 as a shareholder and will give Rs. 12,00,000 as loan @ 14% p.a. Further, each will get a basic salary of Rs. 4,00,000 and Rs 1,00,000 as rent-free unfurnished accommodation in Delhi.

Take the decision from the point of view of tax planning.

**Solution:**

**Firm vs. Company**
**Tax Planning [AY 2021-22]**

**Option I: If the business is started as a partnership firm:**

Computation of total income and tax liability of the firm:

| | | | Rs. |
|---|---|---|---|
| | Expected income | | 40,00,000 |
| Less: | Interest on capital: | | |
| | A [12% of Rs. 20,00,000] | 2,40,000 | |

| | | | |
|---|---|---|---|
| | B [12% of Rs. 20,00,000] | 2,40,000 | 4,80,000 |
| Less: | Interest on loan: | | |
| | A [12% of Rs. 10,00,000] | 1,20,000 | |
| | B [12% of Rs. 10,00,000] | 1,20,000 | 2,40,000 |
| | Book profit | | 32,80,000 |
| Less: | Remuneration to partners | | |
| | Remuneration as per book profit concept: | | |
| | On 1st Rs. 3,00,000 of the B/P, 90% | 2,70,000 | |
| | On remaining balance of the B/P, 60% | 17,88,000 | |
| | | 20,58,000 | |
| | Or | | |
| | Remuneration as per deed | 10,00,000 | |
| | whichever is less | | **10,00,000** |
| | Income under the head PGBP | | 22,80,000 |
| Add: | Income from other heads | | Nil |
| | Gross total income | | 22,80,000 |
| Less: | Deductions under section 80 | | Nil |
| | Total income | | 22,80,000 |
| | | | |
| | Tax [30% of Rs. 22,80,000] | | 6,84,000 |
| Add: | Cess @ 4% | | 27,360 |
| | Tax liability | | 7,11,360 |

The profits after tax of 15,68,640 [Rs. 22,80,000 – Rs. 7,11,360] will be distributed between the partners in the ratio of 2:1. So, A will get Rs. 10,45,760 [Rs. 15,68,640/3*2] and B will get Rs. 5,22,880.

Computation of total income and tax liability of partners:

| | | A | B |
|---|---|---|---|
| | PGBP: | | |
| | Remuneration [10,00,000] | 5,00,000 | 5,00,000 |
| | Share of profit [Sec. 10(2A)] | Exempt | Exempt |
| | Interest on capital | 2,40,000 | 2,40,000 |
| | Interest on loan | 1,20,000 | 1,20,000 |
| | | 8,60,000 | 8,60,000 |
| Add: | Income from other heads | Nil | Nil |
| | Gross total income | 8,60,000 | 8,60,000 |
| Less: | Deductions under section 80 | Nil | Nil |
| | Total income | 8,60,000 | 8,60,000 |
| | | | |
| | Tax [12,500 + 20% of (8,60,000 – 5,00,000)] | 84,500 | 84,500 |
| Less: | Rebate under section 87A [total income exceeds Rs. 5,00,000] | Nil | Nil |
| | | 84,500 | 84,500 |
| Add: | Cess @ 4% | 3,380 | 3,380 |
| | Tax liability | 87,880 | 87,880 |

Total tax liability in case the partnership firm is formed is Rs. 8,87,120 [Rs. 7,11,360 + Rs. 87,880 + Rs. 87,880]

## Lecture 36

**Option II: If the business is started as a company:**

Computation of total income and tax liability of the company:

| | | | Rs. |
|---|---|---|---|
| | Expected business income | | 40,00,000 |
| Less: | Interest on loan | | |
| | A [12,00,000*14%] | 1,68,000 | |
| | B [12,00,000*14%] | 1,68,000 | 3,36,000 |
| Less: | Salary to employees | | |
| | A [4,00,000 + 1,00,000] | 5,00,000 | |
| | B [4,00,000 + 1,00,000] | 5,00,000 | 10,00,000 |
| | Income under the head PGBP | | 26,64,000 |
| Add: | Any other head income | | Nil |
| | Gross total income | | 26,64,000 |
| Less: | Deductions under section 80 | | Nil |
| | Total income | | 26,64,000 |
| | | | |
| | Tax [30%] | | 7,99,200 |
| Add: | Cess @ 4% | | 31,968 |
| | Tax payable (Rounded off) | | 8,31,170 |

Profit after tax has to be distributed as dividend to the shareholders. Therefore, dividend of Rs. 18,32,830 [26,64,000 – 8,31,170] will be distributed to the shareholders.

Computation of total income and tax liability of shareholders/ money lenders/ employees/ directors:

| | | A | B |
|---|---|---|---|
| | Salary: | | |
| | Basic salary | 4,00,000 | 4,00,000 |
| | Rent-free unfurnished accommodation in Delhi | | |
| | [15% of 4,00,000] | 60,000 | 60,0000 |
| | Gross salary | 4,60,000 | 4,60,000 |
| Less: | Deduction under section 16: | | |
| | Standard deduction | 50,000 | 50,000 |
| | Income from salary | 4,10,000 | 4,10,000 |
| Add: | Income from other sources | 1,68,000 | 1,68,000 |
| | Gross total income | 5,78,000 | 5,78,000 |
| Less: | Deductions under section 80 | Nil | Nil |
| | Total income | 5,78,000 | 5,78,000 |
| | | | |
| | Tax on Rs. 5,78,000 | | |
| | [12,500 + 20% (5,78,000 – 5,00,000)] | 28,100 | 28,100 |
| Less: | Rebate under section 87A | | |
| | [Rs. 12,500 or 100% of tax, whichever is lower] | Nil | Nil |
| | | 28,100 | 28,100 |
| Add: | Cess 4% | 1,124 | 1,124 |
| | Tax payable | 29,224 | 29,224 |

Total tax liability if the company is formed is Rs. 8,89,618 [8,31,170 + 29,224 + 29,224].

Conclusion:
Keeping in mind minimizing tax liability, it is better to go for a firm. However, there is a minor difference in the tax liability in the option, so, the decision needs to be taken carefully keeping in mind other relevant considerations than taxation.

**Assuming the above case is solved as per the AY 2020-21, the entire solution remains same except the concept of dividend distribution tax (DDT)**

**Option I: Remain Same**

**Option II: If the business is started as a company:**
Computation of total income and tax liability of the company:

| | | | Rs. |
|---|---|---|---|
| | Expected business income | | 40,00,000 |
| Less: | Interest on loan | | |
| | A [12,00,000*14%] | 1,68,000 | |
| | B [12,00,000*14%] | 1,68,000 | 3,36,000 |
| Less: | Salary to employees | | |
| | A [4,00,000 + 1,00,000] | 5,00,000 | |
| | B [4,00,000 + 1,00,000] | 5,00,000 | 10,00,000 |
| | Income under the head PGBP | | 26,64,000 |
| Add: | Any other head income | | Nil |
| | Gross total income | | 26,64,000 |
| Less: | Deductions under section 80 | | Nil |
| | Total income | | 26,64,000 |
| | | | |
| | Tax [30%] | | 7,99,200 |
| Add: | Cess @ 4% | | 31,968 |
| | Tax payable (Rounded off) | | 8,31,170 |

Profit after tax of Rs. 18,32,830 [26,64,000 – 8,31,170]has to be distributed as dividend to the shareholders. There will be a CDT of 3,12,503 [18,32,830/ 120.555* 20.555] and remaining amount of Rs. 15,20,327 [18,32,830 – 3,12,503] will be distributed to the shareholders.
**100 + 20.555 = 120.555**

Computation of total income and tax liability of shareholders/ money lenders/ employees/ directors:

| | | A | B |
|---|---|---|---|
| | Salary: | | |
| | Basic salary | 4,00,000 | 4,00,000 |
| | Rent-free unfurnished accommodation in Delhi | | |
| | [15% of 4,00,000] | 60,000 | 60,0000 |
| | Gross salary | 4,60,000 | 4,60,000 |
| Less: | Deduction under section 16: | | |
| | Standard deduction | 50,000 | 50,000 |
| | Income from salary | 4,10,000 | 4,10,000 |
| Add: | Income from other sources | 1,68,000 | 1,68,000 |

| | | | |
|---|---|---|---|
| | Dividend (Exempt) | Nil | Nil |
| | Gross total income | 5,78,000 | 5,78,000 |
| Less: | Deductions under section 80 | Nil | Nil |
| | Total income | 5,78,000 | 5,78,000 |
| | | | |
| | Tax on Rs. 5,78,000 | | |
| | [12,500 + 20% (5,78,000 – 5,00,000)] | 28,100 | 28,100 |
| Less: | Rebate under section 87A | | |
| | [Rs. 12,500 or 100% of tax, whichever is lower] | Nil | Nil |
| | | 28,100 | 28,100 |
| Add: | Cess 4% | 1,124 | 1,124 |
| | Tax payable | 29,224 | 29,224 |

Total tax liability if the company is formed is Rs. 12,02,121 [8,31,170 + 3,12,503 + 29,224 + 29,224].

Conclusion:
Keeping in mind minimizing tax liability, it is better to go for a firm.

**Section 28:**
**Any interest, salary, bonus, commission or remuneration (by whatever name called), due to (or received by), a partner of a firm from such firm.**
***Note:* Where any interest, salary, bonus, commission or remuneration (by whatever name called), or any part thereof has not been allowed as deduction on account of business expenditure in the hands of the firm, the income taxable as business income in the hands of partners shall be only to the extent of the amount which is allowed as business expenditure in the hands of the firm.**

## Lecture 37

### Case 1 (Individual vs. HUF) [20]:

There are two members A and B in a joint Hindu undivided family having a capital of Rs. 25,00,000. They can run a business as a business of an individual joining the other as an employee and money-lender (sole proprietorship) **or** as a Hindu Undivided Family –

- If the business is run as of an individual (i.e. sole proprietorship), the other member will receive salary of Rs. 4,00,000 and interest @ 12% p.a. on Rs. 12,50,000.
- If the business is run as a H.U.F, each member will receive salary Rs. 3,00,000.

Suggest which form of business organization should be adopted from tax point of view, if the expected business income is Rs. 11,00,000 and age of both A and B is less than 60 years.

*Solution:*

AY 2021-22

Option I: Sole proprietorship [A is the owner]
Computation of A's total income and tax liability:

| | | Rs. |
|---|---|---|
| | Expected business income | 11,00,000 |
| Less: | Interest payable to B on loan [12,50,000*12%] | 1,50,000 |
| Less: | Salary to employee B | 4,00,000 |
| | PGBP | 5,50,000 |
| Add: | Other incomes | Nil |
| | Gross total income | 5,50,000 |
| Less: | Deductions under section 80 | Nil |

| | | |
|---|---|---|
| | Total income | 5,50,000 |
| | | |
| | Tax [12,500 + 20% (5,50,000 – 5,00,000)] | 22,500 |
| Less: | Rebate under section 87A | Nil |
| | | 22,500 |
| Add: | HEC @ 4% | 900 |
| | Tax payable | 23,400 |

Computation of B's total income and tax liability:

| | | |
|---|---|---|
| | Basic salary/ Gross total income | 4,00,000 |
| Less: | Deduction under section 16 | 50,000 |
| | Taxable salary | 3,50,000 |
| Add: | IFOS (Interest income) | 1,50,000 |
| | Gross total income | 5,00,000 |
| Less: | Deduction under section 80 | Nil |
| | Total income | 5,00,000 |
| | | |
| | Tax [5% of (5,00,000 – 2,50,000)] | 12,500 |
| Less: | Rebate under section 87A | 12,500 |
| | | Nil |
| Add: | Cess @ 4% | Nil |
| | Tax payable | Nil |

Total tax liability if the sole proprietorship is formed 23,400 [23,400 + Nil]

Option II: HUF

Computation of HUF's total income and tax liability:

| | | Rs. |
|---|---|---|
| | Expected business income | 11,00,000 |
| Less: | Salary to member A | 3,00,000 |
| | Salary to member B | 3,00,000 |
| | PGBP | 5,00,000 |
| Add: | Other incomes | Nil |
| | Gross total income | 5,00,000 |
| Less: | Deductions under section 80 | Nil |
| | Total income | 5,00,000 |
| | | |
| | Tax | 12,500 |
| Less: | Rebate under section 87A | Nil |
| | | 12,500 |
| Add: | HEC @ 4% | 500 |
| | Tax payable | 13,000 |

Computation of members total income and tax liability:

| | | A | B |
|---|---|---|---|
| | Basic salary/ Gross total income | 3,00,000 | 3,00,000 |
| Less: | Deduction under section 16 | 50,000 | 50,000 |
| | Taxable salary | 2,50,000 | 2,50,000 |
| Add: | IFOS (Interest income) | Nil | Nil |
| | Gross total income | 2,50,000 | 2,50,000 |

| | | | |
|---|---|---|---|
| Less: | Deduction under section 80 | Nil | Nil |
| | Total income | 2,50,000 | 2,50,000 |
| | | | |
| | Tax (payable) | Nil | Nil |

Total tax liability if the HUF is formed 13,000 [13,000 + Nil + Nil].

Conclusion: HUF is better because it minimised the tax liablity.

***Relevant points of this chapter:***

1. Profit before Tax is Rs. 14,00,000. In such a scenario, if interest can affect the decision making, it is between to take this amount PBIT.
2.

**Case 10 [17] – Calculation of salary point:**

A, B and C decided to set-up a business. For this purpose, A, B and C are having Rs. 6,00,000, Rs. 3,00,000 and Rs. 3,00,000 respectively. They wish

a. to charge interest on their capital @ 12% p.a. Salary to A Rs. 20,000 p.m., B Rs. 10,000 p.m., C Rs. 10,000 p.m. and share profits in the ratio 2:1:1, or
b. B and C to receive half the income as salary nominating A as the sole owner of the business.

They expect the income of Rs. 8,00,000 (before charging interest on capital/ loan) during the relevant year.

As an income tax expert, you are approached by A, B and C for considered opinion as to whether they should have a firm or a sole proprietary concern of A, while B and C becoming employees and money-lenders to the concern so that they can reduce their tax liability? What is your advice and what arguments would you give in support of your advice? **(Delhi 2006)**

Ans: In case of sole proprietorship (A) how much salary is given to
B
C

Computation of salary payable to B and C in case of sole proprietorship:

| | | |
|---|---|---|
| | Income before interest | 8,00,000 |
| Less: | Interest | |
| | A [6,00,000*12%] | 72,000 |
| | B [3,00,000*12%] | 36,000 |
| | C [3,00,000*12%] | 36,000 |
| | Income before remuneration | 6,56,000 |
| | | |
| | Half of the above income is | |
| | [6,56,000/2] | 3,28,000 to be received by B and C |
| | B will also get [3,28,000/2] | 1,64,000 |
| | C will also get [3,28,000/2] | 1,64,000 |

**Lecture 38**

**Case 18 [20]:**

A and B want to start a business. They have two options for selecting a form of organization, partnership firm or a private company. The estimated profits of which, before the following deductions, are expected at Rs. 7,44,000:

a. Remuneration Rs. 12,000 p.m. each.
b. Medical facility Rs. 20,000 per annum each.
c. Car facility from residence to office and back, estimated cost Rs. 20,000 p.a. each.
d. Rent free house valued at Rs. 30,000 each (provided in Chennai).
e. Each partner will give loan to the business of Rs. 2,00,000 @ 14% p.a.
f. Contribution as capital Rs. 2,00,000 each. On this, interest will be paid @ 12% per annum. However, the company cannot pay interest on it.
g. The profit after tax will be distributed equally as profits/ dividends.

Suggest whether they should form a partnership firm or a private company.

**(Delhi 2010, 9 marks; Delhi 2014, 15 marks)**

***Solution:***

AY 2021-22

Option I: Partnership Firm:

| | | | |
|---|---|---|---|
| | Expected Business income | | 7,44,000 |
| Less: | Interest on loan to partners | | |
| | A | 24,000 | |
| | B | 24,000 | 48,000 |
| Less: | Interest on capital | | |
| | A | 24,000 | |
| | B | 24,000 | 48,000 |
| | Book profits | | 6,48,000 |
| Less: | Remuneration: | | |
| | As per book profit rule | | |
| | On 1st Rs. 3,00,000, 90% | 2,70,000 | |
| | On remaining, 60% | 2,08,800 | |
| | | 4,78,800 | |
| | Or | | |
| | As per deed | | |
| | [1,44,000 + 20,000 + 20,000 | | |
| | + 30,000 = 2,14,000*2] | 4,28,000 | 4,28,000 |
| | PGBP | | 2,20,000 |
| Add: | Other incomes | | Nil |
| | Gross total income | | 2,20,000 |
| Less: | Deductions under section 80 | | Nil |
| | Total income | | 2,20,000 |
| | | | |
| | Tax liability [31.20%] | | 68,640 |

Remaining profits after tax will be distributed to partners in their profit sharing ratio.

Computation of total income and tax liability of partners:

| | A | B |
|---|---|---|
| PGBP: | | |
| Share of profit (exempt) | ---- | ---- |
| Interest | 48,000 | 48,000 |
| Salary | 2,14,000 | 2,14,000 |

| | | | |
|---|---|---|---|
| | PGBP | 2,62,000 | 2,62,000 |
| Add: | Other incomes | Nil | Nil |
| | Gross total income | 2,62,000 | 2,62,000 |
| Less: | Deductions under section 80 | Nil | Nil |
| | Total income | 2,62,000 | 2,62,000 |
| | Tax liability | Nil | Nil |

Total tax if firm is formed is Rs. 68,640

Option II: If company is formed:

| | | |
|---|---|---|
| | Expected business income | 7,44,000 |
| Less: | Interest on loan | 56,000 |
| Less: | Salary to employees | 4,28,000 |
| | PGBP | 2,60,000 |
| Add: | Other incomes | Nil |
| | Gross total income | 2,60,000 |
| Less: | Deductions under section 80 | Nil |
| | Total income | 2,60,000 |
| | Tax [31.20%] | 81,120 |

Profit after tax will be distributed to the shareholders. Dividend distributed will be Rs. 1,78,880 [2,60,000 – 81,120].

Computation of total income and tax liability of shareholders/ employees/ money-lenders:

| | | A | B |
|---|---|---|---|
| | Salary: | | |
| | Basic salary | 1,44,000 | 1,44,000 |
| | Medical facility (assuming not covered under exemption) | 20,000 | 20,000 |
| | Car facility (from office to residence and back) | Exempt | Exempt |
| | Accommodation [15% of 1,44,000] | 21,600 | 21,600 |
| | Gross salary | 1,85,600 | 1,85,600 |
| Less: | Standard deduction | 50,000 | 50,000 |
| | Taxable salary | 1,35,600 | 1,35,600 |
| Add: | IFOS: | | |
| | Dividend | 89,440 | 89,440 |
| | Interest on loan | 28,000 | 28,000 |
| | Total income | 2,53,040 | 2,53,040 |
| | Tax liability | Nil | Nil |

Total tax if company is formed is Rs. 81,120

Conclusion: Firm should be formed because it minimises the tax liability.

## Lecture 39

### Assessment of Companies

**REVISE ENTIRE PGBP FROM SEM III MATERIAL**

**Sec. 79:**

[19][**Carry forward and set off of losses in case of certain companies.**

**79.** *(1) Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place during the previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred:*

*(2) Nothing contained in sub-section (1) shall apply,—*

(a) *to a case where a* ***change*** *in the said voting power and shareholding takes place in a previous year consequent upon the* ***death of a shareholder*** *or on account of transfer of shares* ***by way of gift to any relative*** *of the shareholder making such gift;*

***In my example, B sold to Q in the PY 2019-20. Had he died and Q (assuming Q is the son of B) automatically becomes the shareholder in place of B.***

(b) *to any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent shareholders of amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company;*

PY 2013-14: Loss of Rs. 10 crore in the business [Closely-held company]

| X | Y | Z |
|---|---|---|
| 1/3 | 1/3 | 1/3 |

***On 31 March 2014, shareholdings***

PY 2019-20: Profit of Rs. 13 crore

| X | P | Q |
|---|---|---|
| 1/3 | 1/3 | 1/3 |

***On 31 March 2020, shareholdings***

**Case 13 [20]:**

ABC Pvt. Ltd. is a company incorporated on 01.04.2015, and the only capital issued is in the form of equity shares. The shares are held throughout by A, B and C, equally. The company has made losses/ profits in the past as under and these have been accepted by the tax department on assessment:

| Assessment Year | Business Loss (Rs.) | Unabsorbed Depreciation (Rs.) | Total (Rs.) |
|---|---|---|---|
| 2016-17 | ---- | 10,00,000 | 10,00,000 |
| 2017-18 | ---- | 8,00,000 | 8,00,000 |
| **2018-19** [PY 2017-18] | 4,50,000 | 7,50,000 | 12,00,000 |

| Total | <u>4,50,000</u> | <u>25,50,000</u> | <u>30,00,000</u> |
|---|---|---|---|

During the previous year ended 31.03.2019, A transferred his shares to P and during the previous year ended 31.03.2020, B transferred his shares to Q. During the year ended 31.03.2019, the company made a profit of Rs. 10,00,000 (before charging depreciation of Rs. 6,00,000) and during the year ended 31.03.2020, a profit of Rs. 30,00,000 (before charging depreciation of Rs. 5,00,000). Compute taxable income of the company with proper working for the assessment year 2020-21.

Solution:

Shareholding pattern

| | | | | | |
|---|---|---|---|---|---|
| on 31/03/2016: | A [1/3] | B [1/3] | C [1/3] | | |
| on 31/03/2017: | A [1/3] | B [1/3] | C [1/3] | | |
| on **31/03/2018:** | A [1/3] | **B [1/3]** | ***C [1/3]*** | | |
| on **31/03/2019:** | ---- | **B [1/3]** | **C [1/3]** | P [1/3] | |
| on 31/03/2020: | ---- | ---- | ***C [1/3]*** | P [1/3] | Q [1/3] |

AY 2019-20 [PY 2018-19]

Computation of total income of the company:

| | | |
|---|---|---|
| | Business income | 10,00,000 |
| Less: | Current expenses | |
| | [Sec. 30 to 35DDA, 36, 37(1), 37(2B)] | <u>6,00,000</u> |
| | Current business income | 4,00,000 |
| Less: | B/F Business loss | <u>4,00,000*</u> |
| | Total income | <u>Nil</u> |

*Position on 31 March 2018:*

Business loss: Rs. 4,50,000 [Maximum 8 years]

Unabsorbed depreciation: Rs. 25,50,000

*Position on 31 March 2019:*

Business loss: Rs. 50,000

Unabsorbed depreciation: Rs. 25,50,000

**AY 2020-21 [PY 2019-20]**

Computation of total income of the company:

| | | |
|---|---|---|
| | Business income | 30,00,000 |
| Less: | Current expenses | |
| | [Sec. 30 to 35DDA, 36, 37(1), 37(2B)] | <u>5,00,000</u> |
| | Current business income | 25,00,000 |
| Less: | B/F Business | |
| | [Not allowed as per section 79] | Nil |
| Less: | Unabsorbed depreciation | <u>25,00,000*</u> |
| | Total income | <u>Nil</u> |

*Position on 31 March 2020:*

Business loss: Rs. 50,000

Unabsorbed depreciation: Rs. 50,000

**Assuming A has joined back the company as a shareholder in place of Q with the saem shareholding on 30 March 2023, what would be the implications assuming the business**

**income (after adjusting all current expenses but before applying the rules of set-off or carry forward and set-off of losses) of PY 22-23 is Rs. 4,00,000?**

Shareholding on 31 March 2023: A [1/3] C [1/3] P [1/3]

| | | AY 23-24 [PY 22-23] |
|---|---|---|
| | Business income | 4,00,000 |
| Less: | B/F business loss of PY 2017-18 (assuming it has not been adjusted yet) | 50,000 |
| | | 3,50,000 |
| Less: | Unabsorbed depreciation (assuming it has not been adjusted till date) | 50,000 |
| | Total income | 3,00,000 |

**Exception of Section 79:**

**Lecture 40**

**Section 2(18): Widely-held companies:**

1. 100% owned by Government/ RBI
2. At least 40% shares [Equity + Preference] owned by Government + RBI + Corporation owned by RBI

*Example:*

*9,000 ES Rs. 100 = 9,00,000*
*1,000 PS Rs. 20 = 20,000*
*10,000 9,20,000*

*Assuming 3,600 ES and 390 PS are owned by the RBI.*
*Total number of shares are 10,000 [9,000 + 1,000] but owned by RBI are 3,990 [3,600 + 390].*
*% holding by RBI on the basis of number of shares is 39.90% [3,990/10,000* 100]*

*% holding by RBI on the basis of share capital is 39.98% [3,67,800/9,20,000*100].*

3. Section 25 companies as per the Companies Act
4. 50% Equity shares/ Equity share capital are held by co-operative societies throughout the PY
5. Nidhi or Mutual Benefit Society declared under section 620A of the Companies Act
6. Having no share capital but declared by the CBDT as a widely-held company
7. Not a private company as per the Companies Act but its equity shares/ equity share capital were listed on the last day of the PY in the recognised stock exchange in India
8. Not a private company as per the Companies Act but at least 50% (40% in case of Indian companies engaged in mining/ manufacturing/ power generation) equity shares/ equity share capital are held throughout the PY by Government/ + A corporation established under the Act/ + A widely-held company/ + A 100% Subsidiary of this widely-held company.

*Example: A Ltd. (it is not a private company as per the Companies Act)?*

*20% ES of A Ltd.: Delhi Govt.*
*25% ES of A Ltd.: X Ltd. (a widely-held company)*
*6% ES of A Ltd.: Y Ltd. (a 100% subsidiary of X Ltd.)*
*A Ltd. will be a widely-held company as per point 8 [51%].*

(*18*) "company in which the public are substantially interested"—a company is said to be a company in which the public are substantially interested—

(*a*) if it is a company owned by the Government or the Reserve Bank of India or in which not less than forty per cent of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that bank ; or

(*aa*) if it is a company which is registered under section 25 of the Companies Act, 1956 (1 of 1956) ; or

(*ab*) if it is a company having no share capital and if, having regard to its objects, the nature and composition of its membership and other relevant considerations, it is declared by order of the Board to be a company in which the public are substantially interested :

**Provided** that such company shall be deemed to be a company in which the public are substantially interested only for such assessment year or assessment years (whether commencing before the 1st day of April, 1971, or on or after that date) as may be specified in the declaration ; or

(*ac*) if it is a mutual benefit finance company, that is to say, a company which carries on, as its principal business, the business of acceptance of deposits from its members and which is declared by the Central Government under section 620A of the Companies Act, 1956 (1 of 1956), to be a *Nidhi* or Mutual Benefit Society ; or

(*ad*) if it is a company, wherein shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by, one or more co-operative societies ;

(*b*) if it is a company which is not a private company as defined in the Companies Act, 1956 (1 of 1956), and the conditions specified either in item (*A*) or in item (*B*) are fulfilled, namely :—

(*A*) shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) were, as on the last day of the relevant previous year, listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and any rules made thereunder ;

(*B*) shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by—

(*a*) the Government, or

(*b*) a corporation established by a Central, State or Provincial Act, or

(*c*) any company to which this clause applies or any subsidiary company of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year.

*Explanation.*—In its application to an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power, item (*B*) shall have effect as if for the words "not less than fifty per cent", the words "not less than forty per cent" had been substituted ;

**Lecture 41**

Advance Ruling

**Lecture 42**

**Non-Resident**

1. Exemption available to a NR – Sec. 10
2. *PGBP – Special provisions for a NR assessee*
3. Capital Gains: Very few special provisions for a NR assessee
4. IFOS: Very few provisions for a NR assessee
5. Additional Concepts which are applicable to a NR assessee

**How do we understand PGBP?**

Sec. 28: Basis of charge
Sec. 29: Computation of PGBP Income

| | |
|---|---|
| Sec. 30 to 35DDA | : Expenses which are allowed to be shown on the Debit side of P&L Account [NAME and calculation] |
| Sec. 36 | : Expenses which are allowed to be shown on the Debit side of P&L Account [NAME but not much calculation] |
| Sec. 37(1) | : Expenses which are allowed to be shown on the Debit side of P&L Account [NO Names] |
| Sec. 37(2B) | : Advertisement Expense which is allowed to be shown on the Debit side of P&L Account |
| Disallowed sections: | |
| Sec. 40(a) | : Any assessee |
| Sec. 40(b) | : Firm |
| Sec. 40A | : |
| Sec. 43B | : Actual Payment Basis deduction allowed |

***PGBP Income (Taxable)***

***Presumptive Taxation Sections:***

Sec. 44AD
Sec. 44ADA
Sec. 44AE

***Now, section 44B***

**Lecture 43**

***Section 44BB, 44BBA, 44BBB, 44C and 44D***

**Lecture 44**

***Sec. 44DA***

Part I of the chapter Non-Resident is over. It covers section 44B, 44BB, 44BBA, 44BBB, 44C, 44D (Not relevant) and 44DA.

Part II of chapter Non-Resident deals with those sections of the IT Act which gives special rates of tax. So, we will be covering such sections now. The relevant sections are *111A, 112, 112A, 115A, 115BBA, 115BBDA and 115BBE.*

**Sec. 115A:**
Applicable to a NR assessee.
Tax rate is flat 20% on
1. Dividend income from a foreign company
2. Interest income from the GOI or from an Indian concern where they borrowed money in foreign currency from this NR assessee
However,
No deduction under section 28 to 44C, 57 and 80 is allowed from such incomes.

**Sec. 115BBA:**
Applicable to the following NR assessees:
Tax rate is flat 20%.
1. Sportsman earning match fee/ advertisement/ writing articles, etc.
2. Sports association earning any income related to sports in India
3. Entertainer earning performance fees.
However,
No deduction under any section of the IT Act is allowed from such incomes.

**Lecture 45**
**Special provisions [Chapter XIIA]**
**Section 115C to 115-I**

**Case 4 [19]:**
Mahesh, a non-resident Indian, has the following income from investments in *foreign exchange assets* and other income:

| | | Rs. |
|---|---|---|
| a. | Interest on Central Government Securities | 50,000 |
| b. | Interest on **debentures** of public limited company | 1,00,000 |
| | *He spent on collection of above incomes* | 3,000 |
| c. | Long-term capital gains on transfer of ***debentures*** mentioned in point (b) above [computed under section 48 (second proviso)] | 2,00,000 |
| d. | Other income | 2,90,000 |

Determine his tax liability for the assessment year 2020-21 under sections 115C to ***115-I*** of the Income-tax Act. How can 'X' reduce his tax liability?
*Solution:*
*Application of Special provisions [Chapter XIIA]*
Computation of total income:

| | | | |
|---|---|---|---|
| | IFOS (Investment income): | | |
| | Interest | 50,000 | |
| | Interest on debentures | 1,00,000 | 1,50,000 |
| | LTCG | | 2,00,000 |
| | Other | | *2,90,000* |
| | GTI | | 6,40,000 |
| Less: | Deductions under section 80C to 80U | | Nil |

| | | |
|---|---|---|
| TI | 6,40,000 | |

Computation of tax:

| | | |
|---|---|---|
| | Tax on investment income [1,50,000*20%] [Sec. 115E] | 30,000 |
| | Tax on LTCG [2,00,000*10%] [Sec. 115E] | 20,000 |
| | Tax on remaining income [6,40,000 – 1,50,000 – 2,00,000] | |
| | i.e., 2,90,000 as per slab rate [(2,90,000 – 2,50,000)*5%] | 2,000 |
| | | 52,000 |
| Add: | HEC @ 4% | 2,080 |
| | Tax payable | 54,080 |

*Non-Application of Special provisions [Chapter XIIA]*

Computation of total income:

| | | | |
|---|---|---|---|
| | IFOS: | | |
| | Interest income | 50,000 | |
| | Interest income on debentures | 1,00,000 | 1,50,000 |
| | LTCG (to be computed after indexation, if allowed) | | 2,00,000 |
| | Other | | 2,90,000 |
| | GTI | | 6,40,000 |
| Less: | Deductions under section 80C to 80U | | Nil |
| | TI | | 6,40,000 |

Computation of tax:

| | | |
|---|---|---|
| | Tax interest income [1,50,000*20%] [Sec. 115A] | 30,000 |
| | Tax on LTCG [2,00,000*20%] [Sec. 112] | 40,000 |
| | Tax on remaining income [6,40,000 – 1,50,000 – 2,00,000] | |
| | i.e., 2,90,000 as per slab rate [(2,90,000 – 2,50,000)*5%] | 2,000 |
| | | 72,000 |
| Add: | HEC @ 4% | 2,880 |
| | Tax payable | 74,880 |

*Conclusion: Special Chapter XIIA is beneficial for the assessee.*

**Case 6 [18]:**

'X', a member of the New Zealand Cricket team, received a sum of Rs. 5 lakh for participation in matches in India. He also received a sum of Rs. 1 lakh in India for endorsing a product on T.V. He contributed articles in an Indian newspaper for which he received Rs. 10,000. During the tour of India, he won a prize of Rs. 10,000 in horse race. What will be his tax liability for the assessment year 2020-21? **(Delhi 2004; Delhi 2010, 7 marks)**

*Solution:*

| | | |
|---|---|---|
| | 6,10,000*20% | 1,22,000 |
| | 10,000*30% | 3,000 |
| | | 1,25,000 |
| Add: | Cess @ 4% | 5,000 |
| | | 1,30,000 |

**Exemptions available to a non-resident assessee**

1. Interest on notified bonds or securities held by a non-resident including income by way of premium on the redemption of such bonds or interest on Non-Resident (External)

Account in any bank in India in accordance with the rules laid down for that purpose, in case of an individual [Sec. 10(4)].

2. Tax payable on royalty or fees for technical service on behalf of foreign company in pursuance of an agreement entered into before June 01, 2002 [Sec. 10(6A)].

3. Tax payable on certain income (not being salary, royalty or fees for technical services) of and on behalf of a non-resident or a foreign company by the Government or the Indian concern in pursuance of an agreement entered into before June 01, 2002 [Sec. 10(6B)].

4. Income of foreign companies providing technical services received in projects connected with security of India [Sec. 10(6C)].

5. Any payment made by an Indian company to acquire an aircraft on lease from foreign Government or enterprise under an agreement entered into before April 01, 2007 [Sec. 10(15A)].

## Lecture 46

**Tax planning:**
Tax Planning Terms: Tax Planning, Tax Evasion, Tax Avoidance and Tax Management and McDowell Case

**Some tax planning aspects – Distribution of assets at the time of liquidation [Sec. 46(1)]**
*Example:*
Mr. X, a shareholder in Y Ltd. receives Rs. 40 at the time of liquidation out of which Rs. 10 is from accumulated profits. He also receives a furniture whose market value at the time of liquidation is 35. He is the holder of 1 share which he purchased in 2014-15 for Rs. 100. Discuss the tax implications in this case assuming liquidation is done in the PY 2019-20. CII for 2014-15 is 240 and for 2019-20 is 289. Assume that section 112A is not applicable.
*Solution:*
Company's point of view: There is no computation of capital gain at the time of sale of furniture as per section 46(1).
On dividend of Rs. 10, the company has to pay dividend tax under section 115-O provided the company is a domestic company.

*Shareholder's point of view:*

| | | AY 2020-21 |
|---|---|---|
| | Sale [40 + 35] | 75 |
| Less: | Dividend [2(22)(c)] | 10 |
| | Full value of consideration [46(2)] | **65** |
| Less: | ICA [100/240*289] | 120 |
| | LTCG | 55 |

## Lecture 47

**Assessment of Companies – Sec. 115JB [MAT]**

MAT [Minimum Alternate Tax] – Sec. 115JB
AY 2020-21
Compute the tax liability of a company assessee.

Tax as per the normal provisions: Tax after applying special rates and normal slab rates
Tax as per 115JB: 15% of Book Profits
**Pay higher of the above**

*Computation of book profits:*

Net profit [P&L Account as per the Companies Act]

Add:

Less:

Book Profit

***Explanation –***

1. ***Book profit –***

"book profit" means the profit as shown in the statement of profit and loss for the relevant previous year prepared as per the relevant provisions (mentioned in the heading "preparation of annual accounts" above), subject to following adjustments.

*Adjustments –*

Following amounts shall be added in the profit (if any amount referred to in point 1 to 13 given below is debited to the statement of profit and loss or if any amount referred to in point 14 given below is not credited to the statement of profit and loss] –

1. the amount of income-tax paid or payable, and the provision therefor; or
   Note –
   the amount of income-tax shall include –
   (i) any tax on distributed profits under section 115-O or on distributed income under section 115R;
   *Note –*
   - Sec. 115-O deals with tax on distributed profits of domestic companies.
   - Sec. 115R deals with tax on distributed income to unit holders.

   (ii) any interest charged under this Act;
   (iii) surcharge, if any, as levied by the Central Acts from time to time;
   (iv) Education Cess on income-tax, if any, as levied by the Central Acts from time to time; and
   (v) Secondary and Higher Education Cess on income-tax, if any, as levied by the Central Acts from time to time.

2. the amounts carried to any reserves, by whatever name called, other than a reserve specified under section 33AC; or
   *Note –*
   Sec. 33AC deals with reserves for shipping business.

3. the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities; or

4. the amount by way of provision for losses of subsidiary companies; or

5. the amount or amounts of dividends paid or proposed; or

6. the amount or amounts of expenditure relatable to any income to which section 10 (other than the provisions contained in clause (38) thereof) or section 11 or section 12 apply; or

*Note –*

- Sec. 10 deals with incomes which do not form part of total income.
- Sec. 10(38) deals with income arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust.
- Sec. 11 deals with income from property held for charitable or religious purposes.
- Sec. 12 deals with income of trusts or institutions from contributions.

7. the amount of depreciation,

8. the amount of deferred tax and the provision therefor,

9. the amount or amounts set aside as provision for diminution in the value of any asset,

10. the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset,

Following amounts shall be deducted from the profit –

1. the amount withdrawn from any reserve or provision, if any such amount is credited to the statement of profit and loss.

   *Note –*

   - The amount withdrawn from a reserve created before April 1, 1997 otherwise than by way of a debit to the statement of profit and loss shall not be deducted.

     For example, revaluation reserve which was not created by way of debit to profit and loss account will not be deductible from book profits.
   - The amount withdrawn from reserves created or provisions made in a previous year relevant to the assessment year commencing on or after the 1st day of April, 1997 shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) under this Explanation or Explanation below the second proviso to section 115JA, as the case may be;

2. the amount of income to which any of the provisions of section 10 (other than the provisions contained in clause (38) thereof) or section 11 or section 12 apply, if any such amount is credited to the statement of profit and loss; or

3. the amount of depreciation debited to the statement of profit and loss (excluding the depreciation on account of revaluation of assets); or

   Note:

   a. The cumulative impact of the addition and subtraction is that the book profit will be increased by depreciation (pertaining to revaluation of assets).
   b. Some relief is available if there is a withdrawal from the revaluation reserve account and it appears on the credit side of the profit and loss account (mentioned in the next point).

4. the amount withdrawn from revaluation reserve and credited to the statement of profit and loss, to the extent it does not exceed the amount of depreciation on account of revaluation of assets referred to in point 3 above; or

5. the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account.

*Note –*

i. the loss shall not include depreciation;
ii. the provisions of this clause shall not apply if the amount of loss brought forward or unabsorbed depreciation is nil; or

6. the amount of deferred tax, if any such amount is credited to the statement of profit and loss.

***Notes related to MAT –***

1. Surcharge is applicable on book profits, if book profits exceed Rs. 1 crore (or Rs. 10 crore), as the case may be.

2. Any provision made to meet unascertained liabilities like provisions of gratuity, provisions for future losses etc. should be added back to such net profits for calculating book profits. However, if the provision for gratuity has been made on the basis of actuarial valuation, it becomes an ascertained liability and hence should not be added back.

3. No adjustment is required for income tax refund, if credited in profit and loss account while calculating book profit.

4. Any tax or duty which is not allowed as deduction as per the provisions of section 43B though debited to profit and loss account shall not be added back for computing book-profit.

5. Deferred tax liability provided as per AS-22 is an unascertained liability, hence to be added back.

6. If a sum is debited to profit and loss account under the provisions of the Companies Act, it will not be added to compute book profit, even if the same is allowed under section 37 or under any other provision of the Income-tax Act.

7. Provision for liability to pay wealth-tax cannot be added back to net profit for computing book profit.

8. Current year's depreciation, which has not been charged to profit and loss account but has been disclosed in notes appended to accounts, would be deducted from net profit in determining book profit for the purpose of section 115JB.

**Case 34 [20]:**

From the following information compute the tax liability of X Ltd. for the assessment year 2020-21:

Profit and Loss Account

| Particulars | Amount (Rs.) | Particulars | Amount (Rs.) |
|---|---|---|---|
| Raw material | 10,00,000 | Domestic sale of goods | 25,00,000 |
| Salary and wages | 1,20,000 | Export of goods | 6,00,000 |
| Entertainment expenditure | 20,000 | Other receipts | 2,00,000 |
| Travelling expenditure | 30,000 | Dividend from Indian company | 3,22,000 |
| Income tax | 2,00,000 | | |

| | | | |
|---|---|---|---|
| Wealth tax | 5,000 | | |
| Outstanding excise duty | 15,000 | | |
| Provision for unascertained liability | 40,000 | | |
| Dividend paid | 52,000 | | |
| Dividend distribution tax | 10,689 | | |
| Depreciation on assets after revaluation | 6,40,000 | | |
| Net Profit | 14,89,311 | | |
| | 36,22,000 | | 36,22,000 |

Other information:

For tax purposes, the company wants to claim the following:

a. Deduction under section 80-IAC (100% of Rs. 14,89,311).
b. Custom duty of Rs. 50,000 pertaining to 2017-18 paid during 2019-20.
c. Depreciation under section 32 is Rs. 6,00,000.
d. Outstanding excise duty is paid on 12 December 2020.
e. Assets whose book value was Rs. 8,00,000 was revalued at **Rs. 20,00,000**.
f. The company wants to set-off the following losses/ allowances:

| | **For Tax purposes (Rs.)** | **For Accounting Purposes (Rs.)** |
|---|---|---|
| B/F Loss of 2017-18 | 7,40,000 | 8,00,000 |
| Unabsorbed Depreciation | 3,00,000 | 4,50,000 |

**Solution:**

Computation of tax liability of X Ltd. for the AY 2020-21 as per the normal provisions:

| | | | |
|---|---|---|---|
| | Net profit | | 14,89,311 |
| Add: | Expenses disallowed: | | |
| | Excess depreciation w/o | 40,000 | |
| | O/S Excise duty [43B] | 15,000 | |
| | Income tax | 2,00,000 | |
| | Wealth tax | 5,000 | |
| | Provision | 40,000 | |
| | Dividend | 52,000 | |
| | DDT | 10,689 | 3,62,689 |
| | | | 18,52,000 |
| Less: | Custom paid paid in PY 2019-20 [43B] | | 50,000 |
| | Dividend income | | 3,22,000 |
| | PGBP | | 14,80,000 |
| Add: | IFOS – Dividend income | | Nil |
| | | | 14,80,000 |
| Less: | B/F business loss | | 7,40,000 |
| | Unabsorbed depreciation | | 3,00,000 |
| | GTI | | 4,40,000 |
| Less: | Deductions under section 80-IAC [100% of 4,40,000] | | 4,40,000 |
| | TI | | Nil |

Tax as per normal provisions is Nil

Computation of book profits of X Ltd. for the AY 2020-21 as per section 115JB:

| | | | |
|---|---|---|---|
| | Net profit | | 14,89,311 |
| Add: | Depreciation | 6,40,000 | |
| | Income Tax | 2,00,000 | |
| | Provision for unascertained | 40,000 | |
| | Dividend | 52,000 | |
| | DDT | 10,689 | 9,42,689 |
| | | | 24,32,000 |
| Less: | Depreciation | 2,56,000 | |
| | B/F business loss of B/F unabsorbed dep. | | |
| | [Less] | 4,50,000 | |
| | Dividend income [10(34)] | 3,22,000 | 10,28,000 |
| | Book profit | | 14,04,000 |
| | | | |
| | Tax as per Sec. 115JB [15% of 14,04,000] | | 2,10,600 |
| Add: | Surcharge (since book profits does not exceed Rs. 1 crore) | | Nil |
| | | | 2,10,600 |
| Add: | Cess @ 4% | | 8,424 |
| | Tax | | 2,19,020 |

Conclusion: X Ltd. has to pay Rs. 2,19,020 as tax.

Sec. 115JAA: If tax payable as per MAT > Tax as per normal provisions, then this excess of Rs. 2,19,020 [2,19,020 - Nil] is allowed as tax credit in those subsequent years where tax payable as per normal provisions > Tax as per MAT and that too, only till this excess.

| | Normal Tax | MAT | Tax Credit of last year |
|---|---|---|---|
| AY 2021-22 | 4,00,000 | **4,10,000** | No |
| AY 2022-23 | 6,00,000 | 5,60,000 | Yes<br>Can claim only Rs. 40,000 out of Rs. 2,19,020 |

Calculation of depreciation as per MAT:

| | |
|---|---|
| When 20,00,000 | 6,40,000 |
| 1 | 6,40,000/20,00,000 |
| 8,00,000 | 6,40,000/20,00,000*8,00,000 |

## Lecture 48

Sec. 115BAA, Sec. 115BAB and Sec. 115BAC

**MANY THANKS**

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**The file is available at www.srcc.edu/e-resources**

**Corporate Tax Planning**
**Session Plan**

| Lecture | Topics Covered |
|---|---|
| 1 | Basics of Corporate Tax Planning |
| 2 | Computation of total income and tax liability of an individual/ HUF/ Firm/ Company for the AY 2020-21;<br>Special incomes and special tax rates;<br>Tax slabs; |
| 3 | Double Taxation Relief – Introduction |
| 4 | Double Taxation Relief – Practice |
| 5 | Double Taxation Relief – Practice |
| 6 | Double Taxation Relief – Practice |
| 7 | Specific Management Decisions – Discussion |
| 8 | Specific Management Decisions – Purchase of an asset from own money |
| 9 | Specific Management Decisions – Purchase of an asset from borrowed money |
| 10 | Specific Management Decisions – Lease rent and Make or Buy |
| 11 | Business restructuring – Introduction |
| 12 | Business Restructuring – Amalgamation |
| 13 | Business Restructuring – Amalgamation – Depreciation calculation |
| 14 | Business Restructuring – Demerger, Slump Sale |
| 15 | Business Restructuring – Conversion of firm into a company, |
| 16 | Business Restructuring – Transfer of assets between holding and subsidiary company |
| 17 | Business Restructuring – Transfer of assets between holding and subsidiary company |
| 18 | Employee Remuneration – Introduction, Tax treatment of Leave Encashment, Gratuity, Pension and Provident Funds |
| 19 | Employee Remuneration – Treatment of Allowances and Valuation of perquisite of accommodation, domestic servants and household amenities |
| 20 | Employee Remuneration – Valuation of perquisite of motor car and education |
| 21 | Employee Remuneration – Valuation of perquisite of medical. Practice Questions |
| 22 | Employee Remuneration – Practice Questions |
| 23 | Transfer Pricing – Introduction, Practice Questions, |
| 24 | Transfer Pricing – Practice Questions |
| 25 | Some Tax Planning Aspects – Introduction, Sale of assets used for scientific research [Sec. 41(3)] |
| 26 | Some Tax Planning Aspects – Receipt of insurance compensation [Sec. 45(1A)] |
| 27 | FM Decisions: Introduction, Case when company wants to raise the new capital, Explanation of determining effective dividend tax rate under section 115-O |
| 28 | FM Decisions: Case when company wants to raise additional capital |
| 29 | FM Decisions: Dividend [Section 2(22), 115BBDA, 115-O, 10(34)] |
| 30 | FM Decisions: Numerical on Sec. 2(22)(e) and TDS on Dividends [Sec. 194] |
| 31 | FM Decisions: Practice of all sections related to dividends |
| 32 | FM Decisions: Discussion on Section 94(7) and 94(8) |
| 33 | FM Decisions: Sec. 115QA and Sec. 115R |
| 34 | Setting up of New Business – Introduction |
| 35 | Setting up of New Business – Numerical of Firm vs. Company |

| | |
|---|---|
| 36 | Setting up of New Business – Numerical of Firm vs. Company |
| 37 | Setting up of New Business – Numerical of Sole Proprietorship vs. HUF |
| 38 | Setting up of New Business – Numerical of Firm vs. Company |
| 39 | Assessment of companies – Section 79 |
| 40 | Assessment of companies – Section 2(18) |
| 41 | Advance Ruling |
| 42 | Non-Resident: Introduction, Sec. 44B |
| 43 | Non-Resident: Sec. 44BB, 44BBA, 44BBB, 44C and 44D |
| 44 | Non-Resident: Sec. 44DA, 111A, 112, 112A, 115A, 115BBA, 115BBDA and 115BBE |
| 45 | Non-Resident: Chapter XIIA, Exemptions under section 10 |
| 46 | Tax Planning Terms: Tax Planning, Tax Evasion, Tax Avoidance and Tax Management and McDowell Case<br>Some Tax Planning Aspects – Distribution of Assets at the time of Liquidation [Sec. 46(1)] |
| 47 | Assessment of companies: Sec. 115JB |
| 48 | Assessment of companies: Sec. 115JB |
| 49 | Optional Tax Scheme: Sec. 115BAA, 115BAB and 115BAC |

**Relevant original source:**
www.incometaxindia.gov.in