CS/BBA(A)/ODD/SEM-5/500112/2022-2023/I108

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Paper Code : BBA AT & A 503B ADVANCED TAX LAW PRACTICES

Time Allotted : 3 Hours *Full Marks :70*

The Figures in the margin indicate full marks.
Candidate are required to give their answers in their own words as far as practicable

QUESTION & ANSWERS

Complete detailed explanation for better understanding of the students

Group-A (Very Short Answer Type Question)

1. Answer any ten of the following : [1 x 10 = 10]

(I) Is dividend from Foreign Companies taxable in the hands of Resident and Ordinary Resident ?
(II) What is the full form of MAT?
(III) What is a Domestic Company?
(IV) What is International Transfer Pricing?
(V) What is the full form of DTAA?
(VI) Is dividend taxable in the hands of shareholders for the Assessment Year 2022-2023?
(VII) State any one condition by which X Limited can be called to be associated with Y Limited
(VIII) What is the full form of FDI ?
(IX) What is the basic tax rate of Limited Liability Partnership Firm for the Asessment Year 2022-2023?
(X) What is the basic tax rate of Domestic Company whose turnover is Rs. 54.00 Crore for the Assessment Year 2022-2023 ?
(XI) In case of loss what is the maximum amount of partners' remuneration that can be allowed as deduction for Partnership Firm ?
(XII) Give an example of deemed Indian Income

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Is dividend from Foreign Companies taxable in the hands of Resident and Ordinary Resident?

Taxation of dividends from foreign companies can vary depending on the tax laws of the resident's country. In many jurisdictions, dividends received by residents from foreign companies are taxable. However, the specific rules and rates can differ significantly.

For example, some countries may tax foreign dividends at a different rate than domestic dividends, or they may provide credits for foreign taxes paid. Others may have double taxation avoidance agreements (DTAAs) in place to prevent the same income from being taxed in both the source and resident countries.

In the context of India, a resident and ordinary resident is generally subject to tax on worldwide income. However, India has DTAAs with many countries, and these agreements often contain provisions related to the taxation of dividends. The tax treatment of foreign dividends for a resident and ordinary resident in India will depend on the specific provisions of the relevant tax treaty, if any.

What is the full form of MAT?

Minimum Alternate Tax: This is a tax in India that applies to companies that show a profit in their financial statements but have paid little or no tax due to various exemptions and deductions.

What is a Domestic Company?

A domestic company is a business entity that is incorporated and operates within the borders of a specific country. The term "domestic" in this context refers to the company's home country or the country where it is registered and conducts its primary business activities. Domestic companies are subject to the laws and regulations of the country in which they are established.

Characteristics of a domestic company may include:

- Incorporation: The company is legally registered and incorporated in a specific country.
- Operations: The company conducts its primary business operations within the borders of that country.
- Legal Framework: It is subject to the laws, regulations, and governance structures of the country in which it is domiciled.
- Taxation: Tax obligations and rates are typically determined by the tax laws of the domestic country.

In contrast, an international or foreign company is one that is incorporated in one country but may have operations, subsidiaries, or branches in other countries. The distinction between domestic and foreign companies is important for legal, regulatory, and taxation purposes.

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What is International Transfer Pricing?

International transfer pricing refers to the pricing of goods, services, or intellectual property transferred between related entities that are located in different countries. Transfer pricing is a critical issue in international taxation because it can impact the allocation of profits among various entities within a multinational enterprise (MNE). The goal is to ensure that transactions between related entities are conducted at arm's length, meaning the prices are comparable to what would be charged between unrelated parties in an open market.

Key points regarding international transfer pricing:

Arm's Length Principle: The arm's length principle is a key concept in transfer pricing. It suggests that transactions between related entities should be priced as if they were between unrelated entities under similar circumstances.

OECD Guidelines: The Organisation for Economic Co-operation and Development (OECD) provides guidelines for transfer pricing that many countries use as a basis for their own regulations. These guidelines aim to prevent the shifting of profits among different jurisdictions for tax avoidance purposes.

Documentation Requirements: Many tax authorities require multinational enterprises to maintain documentation supporting the pricing of their intercompany transactions. This documentation often includes a detailed analysis demonstrating that the prices are consistent with the arm's length principle.

Methods of Transfer Pricing: There are various methods for determining an arm's length price, including the comparable uncontrolled price method, resale price method, cost-plus method, transactional net margin method, and others. The appropriate method depends on the nature of the transactions and the availability of comparable data.

Advance Pricing Agreements (APAs): MNEs may engage with tax authorities to negotiate advance pricing agreements, which are agreements on transfer

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pricing methodologies for specific transactions over a predetermined period. APAs provide certainty to both the taxpayer and the tax authority.

The goal of international transfer pricing rules is to prevent tax evasion and ensure that each jurisdiction receives its fair share of tax revenue based on the economic activities that occur within its borders. As transfer pricing is a complex area, multinational enterprises often seek professional advice to comply with regulations and avoid disputes with tax authorities.

What is the full form of DTAA?

DTAA stands for "Double Taxation Avoidance Agreement." It is also sometimes referred to as a tax treaty. A DTAA is a bilateral agreement between two countries designed to eliminate or mitigate the impact of double taxation that may arise when a taxpayer is a resident of one country and earns income in another. Double taxation can occur when both the country of residence and the country where the income is earned have the right to tax the same income.

DTAAs typically address issues such as:

Jurisdictional Taxation: Determining which country has the primary right to tax specific types of income.

Tax Rates: Specifying the maximum tax rates that can be applied to various types of income.

Tax Credits: Providing mechanisms to relieve double taxation, such as tax credits or exemptions.

Exchange of Information: Facilitating the exchange of information between tax authorities of the two countries to prevent tax evasion.

Non-Discrimination: Ensuring that residents of one country are not subjected to discriminatory taxation in the other country.

Countries enter DTAAs to promote international trade and investment by providing certainty to taxpayers regarding their tax obligations and preventing the same income from being taxed twice. The terms of each DTAA can vary, and taxpayers and businesses are advised to review the specific agreement between the countries involved to understand its implications for their tax liabilities.

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Is dividend taxable in the hands of shareholders for the Assessment Year 2022-2023

The taxation of dividends can vary depending on the tax laws of the specific country. Since you mentioned "Assessment Year 2022-2023," I assume you are referring to the tax rules in India. As of my last knowledge update in January 2022, the information is based on the prevailing tax laws up to that point. It's important to note that tax laws can change, so you should check for any updates or consult with a tax professional for the most current information.

In India, dividends received by shareholders were generally exempt from tax in the hands of the shareholders before the introduction of the Finance Act, 2020. However, the Finance Act, 2020 introduced a new system of taxing dividends.

For the Assessment Year 2022-2023, dividends received by shareholders in India are taxable at the individual level, subject to certain exemptions and deductions. The company distributing the dividends is required to deduct tax at source (TDS) before distributing the dividends to the shareholders.

Individual shareholders may need to include the dividend income in their total income for the purpose of calculating income tax. The effective tax rate on dividends depends on the individual's overall income and the applicable income tax slab.

State any one condition by which X Limited can be called to be associated with Y Limited

In a business context, two companies, X Limited and Y Limited, may be considered associated or related if one of the conditions is met, such as significant ownership or control. One specific condition is:

Control through Ownership: If X Limited holds a significant ownership stake in Y Limited, it could lead to an association between the two companies. The degree of ownership required to establish an association can vary by jurisdiction and the specific rules and regulations governing business relationships. Typically, a significant ownership stake implies the ability to exercise control over the management and decision-making processes of the other company. This control may be evidenced by the ownership of a substantial percentage of voting shares.

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What is the full form of FDI?

FDI stands for "Foreign Direct Investment." Foreign Direct Investment refers to the investment made by an entity (individual or business) from one country into business interests located in another country. This investment involves a long-term interest and a significant degree of control or influence by the investor over the foreign business.

FDI can take various forms, including acquiring a substantial ownership stake in a foreign company, establishing new business operations (such as subsidiaries or branches) in a foreign country, or participating in joint ventures with local companies.

Governments often encourage FDI as it can bring in capital, technology, skills, and employment opportunities to the host country. The investor, in turn, seeks to benefit from the potential profitability and growth opportunities in the foreign market. FDI is a key driver of global economic integration and plays a crucial role in the globalization of economies.

What is the basic tax rate of Limited Liability Partnership Firm for the Assessment Year 2022-2023?

As of my last knowledge update in January 2022, I do not have specific information about the tax rates for Limited Liability Partnership (LLP) firms in India for the Assessment Year 2022-2023. Tax rates and regulations can be subject to change, and it's essential to refer to the latest tax laws or consult with a tax professional for the most up-to-date information.

In India, LLPs are generally taxed at the flat rate of 30% of their total income. Additionally, a surcharge and education cess may apply, depending on the total income.

For the most accurate and current information regarding tax rates for LLPs in India for the Assessment Year 2022-2023, it is recommended to check the latest finance act, notifications, or consult with a qualified tax professional who can provide guidance based on the specific circumstances of the LLP.

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What is the basic tax rate of Domestic Company whose turnover is Rs. 54.00 Crore for the Assessment Year 2022-2023?

As of my last knowledge update in January 2022, the basic tax rate for domestic companies in India for the Assessment Year 2022-2023 is 25%. However, it's important to note that this reduced tax rate is applicable to companies that meet certain conditions, and the turnover of the company is one of those conditions.

As per the Finance Act, 2019, domestic companies with a turnover of up to Rs. 400 crores in the previous financial year are eligible for the reduced tax rate of 25%. If the turnover exceeds this threshold, the regular tax rate of 30% is applicable.

Given the turnover you mentioned (Rs. 54.00 Crore), if this is within the Rs. 400 crore limits, the company would likely be eligible for the reduced tax rate of 25% for the Assessment Year 2022-2023.

In case of loss what is the maximum amount of partners' remuneration that can be allowed as deduction for Partnership Firm?

As of my last knowledge update in January 2022, there is no specific provision under the Income Tax Act, 1961, that sets a maximum limit on the amount of partners' remuneration that can be allowed as a deduction for a partnership firm in case of a loss. However, the deductibility of partners' remuneration is subject to certain conditions and restrictions.

According to the Income Tax Act, the payment of remuneration to partners is allowed as a deduction if the following conditions are satisfied:

The payment is authorized by the partnership deed.

The payment is for genuine services and is in accordance with the terms of the partnership deed.

The payment does not exceed the limits specified under Section 40(b) of the Income Tax Act.

Section 40(b) of the Income Tax Act provides that any payment of remuneration to partners should be limited to the following amounts:

On the first Rs. 3,00,000 of the book-profit or in case of loss: Rs. 1,50,000 or 90% of the book-profit, whichever is higher.

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On the balance of the book-profit: 60% of the book-profit.

It's important to note that the term "book-profit" is defined under the Income Tax Act, and the calculation involves adjustments to the net profit as per the profit and loss account. The specific provisions and limits may be subject to changes in tax laws, so it is advisable to refer to the latest finance act or consult with a tax professional for the most current and accurate information.

Give an example of deemed Indian Income

"Deemed income" refers to income that is not directly earned or received but is considered as income for taxation purposes based on certain provisions of tax laws. One example of deemed income in the context of Indian taxation is the "Deemed Ownership of House Property" under the Income Tax Act, 1961.

Suppose Mr. A owns a house property, and he lets it out to Mr. B. However, instead of receiving rent in the form of money, Mr. A and Mr. B enter into an arrangement where Mr. B provides services or goods in exchange for staying in the house. In such a scenario, even if there is no actual monetary rent received, the Income Tax Act may deem a notional income as Mr. A's income from house property.

The notional income is calculated based on the fair market value of the property and the standard rent applicable to similar properties in the area. This deemed income is then included in Mr. A's total income for taxation purposes.

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Group-B (Short Answer Type Question)

Answer any three of the following [5 x 3 = 15]

2. Explain the salient features of assessment of Partnership Firm Assessable As Such [5]
3. Define the term "Control and Management " in the context of residential status of company [5]
4. What are the conditions that need to be satisfied for claiming deduction of partners' remuneration in assessment of Partnership Firm Assessable As Such [5]
5. Write short note on Minimum Alternate Tax [5]
6. Explain the provisions for carry forward of credit of Minimum Alternate Tax [5]

Explain the salient features of assessment of Partnership Firm Assessable As Such

The assessment of a partnership firm assessable as such involves the determination of its taxable income and the computation of tax liability. Here are some salient features of the assessment of a partnership firm:

- Taxable Entity: A partnership firm is not treated as a separate legal entity for income tax purposes. Instead, the income of the partnership is assessed in the hands of the firm itself.
- Each partner's share of profit or loss is determined, and they are individually taxed on their respective shares in their personal capacity.
- Computation of Total Income: The firm's total income is computed by taking into account the profits and gains derived from its business or profession.
- Deductions and exemptions allowed under the Income Tax Act are considered in the computation of the firm's total income.
- Allocation of Income to Partners: The share of profit or loss is determined based on the partnership deed or, in the absence of a deed, as per the provisions of the Indian Partnership Act.

Each partner is then taxed individually on their share of the partnership income.

Assessment Procedure: The partnership firm is required to file its income tax return (ITR) with the income tax department.

The return is to be filed in the prescribed form, providing details of the firm's income, deductions claimed, and other relevant information.

The assessment is typically carried out by the Assessing Officer (AO) through scrutiny or by accepting the return as filed.

Audit Requirements: Partnership firms meeting certain criteria, such as having a turnover above a specified threshold, are required to get their accounts audited by a chartered accountant.

The audit report is then attached to the income tax return filed by the firm.

Tax Rates: The applicable tax rates for partnership firms are as per the income tax slabs and rates specified for individuals or Hindu Undivided Families (HUFs), depending on the nature of the income.

Presumptive Taxation: In certain cases, the Income Tax Act provides for presumptive taxation, allowing the firm to declare a certain percentage of its turnover or income as taxable income, simplifying the computation process.

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Define the term "Control and Management " in the context of residential status of company

In the context of determining the residential status of a company for income tax purposes, the term "Control and Management" refers to the central point from which the business operations and key decision-making activities of the company are conducted. The residential status of a company is crucial because it determines the extent of its tax liability in a particular jurisdiction.

According to the Income Tax Act of India, a company can be classified into the following categories based on its residential status:

Resident in India: A company is considered a resident in India if it is an Indian company or if its place of effective management (POEM) is situated in India.

The term "place of effective management" refers to a place where key management and commercial decisions necessary for the conduct of the business of the company as a whole are, in substance, made.

Non-resident in India: If a company does not satisfy the conditions for being a resident, it is treated as a non-resident for tax purposes.

The determination of the place of effective management involves assessing where the control and management of the company's affairs actually takes place. Key factors considered in establishing the place of effective management may include:

- Location of the board meetings and executive decisions.
- Location of the head office or principal place of business.
- The location where important policy decisions are formulated and implemented.

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What are the conditions that need to be satisfied for claiming deduction of partners' remuneration in assessment of Partnership Firm Assessable As Such

In the context of a partnership firm assessable as such, the deduction of partners' remuneration is subject to certain conditions as per the provisions of the Income Tax Act in India. The key conditions that need to be satisfied for claiming a deduction of partners' remuneration include:

- Authorization in Partnership Deed: The payment of remuneration to partners must be authorized by the partnership deed. The partnership deed is a legal document that governs the terms and conditions of the partnership, including the remuneration payable to partners.
- Reasonable Amount: The remuneration paid to partners should be a reasonable amount. The determination of what is considered reasonable may depend on factors such as the nature and extent of services rendered by the partner, industry standards, and the financial position of the partnership.
- Payment to Working Partners: Remuneration can be claimed as a deduction only in the case of working partners who are actively involved in the conduct of the partnership business. Sleeping or non-working partners are generally not eligible for remuneration.
- Limits Prescribed under Section 40(b): Section 40(b) of the Income Tax Act prescribes limits on the amount of remuneration that can be claimed as a deduction. The allowable deduction is subject to certain percentage limits based on the book profit of the partnership.

For the first Rs. 3,00,000 of the book profit or in case of loss: Rs. 1,50,000 or 90% of the book profit, whichever is higher.

On the balance of the book profit: 60% of the book profit.

The term "book profit" is defined under the Income Tax Act, and it involves certain adjustments to the net profit as per the profit and loss account.

Filing of Audit Report: Partnership firms that meet certain criteria, such as a turnover above a specified threshold, are required to get their accounts audited by a chartered accountant. The audit report is then attached to the income tax return filed by the firm.

Write short note on Minimum Alternate Tax

Minimum Alternate Tax (MAT) is a provision under the Income Tax Act in India that ensures that companies, especially those making significant profits but paying little or no income tax due to various exemptions and deductions, contribute a minimum amount of tax. MAT is applicable to companies,

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including Limited Liability Partnerships (LLPs), and its objective is to bring about a fair distribution of the tax burden.

Key features of Minimum Alternate Tax:

Applicability: MAT is primarily applicable to companies and LLPs that are otherwise not paying income tax or paying tax at rates significantly lower than the prescribed MAT rate.

Calculation of MAT: The MAT is calculated on the "book profit" of the company, which is the profit as per the company's profit and loss account, adjusted for certain provisions and adjustments specified under the Income Tax Act.

Rate of MAT: As of my last knowledge update in January 2022, the rate of MAT is 15% of the book profit. Additionally, a surcharge and cess may also apply.

Credit for MAT Paid: If a company pays MAT in a particular financial year, it can carry forward the MAT credit for a period of up to 15 years. This credit can be set off against the regular income tax payable in future years when the company's tax liability exceeds the MAT liability.

Exemptions and Adjustments: Certain companies, such as those engaged in infrastructure development or power generation, may be eligible for certain exemptions and adjustments in the calculation of book profit for MAT purposes.

Impact on Businesses: MAT can impact the financial planning of companies, particularly those with extensive capital expenditure or those operating in sectors with specific tax incentives. Companies need to carefully consider MAT implications while formulating their tax strategies.

Advance Tax Payment: Companies liable for MAT are required to pay advance tax, like other taxpayers, in instalments during the financial year.

It is essential for businesses to be aware of the MAT provisions, especially as they can have a significant impact on tax liabilities and financial planning. Tax laws are subject to change, so businesses should stay updated with the latest amendments and seek professional advice to ensure compliance with the prevailing regulations.

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Explain the provisions for carry forward of credit of Minimum Alternate Tax

Under the provisions of the Income Tax Act in India, companies that pay Minimum Alternate Tax (MAT) and are unable to set off the entire MAT credit against regular income tax liability in a particular financial year are allowed to carry forward the unutilized MAT credit for subsequent years. This provision aims to ensure that companies can offset their MAT liability in the future when their regular income tax liability exceeds the MAT liability.

Here are the key provisions for the carry forward of credit of Minimum Alternate Tax:

MAT Credit Carry Forward Period: Unutilized MAT credit can be carried forward for up to 15 assessment years immediately succeeding the assessment year in which the MAT credit arose.

Set Off Against Regular Income Tax Liability: The MAT credit can be set off against the regular income tax liability in any of the 15 succeeding assessment years when the regular income tax liability exceeds the MAT liability.

Utilization of MAT Credit: MAT credit can be utilized only to the extent that the regular income tax liability exceeds the MAT liability in a given year. The remaining unutilized MAT credit can be carried forward to subsequent years.

No Carry Forward of Excess MAT Credit: If, in any assessment year, the regular income tax liability is equal to or less than the MAT liability, and there is no unutilized MAT credit, then no MAT credit is carried forward.

Adjustment Against Capital Gains Tax: MAT credit can be utilized against the tax liability arising from long-term capital gains in the year in which such gains are taxed.

Calculation of MAT Credit: The MAT credit is calculated based on the amount of MAT paid in a particular year. It is the excess of the regular income tax liability over the MAT liability.

No Interest on MAT Credit: Unlike carry forward provisions for losses, there is no provision for payment of interest on the unutilized MAT credit carried forward.

Businesses should carefully monitor their MAT credit position and plan their tax strategies accordingly, considering the carry forward provisions. It is advisable

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to seek professional advice to understand the specific implications of MAT credit in the context of the company's financial situation and tax planning.

Group-C (Long Answer Type Question)

Answer any three of the following [15 x 3 = 45]

7. (a)Calculate the maximum amount of remuneration that can be paid to the partners of a Partnership Firm Assessable As Such if the Partnership Firm incurs a loss of Rs.20,00,000.00 [15]
(b) If a partner in a Partnership Firm Assessable As Such has a credit balance of Rs.10,00,000.00 in his capital account what the maximum amount of interest that can be paid on the capital to the partner
(c) If the Partnership Firm Assessable As Such has taxable income of Rs. 50,00,000.00 then determine the tax liability of the partnership firm for the Assessment Year 2022-2023
8. (a)Write a short note on the taxation of dividend in the context of Income Tax Act , 1961 [15]
(b) Explain the provision for the taxation of foreign dividend in the context of Income Tax Act , 1961
(c) How is book profit determined in respect of Minimum Alternate Tax
9. a) The taxable income of XYZ Ltd. for the Asessment Year 2022-2023 is (Rs.1,80,000.00) (Loss) .However the book profit is Rs,2,40,000.00 .Is the company liable to pay tax under Minimum Alternate Tax regime? [15]
b) If so ,why ?
c) How much shall be the tax liability under Minimum Alternate Tax regime
10. a) Mr.X remitted us$ equivalent to INR 2,00,000.00 to his father on his father's birthday .Is the the amount taxable in India in the hands of the father of Mr. X. Explain your answer with proper justification [15]
b) Mr.Y a Non Resident has a house property in Mumbai .Mr. Y sold the sold house property to Mr. Z in Kolkata and Mr. Z remitted the money in Singapore to Mr. Y who resides in Singapore .Is the amount taxable in the hands of Mr. Y. Justify your answer with proper explanation
11. a) What is roll back provision in advance pricing agreement? [15]
b) Explain any five concept of deemed associated enterprise in respect of transfer pricing

*** END OF PAPER ***

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QUESTION

(a)Calculate the maximum amount of remuneration that can be paid to the partners of a Partnership Firm

Assessable As Such if the Partnership Firm incurs a loss of Rs.20,00,000.00

(b) If a partner in a Partnership Firm Assessable As Such has a credit balance of Rs.10,00,000.00 in his capital

account what the maximum amount of interest that can be paid on the capital to the partner

(c) If the Partnership Firm Assessable As Such has taxable income of Rs. 50,00,000.00 then determine the tax

liability of the partnership firm for the Assessment Year 2022-2023

(a) **Maximum Remuneration in Case of Loss:**

In the case of a loss, the maximum amount of remuneration that can be paid to the partners is determined by the provisions of Section 40(b) of the Income Tax Act. The formula for calculating the maximum remuneration is as follows:

$$\text{Maximum Remuneration} = \frac{90\% \times \text{Book Profit}}{Number of Partners}$$

Given that the partnership firm incurs a loss of Rs. 20,00,000 and assuming there are no other adjustments, the book profit is considered zero in case of a loss. Therefore,

$$\text{Maximum Remuneration} = \frac{90\% \times 0}{\text{Number of Partners}} = 0$$

In this scenario, the maximum remuneration that can be paid to the partners is zero.

(b) **Maximum Interest on Capital:**

In the case of interest on capital, the maximum amount that can be paid is also determined by Section 40(b) of the Income Tax Act. The formula for calculating the maximum interest is as follows:

$$\text{Maximum Interest on Capital} = \frac{12\% \times \text{Capital Balance}}{Number of Partners}$$

Given that a partner has a credit balance of Rs. 10,00,000 in his capital account, and assuming there are no other adjustments,

$$\text{Maximum Interest on Capital} = \frac{12\% \times 10{,}00{,}000}{\text{Number of Partners}}$$

(c) **Tax Liability of the Partnership Firm:**

For the Assessment Year 2022-2023, the tax liability of the partnership firm with taxable income of Rs. 50,00,000 is calculated based on the applicable tax rates. As of my last knowledge update in January 2022, the tax rate for a partnership firm is 30%.

$$\text{Tax Liability} = \text{Taxable Income} \times \text{Tax Rate}$$

Given the taxable income of Rs. 50,00,000 and a tax rate of 30%,

$$\text{Tax Liability} = 50,00,000 \times 0.30$$

Please note that tax laws are subject to change, and it's advisable to consult the latest provisions of the Income Tax Act or seek professional advice for the most up-to-date information.

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QUESTION

(a)Write a short note on the taxation of dividend in the context of Income Tax Act , 1961

(b) Explain the provision for the taxation of foreign dividend in the context of Income Tax Act , 1961

(c) How is book profit determined in respect of Minimum Alternate Tax

(a) Taxation of Dividends under the Income Tax Act, 1961:

In India, the taxation of dividends is governed by the Income Tax Act, 1961. As of my last knowledge update in January 2022, here are key points related to the taxation of dividends:

Dividend Distribution Tax (DDT): Historically, companies were required to pay Dividend Distribution Tax (DDT) on the dividends declared before distribution to shareholders. However, the Finance Act, 2020 abolished DDT, and dividends are now taxable in the hands of the shareholders.

Taxation for Individual Shareholders: Dividends received by individual shareholders are generally taxed at their applicable slab rates. However, up to Rs. 1,00,000 of dividend income is exempted from tax under Section 10(34) of the Income Tax Act.

Taxation for Corporate Shareholders: Dividends received by domestic companies are exempt from tax under Section 10(34) of the Income Tax Act.

It's important to note that tax laws are subject to change, and subsequent amendments may impact the taxation of dividends.

(b) Taxation of Foreign Dividends under the Income Tax Act, 1961:

Foreign dividends refer to dividends received by a resident taxpayer from a foreign company. The taxation of foreign dividends is governed by provisions under the Income Tax Act. Here are key points:

Taxability: As of my last knowledge update in January 2022, foreign dividends are generally included in the total income of the taxpayer and taxed at their applicable slab rates.

Foreign Tax Credit: Taxpayers may be eligible for a foreign tax credit for taxes paid on foreign dividends in the country of source. This is to avoid double taxation.

DTAA Provisions: The provisions of Double Taxation Avoidance Agreements (DTAAs) may provide relief and specify the taxation rules for foreign dividends. Taxpayers should refer to the specific DTAA between India and the relevant country.

(c) Determination of Book Profit for Minimum Alternate Tax (MAT):

The Minimum Alternate Tax (MAT) provisions require companies to pay a minimum amount of tax if their calculated tax liability based on the normal provisions of the Income Tax Act is lower than a certain percentage of their book profit.

Calculation: The book profit for MAT is calculated based on the profit and loss account prepared as per the provisions of the Companies Act, adjusting certain items as per the Income Tax Act.

Adjustments: Some adjustments include adding back expenses disallowed under the Income Tax Act, adjusting depreciation, and considering certain exempt incomes.

MAT Rate: As of my last knowledge update, the MAT rate is 15% of the book profit.

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QUESTION:

a) The taxable income of XYZ Ltd. for the Assessment Year 2022-2023 is (Rs.1,80,000.00) (Loss). However, the book profit is Rs,2,40,000.00. Is the company liable to pay tax under Minimum Alternate Tax regime?

b) If so, why?

c) How much shall be the tax liability under Minimum Alternate Tax regime

(a) Calculation of Book Profit and Minimum Alternate Tax (MAT) Liability:

Given the taxable income (loss) and book profit for XYZ Ltd.:

Taxable Income (Loss): Rs. (1,80,000.00)

Book Profit: Rs. 2,40,000.00

(b) Determination of MAT Liability:

The Minimum Alternate Tax (MAT) is applicable if the book profit calculated under MAT provisions exceeds the taxable income calculated under the regular provisions of the Income Tax Act.

In this case, the book profit is higher than the taxable income, which triggers the applicability of MAT.

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(c) **MAT Liability Calculation:**

The MAT liability is calculated as a certain percentage of the book profit. As of my last knowledge update in January 2022, the MAT rate is 15% of the book profit.

$$\text{MAT Liability} = 15\% \times \text{Book Profit}$$

Substituting the given values:

$$\text{MAT Liability} = 15\% \times Rs.2,40,000.00$$

$$\text{MAT Liability} = Rs.36,000.00$$

Therefore, XYZ Ltd. is liable to pay tax under the Minimum Alternate Tax regime, and the MAT liability for the Assessment Year 2022-2023 is Rs. 36,000.00. It's important to note that tax laws are subject to change, and it's advisable to consult the latest provisions of the Income Tax Act or seek professional advice for the most up-to-date information.

QUESTION

a) Mr.X remitted us$ equivalent to INR 2,00,000.00 to his father on his father's birthday. Is the amount taxable in India in the hands of the father of Mr. X. Explain your answer with proper justification

b) Mr.Y a Non Resident has a house property in Mumbai .Mr. Y sold the sold house property to Mr. Z in Kolkata

and Mr. Z remitted the money in Singapore to Mr. Y who resides in Singapore. Is the amount taxable in the hands of Mr. Y. Justify your answer with proper explanation

(a) Remittance to Father as a Gift:

In the case of Mr. X remitting US$ equivalent to INR 2,00,000.00 to his father on his father's birthday, the tax implications depend on the nature of the transaction. If this remittance is intended as a gift, it's important to consider the gift tax provisions.

As of my last knowledge update in January 2022, in India, gifts from specified relatives, including gifts from a son to his father, are generally exempt from income tax. Therefore, the remittance of US$ 2,00,000.00 as a gift from Mr. X to his father is likely to be tax-exempt in the hands of Mr. X's father.

However, it is essential to ensure that the remittance is properly documented and can be classified as a gift. Additionally, tax laws may change, and it's advisable to consult the latest provisions of the Income Tax Act or seek professional advice for the most up-to-date information.

(b) Sale of House Property by Non-Resident Mr. Y:

In the case of Mr. Y, a non-resident, selling a house property in Mumbai to Mr. Z, and the money being remitted to Mr. Y in Singapore, the tax implications depend on the source of income and the residency status of Mr. Y.

As a non-resident, Mr. Y is typically taxable in India only on income that is earned or deemed to be earned in India. The capital gains arising from the sale

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of a house property in India are generally taxable in India, even if the non-resident is physically located outside India.

The remittance of the sale proceeds to Singapore does not change the taxability of the capital gains in India. Therefore, the amount received by Mr. Y from the sale of the house property is likely to be taxable in India, and Mr. Y may be required to fulfil any applicable tax obligations related to the capital gains.

a) What is roll back provision in advance pricing agreement?

b) Explain any five concepts of deemed associated enterprise in respect of transfer pricing

(a) Rollback Provision in Advance Pricing Agreement (APA):

The rollback provision in Advance Pricing Agreement (APA) refers to the ability to extend the agreed transfer pricing methodology and pricing terms to cover a certain period in the past. Essentially, it allows taxpayers to apply the agreed-upon transfer pricing method to transactions that occurred before the signing of the APA.

Key points about rollback provisions:

Purpose: The primary purpose of the rollback provision is to provide certainty and avoid disputes for the covered past transactions.

Period Covered: The rollback provision typically specifies the period covered by the rollback, and this can vary based on the terms negotiated between the taxpayer and tax authorities.

Conditions: Tax authorities may impose certain conditions for the application of the rollback provision, such as the consistency of the facts and circumstances during the rollback period with those in the APA period.

Application Process: Taxpayers interested in the rollback provision need to apply for it during the APA negotiations. The tax authorities evaluate the request, and if accepted, the rollback is formalized in the APA agreement.

Benefits: The rollback provision provides taxpayers with the advantage of achieving tax certainty not only for future transactions but also for the specified

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past transactions. It can reduce the likelihood of transfer pricing audits and disputes related to historical transactions.

(b) Concepts of Deemed Associated Enterprise in Transfer Pricing:

In transfer pricing, the concept of "deemed associated enterprises" refers to situations where entities may be treated as associated enterprises for the purpose of determining arm's length pricing, even if there is no direct ownership or control relationship. Here are five concepts related to deemed associated enterprises:

Common Control: Entities that are under common control, even if not directly related through ownership, may be deemed associated enterprises. Common control implies significant influence over the management and decision-making processes.

Common Ownership: Entities with a common owner or ownership structure may be treated as deemed associated enterprises. Even if the ownership is indirect or through a chain of entities, the common ownership link can establish an association.

Mutual Dependency: Entities that are economically dependent on each other or have significant interdependence in their business operations may be deemed associated enterprises. This can be based on factors such as shared resources, complementary activities, or contractual dependencies.

Concerted Actions: Entities engaged in concerted actions or transactions that are designed to achieve a common business objective may be treated as deemed associated enterprises. This concept focuses on collaboration and coordination between entities.

Economic Substance over Legal Form: The tax authorities may look beyond the legal form of transactions and assess their economic substance. If entities engage in transactions that lack economic substance or are primarily aimed at shifting profits, they may be deemed associated enterprises.

It is important to note that the determination of deemed associated enterprises involves a thorough analysis of the facts and circumstances of each case. Tax authorities use these concepts to prevent the manipulation of transfer prices and ensure that related-party transactions reflect arm's length pricing.

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