

JUL 2021

Roll No.

Total No. of Questions – 5

**Final New Syllabus
Paper - 6 C**

Total No. of Printed Pages – 24

Time Allowed – 4 Hours

International Taxation

Maximum Marks – 100

BYC

Answer to questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate who has not opted for Hindi Medium, his/her answers in Hindi will not be valued.

This Question Paper comprises **five** case study questions. The candidates are required to answer any **four** case study questions out of **five**.

Answer in respect of Multiple-Choice Questions are to be marked on the OMR Answer Sheet only.

Answer to other questions are to be written on the descriptive type answer book.

Answer to Multiple Choice Questions, if written in the descriptive type answer book will not be evaluated.

Please ensure to answer the MCQs relevant to questions as attempted in the descriptive answer book.

Candidates may use calculator.

All questions relate to Assessment Year 2021-22, unless otherwise stated in the questions / case studies.

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Case Study – 1

Moon Co Ltd., Delhi

Moon Co Ltd., Delhi is engaged in manufacture of electrical equipment. XY Co. Ltd., UK has 55% shareholding in Moon Co Ltd. The paid up share capital of Moon Co Ltd. is ₹ 20 crores as on 31st March 2020. XY Co Ltd. transferred 25% of its shareholding in Moon Co Ltd. to MNO GmbH Germany for ₹ 15.75 crores (USD 2.1 million) on 30th November 2020, and retained the balance 30% shareholding in Moon Co Ltd. The book value of assets of Moon Co Ltd. as on 31st March 2020 was ₹ 20 crores and on 30th November 2020, it was ₹ 22 crores. The aforesaid 55% shareholding in Moon Co Ltd. was acquired by XY Co Ltd. on 01st October 2014 at the time of incorporation of Moon Co Ltd. for USD 2.20 million. Moon Co Ltd. applied for Advance Pricing Agreement (APA) in November 2020 and the APA was signed on 20th March 2021.

Moon Co Ltd. admitted gross profit margin of 13% on turnover of ₹ 100 crores while filling its return of income for the assessment year 2018-19. At that time the data relating to comparable entities were not available. However, at the time of assessment data of 3 comparable entities are available for the same assessment year. The average gross profit of the other entities was 16%, 18% and 11% respectively (after necessary adjustments).

Moon Co. Ltd. entered into an agreement for import of goods from Hilltop Inc of USA. The agreement envisaged that the goods imported would be assembled in the warehouse owned by Moon Co Ltd. by the employees of Hilltop Inc. who visited India on deputation basis. Moon Co Ltd. filed an application before AAR to know the tax consequences of the transaction in the hands of Hilltop Inc.

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Sumoto Ltd., Country X

Sumoto Ltd. is a reputed digital advertiser in country 'X' which has global reach. It has a branch in Kolkata to campaign and procure advertisements from Indian companies for the purpose of digital advertisement. Moon Co Ltd. paid ₹ 5 lakhs to the branch of Sumoto Ltd. for advertising its goods in digital advertisement platform to have global reach. The DTAA between India and country X provides withholding tax of 20% on the fee for technical services.

Sky (P) Ltd., Mumbai

Sky (P) Ltd., Mumbai is a subsidiary of Moon Co Ltd. It is engaged in trading of electronic goods such as washing machines, refrigerators, television sets and air-conditioners. It purchases from its associated enterprise Solar Pte. Ltd., Singapore and also from unrelated party Waterworks Ltd., UK. For the financial year 2018-19, the gross profit margin was 15% on the sale of goods of Solar Pte. Ltd. and whereas it was 20% in the case of Waterworks Ltd. After-sales warranty of 6 months was provided by Solar Pte. Ltd. and whereas Waterworks Ltd. gave after-sales warranty of 12 months. The cost of warranty may be taken as 2% of the sale price. The Solar Pte. Ltd. brand value is internationally known and the benefit of brand value can be taken as 1% of sale price. During the financial year 2018-19, it sold goods of Solar Pte. Ltd. for ₹ 20 crores and of Waterworks Ltd. for ₹ 15 crores. As regards transport cost of the goods purchased, there was no difference between related and unrelated party. In the assessment of Sky (P) Ltd. for the assessment year 2019-20, the TPO selected comparables based on functional comparability.

During the previous year 2020-21, Sky (P) Ltd. borrowed ₹ 25 crores from EXE Ltd. located in Country 'P'. The loan is eligible for interest @ 9% per annum. Interest payable for the financial year 2020-21 is ₹ 140 lakhs. Total asset value of Sky (P) Ltd. on the date of loan does not exceed 40 crores and there is no other borrowing made by it except the said loan. There is no DTAA between India and Country 'P'.

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Laxman son of Director of Moon Co. Ltd.

Laxman (citizen of India) is son of one of the directors of Moon Co Ltd. He is born and brought up in India who left India for employment in Country S on 05 June 2012. He regularly visited in India and stayed for 60 days in every previous year since the previous year 2013-14. In the financial year 2020-21, Laxman came to India on 01st May 2020 and remained in India till 31st August 2020. His salary was ₹ 3 lakhs per month which he earned for 8 months during the previous year 2020-2021. He also has income from a commercial complex in Chennai (computed) ₹ 18 lakhs. He does not pay income tax in Country S where he is employed as there is no income-tax law in that country.

Choose the correct alternative for the following MCQs :

2×5

=10

- 1.1 The ruling of AAR on the basis of application filed by Moon Co Ltd. is binding on which of the following parties?
- (A) Hilltop Inc.
 - (B) Moon Co Ltd.
 - (C) Pr. Commissioner of Income-tax (PCIT) who can initiate proceedings on Hilltop Inc. and Moon Co. Ltd.
 - (D) Both Hilltop Inc. and Moon Co. Ltd. in case the application of Moon Co. Ltd. was to know the tax consequence for both of them and the PCIT.
- 1.2 At what rate Moon Co Ltd. must deduct tax at source or by way of equalisation levy in respect of the payment made by it to Sumoto Ltd.?
(Ignore Surcharge and HEC)
- (A) 6% by way of equalisation levy
 - (B) 40% by way of TDS on fees for technical services under section 195
 - (C) 20% by way of TDS on fees for technical services as per DTAA
 - (D) NIL-Neither Equalisation levy is applicable nor payment qualify to be fee for technical services as per the Income-tax Act.

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- 1.3 What would be the transfer pricing adjustments in the hands of Moon Co. Ltd. for the assessment year 2018-19 on the reported turnover of the associated enterprise of ₹ 100 crores taking note of the gross profit ratio of comparable entities ?
- (A) ₹ 200 lakhs
(B) ₹ 300 lakhs
(C) ₹ 500 lakhs
(D) NIL
- 1.4 What is the time limit for Moon Co. Ltd. for the purpose of furnishing Annual Compliance Report for the year ended 31st March, 2021?
- (A) 30th November, 2021
(B) 18th June, 2021
(C) 28th February, 2022
(D) 30th December, 2021
- 1.5 How much is the amount of tax deductible at source (including Surcharge and HEC) on the interest paid to EXE Ltd. by Sky (P) Ltd.?
- (A) ₹ 61,15,200
(B) ₹ 59,40,480
(C) ₹ 44,55,360
(D) ₹ 29,70,240

You are required to answer the following issues:

- 1.6 State briefly which method of ALP determination would be the most appropriate method ? Also, compute the ALP of the transaction between Sky (P) Ltd. and Solar Pte. Ltd., Singapore. **5**

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- 1.7 Compute the amount of capital gains chargeable to tax in the hands of XY Co. Ltd. and the tax liability for the assessment year 2021-22 when the transaction is an off-market transaction. In case, the shares of Moon Co Ltd. are listed in a recognized stock exchange and the fair market value of 25% of the shares of Moon Co Ltd. as on 31st March 2018 was ₹ 550 lakhs, how much would be the capital gains chargeable to tax and resultant tax liability in the hands of XY Co Ltd., UK. **5**
- Note :** SBI TTBR on 01st October 2014 – 1 USD = ₹ 50, on 30th November 2020 – 1 USD = ₹ 75.
- 1.8 Determine the residential status of Laxman and compute his total income for Assessment year 2021-22. What would be your answer, in case Laxman pays income tax @ 20% in Country 'S', with regard to his residential status under the Income Tax Act, 1961 and his total income taxable in India ? **5**

Case Study 2

Hyper Ltd., Chennai

Hyper Ltd., Chennai is engaged in the manufacture of food items. It entered into an agreement with Venus SpA, Belgium for the export of processed and packaged food items for two financial years commencing from 1st April 2020. The foreign company Venus SpA would source raw materials for manufacture of food items by Hyper Ltd. according to its specifications. For this purpose, Venus SpA appointed procurement agents in India who supplied raw material and also monitored the quality standards of the material to be used in the manufacture of food items by Hyper Ltd. Hyper Ltd. applied for rollback provision on 2nd April 2021 and it was signed on 5th May, 2021. The rollback is applicable for the assessment years 2019-20 and 2020-21. The revised APA incorporating the rollback provisions was signed on 1st July 2021.

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Modern Bankers Inc. of Singapore is an associated enterprise of Hyper Ltd. In April 2020 Modern Bankers Inc. established 10 branches in India for the purpose of doing banking business after taking permission and requisite licenses from RBI. During the financial year 2020-21, it advanced ₹ 100 crores to each of the branch to do the banking business in India. For the year ended 31st March 2021, the EBITDA (consolidated) of all the branches amounted to ₹ 150 crores and the aggregate interest payable to the head office was ₹ 60 crores.

Krishna, Ex-Director of Hyper Ltd.

Krishna was one of the Executive Directors of Hyper Co. Ltd. up to March, 2016. He left India in April 2016 and settled with his son in Canada. Consequent to a search under section 132 in the premises of Hyper Co Ltd. in April 2019, it was found that Krishna had earned commission income in respect of imports made from USA by the company and the said commission of USD 1,00,000 earned in financial year 2014-15 remains undisclosed in tax returns filed by him in India. The said commission income was used for acquiring an apartment in USA in April 2015. The fair market value of the apartment on the valuation date is USD 2,00,000. The exchange rates are on 31st March 2015 – 1 USD = ₹ 50; on 1st April 2019 (valuation date) – 1 USD = ₹ 70.

Balaji, brother of Ex-director Krishna

Balaji who remained in Australia returned to India permanently in January 2020. He has a property in Australia from which he earned income of AUS \$ 40,000 and AUS \$ 44,000 for the year ended 31st March 2020 and 31st March 2021 respectively. He is eligible for basic exemption limit of AUS \$ 18,200 and on the balance income, he paid income-tax for both the years @ 20% in Australia. The tax was paid for the let out property income earned in Australia for both the years on 5th April 2020 and on 10th April 2021 respectively from his bank account in India. His income from business in India is ₹ 12,00,000 for the year ended 31-03-2021. Assume that the financial year are same for both India and Australia.

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The exchange rate of 1 Australian Dollar on various dates is given below :

31st March 2020 = ₹ 50; 05th April 2020 = ₹ 50.50; 31st December 2020 = ₹ 51;
31st March 2021 = ₹ 52; 10th April 2021 = ₹ 51.50 and 31st December 2021 = ₹ 53

Ram, Foreign resident deputed to Hyper Ltd.

Ram a foreign resident came to India with his family on 01st November 2020 on deputation for 7 months to work in Hyper Ltd. Wife of Ram had to take some traditional medical treatment in India and that was the reason which prompted him to seek deputation to work at client's place in India. He would incur a minimum of ₹ 1,00,000 towards medical expenditure for his wife up to 31st March 2021. As per the agreement between Hyper Ltd. where he was deputed and his original employer in foreign country, the salary of Ram is to be paid by Hyper Ltd. and the foreign company would not make salary payment for the deputed period. He was paid salary of ₹ 2,50,000 per month in India from 1st November to 31st March, 2021 by Hyper Ltd.

Red GmbH, Germany

Red GmbH Germany is a group concern to which Hyper Ltd. belongs. It is engaged in Manufacturing and sale of solar panels. It opened a branch office in Chennai for sale in India. The profit mark up was cost plus 40% in respect of sales made by the branch. The company also supplied the goods directly to various customers in India at cost plus 60%. The turnover for the previous year 2020-21 of the branch was ₹ 180 crores and direct sale to Indian customers was ₹ 55 crores.

Choose the correct alternative for the following MCQs :

**2×5
=10**

2.1 How much is the undisclosed income under the Black Money (Undisclosed Asset and Income and Imposition of Tax) Act, 2015 in the hands of Krishna ?

- (A) ₹ 20,00,000 (B) ₹ 50,00,000
(C) ₹ 70,00,000 (D) ₹ 1,40,00,000

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Marks

- 2.2 What is the monetary limit for Hyper Ltd. to seek advance ruling from AAR in respect of the transaction to be executed in pursuance of the agreement with Venus SpA ?
- (A) ₹ 100 crores or more
(B) ₹ 200 crores or more
(C) ₹ 300 crores or more
(D) Being a resident i.e. domestic company, it is not eligible to seek advance ruling.
- 2.3 What is the time limit available to Hyper Ltd. for filing modified return for rollback years consequent to revised APA ?
- (A) 31st March, 2022 (B) 30th September, 2021
(C) 31st October, 2021 (D) 30th November, 2021
- 2.4 How much of the interest paid by the Indian branches of Modern Bankers to the head office, Singapore would be disallowed for computing the total income under the head 'Profits and gains of business or profession'? Assume that the branches have complied with TDS provisions as applicable for the interest paid.
- (A) No interest would be disallowed as TDS provisions were complied with by the branches in India but ₹ 15 crores would be disallowed by applying section 94B.
(B) No interest would be disallowed as TDS provisions were complied with by the branches in India and also section 94B limiting the interest deduction would not apply.
(C) ₹ 60 crores paid to head office would be disallowed in spite of complying with TDS provisions since it is a payment to self.
(D) ₹ 15 crores would be disallowed in spite of complying with TDS provisions.

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- 2.5 Which of the following benefit could not be availed by Balaji since he is non-resident for the assessment year 2020-21?
- (A) Tax saver deposit / Donation to public charitable trust registered under section 12AA.
 - (B) Medical / Health insurance premium
 - (C) Interest on loan taken for higher education.
 - (D) Rebate under section 87A

You are required to answer the following issues:

- 2.6 Assume Mr. Ram came to you in January, 2021 to plan his tax affairs for the period up to 31st March 2021. Suggest the available tax regime, eligible investments and optimal tax liability within the four corners of law. **5**
- 2.7 Compute net tax liability of Balaji in India for assessment year 2021-22 on the assumption that there is no DTAA between India and Australia. **5**
- 2.8 The Assessing Officer wants to tax the profit earned by Red GmbH from direct supply to customers in India though the PE (i.e. the Indian branch) had no role to play in it. Decide the validity in the context of OECD and UN Model Tax Conventions. **5**

Case Study 3

Surakav (P) Ltd., Bengaluru

Surakav (P) Ltd., Bengaluru is engaged in manufacture of electronic goods and exporting the same to various associated and other enterprises across South East Asia. It has been in the business from 01st April 2016. The income tax assessment for assessment year 2018-19 was completed by making reference to the TPO who enhanced the arm's length price of the international transaction by ₹ 500 lakhs. The company applied for APA in April 2020 which was signed in July 2020. The tax assessment for the assessment year 2017-18 regarding ALP of international transaction was disputed before the tribunal which set aside the order for fresh consideration by the Assessing Officer in December 2020. The company also applied for rollback benefit which was agreed and signed in January 2021. If the APA is applied, the ALP determined for the assessment year 2018-19 would get enhanced by ₹ 300 lakhs as against ₹ 500 lakhs originally determined by TPO.

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Atorva Ltd., UK

Atorva Ltd. of UK is an e-commerce operator providing foreign currency services through electronic mode. For the previous year 2020-21, it provided services to Surakav (P) Ltd. for a consideration of ₹ 250 lakhs. Surakav (P) Ltd. availed the services using IP address located in India.

Timber GmbH, Germany

Surakav (P) Ltd. has an associated enterprise by name Timber GmbH in Germany. The associated enterprise i.e. Timber GmbH wants to appoint an agent in India to procure raw materials from India for the purpose of manufacture of its products in Germany. The persons/ entity so appointed would be authorized to enter into contracts on its behalf after negotiations with the suppliers.

Surakav (P) Ltd. borrowed USD 100 lakhs from Xylo Inc. USA on 01st July 2015 under a loan agreement approved by the Central Government. Interest is payable half yearly in foreign currency @ 4% per annum, on every half year i.e. on 31st December and 30th June. For the half year ended 31st December 2020, interest was paid on 28th February 2021 after deducting tax on source.

TT buying rate of SBI on various dates are : 31st December 2020 – 1 USD = ₹ 72; 31st January 2021 – 1 USD = ₹ 73, 28 February 2021 – 1 USD = ₹ 72.50; 31st March 2021 – 1 USD = ₹ 74.

Surakav (P) Ltd. exported its products to unrelated party Mountain Ltd., Australia. Surakav (P) Ltd. is dependent on Zoom Ltd. for marketing its products and 48% of its sales are made by it through the price negotiations made and fixed by Zoom Ltd. The terms of sale and price charged by Surakav (P) Ltd. to Mountain Ltd. were also influenced by Zoom Ltd. Surakav (P) Ltd. did not maintain any document and information in respect of sales made to Mountain Ltd. During the financial year 2020-21, the aggregate sale made by Surakav (P) Ltd. to Mountain Ltd., was ₹ 12 crores.

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Raghav, ex-Director of Surakav (P) Ltd.

Raghav (age 61) is resident of India. He has income in India chargeable to tax for the assessment year 2021-22 of ₹ 7 lakhs. He remained in foreign country W earlier and has regular income of ₹ 18 lakhs (converted in Indian currency) per annum from that country.

Zoom Ltd., UK

Zoom Ltd., UK is a business conglomerate with subsidiaries in various countries. It owns 51% shares of Surakav (P) Ltd., Bengaluru. Zoom Ltd. has a liaison office at New Delhi. It wants to utilize the services of liaison office for furthering its business in India and in South East Asia. The liaison office would carry out advertisement / marketing activities in India. This strategy would lead to turnover of around ₹ 100 crores per annum with resultant profit margin of 15%.

Talta Pte. Ltd., Singapore.

Tatla Pte. Ltd., Singapore (a Foreign Institutional Investor) is a subsidiary company of Zoom Ltd. U.K. Tatla Inc. commenced its activities in India from 01st December 2020. During the previous year ended 31st March 2021, it earned short-term capital gain of ₹ 70 lakhs on transfer of securities.

Choose the correct alternative for the following MCQs :

**2×5
=10**

3.1 How much would be the quantum of penalty leviable on Surakav (P) Ltd. for failure keep and maintain documents in respect of its transactions with Mountain Ltd. ?

(A) ₹ 1,00,000

(B) ₹ 24,00,000

(C) ₹ 25,00,000

(D) NIL

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3.2 How much is the amount of equalization levy payable for the transaction between Surakav (P) Ltd. and Atorva Ltd. of UK ? Who must make the payment?

- (A) @ 6% i.e. ₹ 15 lakhs; To be paid by Atorva Ltd., UK
- (B) @ 6% i.e. ₹ 15 lakhs; To be paid by TRF (P) Ltd.
- (C) @2% i.e. ₹ 5 lakhs; To be paid by Atorva Ltd., UK
- (D) No equalization levy on the transaction

3.3 How much is the amount of tax deductible at source by Surakav (P) Ltd. on interest paid to Xylo Inc. on 28th February 2021 ? [Note: Your answer must consider Surcharge and HEC wherever applicable]

- (A) ₹ 7,63,776
- (B) ₹ 7,74,384
- (C) ₹ 7,69,080
- (D) ₹ 61,10,208

3.4 In which of the following instances the business connection would not get established for Timber GmbH. in India ?

- (A) Opening a branch in India by itself.
- (B) Opening a liaison office in India for finalizing the contracts for supply of raw materials by the suppliers.
- (C) Appointing an agent who would be interacting with potential customers which leads to the conclusion of contract between Timber GmbH and the customers in India.
- (D) Appointing an agent in Mumbai for finalizing contracts with the suppliers on its behalf.

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3.5 How much is the tax payable by Tatla Pte. on the short-term capital gain for the assessment year 2021-22 ? [Note: Your answer must be inclusive of Surcharge and HEC, if applicable]

(A) ₹ 21,84,000

(B) ₹ 14,56,000

(C) ₹ 10,92,000

(D) ₹ 7,28,280

You are required to answer the following issues :

3.6 State the assessment years for which the rollback benefit would be applicable for Surakav (P) Ltd. Also state the time limit for filing the modified return in pursuance of APA and for the rollback years ? **5**

3.7 Compute income-tax liability of Raghav for the assessment year 2021-22 under (i) full exemption method; and (ii) exemption with progression method. **5**

Note : Raghav does not opt for section 115BAC.

3.8 As a tax consultant on international taxation matters, you are requested to list out the activities which could be carried out by the liaison office of Zoom Ltd. in India without any tax consequence taking note of UN Model of tax convention. **5**

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Case Study – 4

Yellow (P) Ltd., Mumbai

Yellow (P) Ltd., Mumbai is subsidiary of Global Inc. of Country X. It entered into an agreement with Greig Inc. of Canada on 05th December 2020 for export of garments manufactured by it. The agreement stipulates that Greig Inc. would arrange for raw materials and consumables required for the manufacture of said garments. The agreement provides for export by Yellow (P) Ltd. to Greig Inc. of supply of finished garments exceeding ₹ 100 crores for every financial year for 5 years w.e.f. 01st April 2021. Yellow (P) Ltd. wants to seek advance ruling in respect of the transaction contemplated in pursuance of the agreement with Greig Inc. Yellow (P) Ltd. borrowed ₹ 100 crore on 1st June 2020 as interest-free loan from its parent company Global Inc. Similar loan from an unrelated party would cost 6% per annum. There was no other transaction between Yellow (P) Ltd. and Global Inc. during the financial year 2020-21.

Yellow (P) Ltd. has a branch office in country Y with which there is a DTAA between India and country Y. However, the term 'transfer' is not defined in the tax treaty between India and country Y. Yellow (P) Ltd. is contemplating some transactions relating to purchase and sale of assets in country Y.

Dr. Dominic, resident of UK

Dr. Dominic a reputed neuro surgeon employed in ABC LLP, United Kingdom. He came to India on 01st December 2020 and performed surgery for Manish CEO of Yellow (P) Ltd. at Mumbai. The surgeon fee was paid directly by Yellow (P) Ltd. to ABC LLP, United Kingdom. Dr. Dominic did not receive any payment. He remained in India for only 3 days and all his expenses were met by ABC LLP directly.

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Omega SpA, Belgium

Omega SpA, Belgium is an e-commerce operator engaged in sale of goods in India through electronic facility by matching suppliers throughout India against the orders placed by Indian customers. During the previous year 2020-21, it made a turnover of ₹ 12 crores from India. It may be noted that Omega SpA has no branch in India. It had a dedicated office for rendering the service to customers in India and earned net income of ₹ 80 lakhs for the year ended 31st March, 2021.

During the previous year 2020-21, Yellow (P) Ltd. exported goods to unrelated party Walters Ltd. of Australia for ₹ 12 crores. The TPO determined the arm's length price at ₹ 13 crores. Yellow (P) Ltd. has not maintained any document or information for the goods exported to Walters Ltd.

Yellow (P) Ltd. is a constituent of Global Inc. of Country 'X' where there is no legal requirement for filing a report similar to CbC report. The parent company Global Inc. has designated Fire Ltd. of UK as designated entity for filing the CbC report in UK for the year ended 31st December, 2019 as per the relevant law applicable in UK. It may be noted that there is an agreement between Indian and UK tax authorities for exchange of information between them. The consolidated annual turnover of Global Inc. exceeds ₹ 10,000 crores for each of the last 3 financial years.

Robert ex-CEO of Yellow (P) Ltd.

Robert a citizen of USA acted as CEO of Yellow (P) Ltd. from 01st April 2010 and up to 31st March 2017. He returned to USA in April, 2017 to rejoin Red Inc, USA. It was found that when he acted as CEO of Yellow (P) Ltd. he accumulated undisclosed income/ wealth such as (i) shares of listed companies in USA acquired on 10th December, 2009; (ii) acquired of one apartment in London on 20th April, 2012 and (iii) established a leather goods manufacturing factory in Malaysia on 15th April, 2017. He earned income by taking commission from various foreign buyers located outside India. The Assessing Officer issued notice under the Black Money Act, 2015 in July, 2019. The Assessing Officer obtained directions from Joint Commissioner under section 144A for completion of assessment.

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Greig Inc. of Canada

Greig Inc. of Canada has a branch at Chennai. The branch invested in shares of Birta Ltd., Mumbai. It received interim dividend in December, 2020 of ₹ 12 lakhs. Greig Inc. of Singapore became resident because of POEM for the assessment year 2021-22. The total business income of the branch (excluding dividend income) is ₹ 320 lakhs for the year ended 31st March 2021. The total turnover of the company in India was ₹ 370 crores for the previous year 2017-18 and ₹ 405 crores for the previous year 2018-19. The branch on 13 March 2021 acquired a vacant land from Welfare Trust, Pune (registered under section 12AA of the Act) for ₹ 300 lakhs when the circle rate (guideline value) was ₹ 400 lakhs. The branch of Greig Inc. sold a building at Chennai on 01-03-2021 for ₹ 210 lakhs to Alps Ltd., Cochin when the circle rate was ₹ 240 lakhs. The building was acquired by the branch of Greig Inc. on 10th April, 2019 for ₹ 182 lakhs. The company (branch) gave donation of ₹ 40 lakhs to a registered political party. The company wants to opt for section 115BA of the Act.

Choose the correct alternative for the following MCQs :

**2×5
=10**

4.1 When would the services of Dr. Dominic fall in the category of independent personal service as per UN Model convention ?

- (A) When he is not in employment of ABC LLP.
- (B) When he is in employment of ABC LLP.
- (C) If he had received the cheque for the services rendered directly in India.
- (D) If he had visited in India with an agreement with the employer as regards his remuneration for the visit to India.

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(18)

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- 4.2 How much is the quantum of penalty leviable on Yellow (P) Ltd. for non maintenance of documents and records relating to goods exported to Walters Ltd. ?
- (A) NIL (B) ₹ 24 lakhs
(C) ₹ 12 lakhs (D) ₹ 1,50,000
- 4.3 How much of the interest on loan taken from Global Inc. would be adjusted by way of adjustment of arm's length price in determination of total income of Yellow (P) Ltd. for the assessment year 2021-22?
- (A) ₹ 6 crores (B) ₹ 5 crores
(C) NIL (D) ₹ 5,00,000
- 4.4 How much of the amount is payable by Omega SpA by way of income-tax or as equalization levy for the year ended 31st March 2021?
- (A) No income is chargeable to tax in India and also no equalization levy is payable.
(B) The income is not chargeable to tax in India but it has to pay equalization levy @ 6% on the income of ₹ 80 lakhs.
(C) The income is not chargeable to tax in India but it has to pay equalization levy @ 2% on ₹ 12 crores.
(D) Income is chargeable to tax in India since the source is in India and no equalization levy is payable by it.
- 4.5 How would you interpret the term 'transfer' when it is not defined in the tax treaty when you advise Yellow (P) Ltd.?
- (A) As per General Clauses Act,
(B) As per the Income-tax Act, 1961
(C) As per the corresponding domestic tax law of the country Y
(D) By adopting how it was interpreted in similar treaty with any other country entered into by Government of India.

BYC

You are required to answer the following issues:

- 4.6 Yellow (P) Ltd. seeks your advice as regards the scope of coverage of advance ruling it could have sought before AAR. It also wants to know when a ruling could have been declared as void and the time limit for giving such ruling by the AAR. Advise suitably. **3**
- 4.7 Is the notice issued by the Assessing Officer under Black Money Act, 2015 on Robert tenable in law? Is the Joint Commissioner empowered in law to give directions to the Assessing Officer for assessment of Robert under the Black Money Act? And what is the time limit for completion of assessment under the Black Money Act? **3**
- 4.8 State whether Yellow (P) Ltd., has to furnish a CbC report in India? Also list the instances where the Yellow (P) Ltd. need not file CbC report even though the group turnover exceeds the prescribed monetary limit. **5**
- 4.9 Compute the total income and tax liability of Greig Inc. for the assessment year 2021-22 under the Income-tax Act, 1961. **4**

Case Study – 5

Sun (P) Ltd., Kolkata

Sun (P) Ltd., Kolkata is the subsidiary of Jupiter Ltd. of Sydney, Australia. It is engaged in import and redistribution of Tasmania apples in the brand name “Jones” from Jupiter Ltd. Sun (P) Ltd. was authorized to advertise in television channels for the purpose of marketing the brand in India. During the previous year 2019-20, Sun (P) Ltd. incurred ₹ 1500 lakhs towards advertisement expenses. The advertisement in television channels in India facilitated Jupiter Ltd. to reach markets of Middle East and South East Asian nations. In the assessment of Sun (P) Ltd., the TPO applied Bright Line Test for disallowing advertisement expenditure to the extent of ₹ 400 lakhs. Sun (P) Ltd. was also engaged in manufacture of footwear in India meant for 100% export to its AE in UK. The amount of expenditure incurred by way of wages to new employees (computed) was ₹ 1500 lakhs. Sun (P) Ltd. was also engaged in software development for its AE in U.S.A.

which is eligible for deduction under section 10AA. As regards software development division, the TPO found certain expenses for which no evidences were available and hence, disallowed to the extent of ₹ 100 lakhs. The income of Sun (P) Ltd. before deduction in respect of additional new employees cost (relating to footwear division) and disallowance of expenditures (relating to software division) consisted of (i) from distribution of apples ₹ 800 lakhs; (ii) from footwear unit ₹ 1000 lakhs and (iii) software development division (eligible for section 10AA) ₹ 500 lakhs.

The tax authorities of Country X solicited the services of Indian tax authorities for recovery of income-tax due from Martin who migrated to India in the year 2016-17 and became director of Sun (P) Ltd. There is a DTAA between India and Country X.

In the tax assessment of Sun (P) Ltd. for the assessment year 2018-19, the following details are furnished. (i) Total income before ALP adjustment ₹ 100 lakhs; (ii) EBITDA (computed) ₹ 300 lakhs; (iii) interest paid to associated enterprise ₹ 200 lakhs; and (iv) ALP adjustment by way of interest paid to associated enterprise was limited to ₹ 180 lakhs only.

Chandan, ex-MD of Sun (P) Ltd.

Chandan ex-MD of Sun (P) Ltd. when he was resident in India accumulated assets outside India by understating his income for the purpose of income-tax in India. Consequently, the proceedings under the Black Money Act were initiated against him. In the proceedings under the Black Money Act, 2015 he contended that 50% of the fair market value of the assets accumulated outside India were met by his daughter who is a resident in the said foreign country. The Assessing Officer rejected the contention of Chandan and completed the assessment under Black Money Act with tax of ₹ 40 lakhs and interest of ₹ 10 lakhs. The penalty proceedings under the Black Money Act are underway as on date.

(21)

BYC

Marks

Bhagwat, Brother of Chandan

Bhagwat (age 81) resident of Bengaluru is brother of Chandan authored a book on Hindu philosophy which was published in country P. He earned royalty income of ₹ 3.40 lakhs during the previous year 2020-21. His expenditure for earning the royalty income was ₹ 60,000. He paid tax @ 10% on the said royalty income in country P. The entire royalty income was received in convertible foreign exchange by 31st March, 2021. There is no DTAA between India and country P. His other income in India is ₹ 4,50,000.

Madan, Director of Sun (P) Ltd.

Madan one of the Directors of Sun (P) Ltd. joined the company on 01st March 2021 after remaining outside India for 10 years. He has following incomes for the year ended 31st March 2021:

Salary from Sun (P) Ltd.	1,50,000
Long-term capital gain on sale of shares in listed companies (acquired in foreign currency) – STT paid	4,00,000
Income from debentures in Indian companies (₹ 50,000 belongs to debentures purchased in foreign currency)	80,000
Premium on life insurance policy – on self	1,50,000
Health insurance premium	20,000
Income from property at Bengaluru (computed)	60,000
Donation to registered political parties in India by cheque	40,000

Madan is regularly assessed to income-tax even when he remained outside India.

BYC

P.T.O.

Uranus Corporation, Japan

Uranus Corporation, Japan is a wholly owned subsidiary of Jupiter Ltd. Uranus Corporation is engaged in manufacture of electronic goods. It wanted to gain foothold in Indian markets. It sold its products through an e-commerce operator in Delhi and earned 10% on total sales of ₹ 500 lakhs. It obtained data of customers in India from a market research company by name Chappell Pte. Ltd., Singapore to whom it paid ₹ 100 lakhs in January 2021 by directly remitting the amount to its bank account held in Singapore. It also sold goods directly to customers in India by making use of the data obtained from Chappell Pte. Ltd. and earned 20% on the goods sold to customers in India. Total sale of goods directly to customers in India up to 31st March, 2021 was ₹ 700 lakhs.

Choose the correct alternative for the following MCQs :

2×5

=10

5.1 How much amount of demand must be paid by Chandan before filing appeal against the order of assessment under the Black Money Act made by the Assessing Officer ?

- (A) NIL
- (B) ₹ 10,000
- (C) ₹ 25,00,000
- (D) ₹ 50,00,000

5.2 What is the total income of Sun (P) Ltd. for the assessment year 2018-19 taking note of the adjustment of ALP in respect of interest paid and secondary adjustment to be made to impact its total income?

- (A) ₹ 210 lakhs
- (B) ₹ 280 lakhs
- (C) ₹ 120 lakhs
- (D) ₹ 200 lakhs

(23)

BYC

Marks

5.3 As an advisor to Sun (P) Ltd., please advise if a signatory to the MLI can opt out of the minimum standards prescribed under the BEPS Action Plan.

- (A) Yes
- (B) No
- (C) Yes, in case when the contracting states together agree to reflect the minimum standards provided in the MLI into their existing DTAA
- (D) Yes, in case both the contracting states agree

5.4 PG Assets Plc is a subsidiary of Jupiter Ltd., Sydney and a resident of UK. Its only asset is a Palace (used as a guest house) in India. The company is selling the Palace to another non-resident. Assuming OECD Model Convention treaty, which of the following is false.

- (A) The transfer is taxable in India under the indirect transfer of assets provisions in India
- (B) The transfer is taxable in India under the Act as capital gains
- (C) The transfer is taxable in India under the Treaty
- (D) The primary right of taxation under the Tax Treaty is with India

5.5 How much would be the net tax liability of Bhagwat after allowing rebate under section 91 for the assessment year 2021-22 ?

- (A) NIL
- (B) ₹ 13,840
- (C) ₹ 19,840
- (D) ₹ 32,320

BYC

P.T.O.

(24)

BYC

Marks

You are required to answer the following issues :

- 5.6 Compute the total income of Sun (P) Ltd. for the assessment year 2020-2021 in the light of the disallowances proposed by the TPO. Also, discuss whether disallowance of advertisement expenditure by applying Bright Line Test is tenable in law. **5**
- 5.7 State briefly, how the total income of Madan would be subjected to tax in India after he returned to India on permanent basis. Compute his total income and tax liability for the assessment year 2021-22. **5**
- 5.8 Is the income earned by Uranus Corporation through e-commerce operator located in Delhi and direct sale of goods to customers in India chargeable to tax in India? Also state whether the amount received by Chappell Pte. Ltd. by sale of data of customers in India chargeable to tax in India. Ignore provisions of DTAA. **3**
- 5.9 State whether the provisions of the Income-tax Act, 1961 enable the income-tax authorities to help tax authorities of Country X to make tax recovery from Martin under their domestic law? **2**

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