

PAPER 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION

The provisions of direct tax laws, as amended by the Finance Act, 2021 and significant notifications and circulars issued upto 30.4.2022, are relevant for November, 2022 examination. The relevant assessment year is A.Y.2022-23. The October, 2021 edition of the Study Material, based on the provisions of direct tax laws as amended by the Finance Act, 2021 and notifications and circulars issued upto 31.10.2021, is relevant for November, 2022 examination. The same has been webhosted at https://www.icai.org/post.html?post_id=17843. The Study Material has to be read along with the Statutory Update and Judicial Update webhosted at the BoS Knowledge Portal at <https://resource.cdn.icai.org/70931bos56928s.pdf> and at <https://resource.cdn.icai.org/70932bos56928j.pdf>, respectively.

QUESTIONS AND ANSWERS

Case Scenario 1

Mr. Manoj (aged 45 years) is a resident Indian who has the following life insurance policies, some of which are ULIPs. The details of such policies are given hereunder:

Particulars	A	B	C (ULIP)	D (ULIP)	E (ULIP)	F (ULIP)
Date of issue	1.4.2014	1.4.2015	1.2.2021	1.1.2021	1.3.2021	1.4.2021
Annual premium	₹ 50,000	₹ 40,000	₹ 1,00,000	₹ 3,00,000	₹ 1,40,000	₹ 2,50,000
Date when premium falls due every year	1 st April	1 st April	1 st Feb	1 st Jan	1 st March	1 st April
Date of maturity	31.3.2022	31.3.2022	31.1.2030	31.12.2029	28.2.2030	31.3.2030
Consideration received on maturity (including bonus)	₹ 7,00,000	₹ 4,00,000	₹ 11,00,000	₹ 32,00,000	₹ 17,00,000	₹ 28,00,000
Sum assured	₹ 6,00,000	₹ 3,50,000	₹ 10,00,000	₹ 30,00,000	₹ 15,00,000	₹ 25,00,000

During the P.Y.2021-22, Mr. Manoj has earned dividend income of ₹ 12 lakh from shares of Indian companies and long-term capital gains (computed) of ₹ 5 lakhs on sale of land. He deposited ₹ 1,50,000 in National Pension Scheme (Tier-I account) of Government. Mr. Manoj does not opt for section 115BAC.

On the basis of the facts given above, choose the most appropriate answer to Q.1 to Q.5 below, based on the provisions of the Income-tax Act, 1961 -

1. Which are the life insurance policies (excluding ULIPs) in respect of which Mr. Manoj would be eligible for exemption under section 10(10D) in respect of maturity proceeds and what is the quantum of deduction which would be available under section 80C in respect of premium paid on such policies for A.Y.2022-23? Assume that Mr. Manoj does not have any ULIPs only for the purpose of answering this MCQ.
 - (a) A and B; ₹ 90,000
 - (b) A and B; ₹ 85,000
 - (c) Only A; ₹ 50,000
 - (d) Only A; ₹ 85,000
2. Which are the ULIPs in respect of which Mr. Manoj would be eligible for exemption under section 10(10D) in respect of maturity proceeds? Choose the option most beneficial to Mr. Manoj.
 - (a) Only C and E
 - (b) Only F
 - (c) Only C, D and E
 - (d) Only D and F
3. Considering the option chosen in MCQ 2 above, what would be the capital gains computed under section 45(1B) in the hands of Mr. Manoj for A.Y.2030-31? Assume that, for the purpose of this MCQ, no consideration was received prior to the maturity date in case of any ULIP.
 - (a) ₹ 11,40,000
 - (b) ₹ 10,50,000
 - (c) ₹ 5,50,000
 - (d) ₹ 6,40,000
4. What is Mr. Manoj's tax liability for A.Y.2022-23?
 - (a) ₹ 2,21,000
 - (b) ₹ 2,36,600
 - (c) ₹ 2,58,440

- (d) ₹ 2,74,040
5. What would be the total tax deductible under section 194DA during the P.Y.2021-22 on payment of maturity proceeds of life insurance policies to Mr. Manoj?
- (a) ₹ 3,500
- (b) ₹ 6,000
- (c) ₹ 20,000
- (d) ₹ 55,000

Case Scenario 2

EduAid is a charitable trust registered under section 12AB. Its main object is education for the economically weaker sections of the society. During the P.Y.2021-22, it received ₹ 60 lakhs as voluntary contributions and ₹ 12 lakhs as anonymous donations. The trust borrowed ₹ 50 lakhs on 1.5.2021 from SBI for construction of a primary school in a village in Tambaram near Chennai. The trust repaid principal of ₹10 lakhs to SBI on 31.3.2022. The trust incurred expenditure of ₹ 1 lakh on purchase of books for library and ₹ 10 lakhs on purchase of computers for junior computer lab. The other applications, which are revenue in nature, is ₹ 7 lakhs. This sum includes ₹ 30,000 paid in cash on 14.4.2021 for repair work to Mr. Rajesh and ₹ 80,000 paid towards fees for professional services on 15.6.2021 without deduction of tax at source. The excess application by the trust in the P.Y.2020-21 is ₹ 4 lakhs.

The trust also received ₹ 25 lakhs by way of corpus donations (for construction of Arts College in Avadi, Tamil Nadu) during the P.Y.2021-22, out of which it –

- (i) deposited ₹ 12 lakhs in post office savings bank account in January, 2022 (the balance in post office savings bank account after such deposit is ₹ 22 lakhs); and.
- (ii) invested ₹ 8 lakhs in shares of a public sector company in October, 2021.

However, in March, 2022, due to disinvestment by the Government, the company ceased to be a public sector company. The trust also withdrew ₹ 5 lakhs from post office savings bank account in March, 2022 and applied the same for construction of the primary school in a village in Tambaram. During the year 2021-22, the trust spent ₹ 72 lakhs in total for construction of the said school.

The trust has donated to PoorAid, another trust registered under section 12AB ₹ 5 lakhs out of its current year income and ₹ 4 lakhs out of its accumulated income. Out of the amount of ₹ 5 lakhs donated out of its current year income, ₹ 2 lakhs was towards the corpus of PoorAid.

On the basis of the facts given above, choose the most appropriate answer to Q.6 to Q.10 below, based on the provisions of the Income-tax Act, 1961 -

6. What is the quantum of donations taxable@30% under section 115BBC?
- (a) ₹ 12 lakhs
 - (b) ₹ 11 lakhs
 - (c) ₹ 8.40 lakhs
 - (d) ₹ 7.15 lakhs
7. Can the amount donated to PoorAid be allowed as application of income in the hands of EduAid in the P.Y.2021-22? If so, how much?
- (a) No, it is not allowed as application
 - (b) Yes, ₹ 9 lakhs is allowed as application
 - (c) Yes, ₹ 5 lakhs is allowed as application
 - (d) Yes, ₹ 3 lakhs is allowed as application
8. Can the corpus donations received by EduAid be claimed as exempt u/s 11(1)(d)? If so, how much will be exempt?
- (a) ₹ 7,00,000
 - (b) ₹ 12,00,000
 - (c) ₹ 20,00,000
 - (d) ₹ 25,00,000
9. What is the quantum of amount spent on construction which can be treated as application in the hands of EduAid in the P.Y.2021-22?
- (a) ₹ 10 lakhs
 - (b) ₹ 27 lakhs
 - (c) ₹ 32 lakhs
 - (d) ₹ 40 lakhs
10. What is the total amount which can be treated as application in the hands of EduAid in the P.Y.2021-22 (excluding unconditional accumulation of 15%)?
- (a) ₹ 53.46 lakhs
 - (b) ₹ 51.46 lakhs

- (c) ₹ 47.46 lakhs
- (d) ₹ 52.46 lakhs
11. ABC Ltd., an Indian company, purchases coal from XYZ Ltd., another Indian company, for ₹ 60 lakhs during the P.Y.2021-22, to manufacture steel. ABC Ltd. furnishes a declaration that such coal is used to manufacture steel and not for trading. What are the TCS/TDS implications on such transaction, if the purchases were spread evenly throughout the year and ABC Ltd.'s annual turnover was ranging between ₹ 12 crores and ₹ 15 crores; and XYZ Ltd.'s annual turnover was ranging between ₹ 15 crores and ₹ 20 crores in the last few years?
- (a) Tax@1% has to be collected by XYZ Ltd. on ₹ 60 lakhs under section 206C(1).
- (b) Tax@0.1% has to be collected by XYZ Ltd. on ₹ 10 lakhs under section 206C(1H)
- (c) No tax has to be collected at source by XYZ Ltd.; however, tax@0.1% has to be deducted under section 194Q by ABC Ltd. on ₹ 10 lakhs.
- (d) No tax has to be collected at source by XYZ Ltd.; ABC Ltd. also does not have to deduct tax at source.
12. A survey is conducted u/s 133A in the premises of Mr. Aarav and a search is conducted u/s 132 in the premises of his friend, Mr. Arjun, on 1.5.2021. The Assessing Officer issued notices under section 148 for A.Y. 2019-20, A.Y.2020-21 and A.Y. 2021-22 to Mr. Aarav and Mr. Arjun. However, such notices were not accompanied by the copy of an order passed under section 148A. Is the action of the Assessing Officer in issuing such notices under section 148 to Mr. Aarav and Mr. Arjun valid?
- (a) No; the action of the Assessing Officer in issuing such notices under section 148 is not valid in both cases.
- (b) Yes; the action of the Assessing Officer in issuing such notices under section 148 is valid in both cases.
- (c) Yes, the action of the Assessing Officer in issuing such notice under section 148 is valid in the case of Mr. Arjun, but not in the case of Mr. Aarav.
- (d) Yes, the action of the Assessing Officer in issuing such notice under section 148 is valid in the case of Mr. Aarav, but not in the case of Mr. Arjun.
13. The EBITDA of Ganga Ltd., an Indian company, for the F.Y.2021-22 is ₹ 800 lakhs. It paid interest of ₹ 440 lakh to Andes Inc., Brazil, which is a specified foreign company in relation to Ganga Ltd. The arm's length interest applying CUP method was ₹ 350 lakh, and Ganga Ltd. *suo moto* made the transfer pricing adjustment (primary adjustment) while computing

its total income. On the basis of the above facts, examine the correctness of the following statements, assuming that no other interest is payable by Ganga Ltd. -

- (a) The excess interest under section 94B would be ₹ 200 lakh. Secondary adjustment is required to be made in respect of the said amount, unless Ganga Ltd. opts to pay additional income-tax on such sum and has paid such additional income-tax.
- (b) The excess interest under section 94B would be ₹ 110 lakh. Secondary adjustment is required to be made in respect of the said amount, unless Ganga Ltd. opts to pay additional income-tax on such sum and has paid such additional income-tax.
- (c) The excess interest under section 94B would be ₹ 110 lakh and secondary adjustment under section 92CE is required to be made in respect of ₹ 90 lakh, unless Ganga Ltd. opts to pay additional income-tax on such sum and has paid such additional income-tax.
- (d) The excess interest under section 94B would be ₹ 110 lakh. No secondary adjustment is required under section 92CE.
14. M/s. ABC Ltd. has two units, Unit A and Unit B, both of which commenced operations on 1.4.2015. It sold Unit B on slump sale on 1.7.2021 for ₹ 1.45 crore. Unit B is engaged in the specified business of operating a warehousing facility for storage of sugar and has claimed deduction under section 35AD in an earlier previous year in respect of the entire cost of eligible asset purchased.

On 1.7.2021, the following particulars relating to Unit B are given below –

Asset	Value as per books of account as on 1.7.2021 (₹)	Other details (as on 1.7.2021)
Land (Revalued figure)	80,00,000	Stamp duty value – ₹ 95 lakhs;
Building (Cost)	50,00,000	Stamp duty value – ₹ 60 lakhs;
Debtors	12,00,000	
Liabilities	₹	
Unsecured loan	15,00,000	
Current liabilities	5,00,000	
Revaluation Reserve (Land)	6,00,000	

What is the amount of capital gains on sale of Unit B in the A.Y.2022-23?

- (a) ₹ 31 lakhs
- (b) ₹ 75 lakhs

- (c) ₹ 79 lakhs
- (d) ₹ 81 lakhs
15. Mr. Akash (currently aged 40 years) is an Indian citizen who left for USA in the year 2009 for employment in Microsoft. He visited India for 15 days every year upto P.Y.2017-18. He resigned his job in Microsoft and returned to India with his family on 15.2.2019 permanently and he opened a start-up in Pune on 1.3.2019. He visited USA from 1st June to 31st July both in the calendar years 2019 and 2020 for business purposes. He has a house property in Dallas, USA from which he derives rental income of US \$ 2,000 every month which was credited to his savings bank account in Dallas. He paid municipal taxes of US \$ 200 in December 2021, out of the said account. Interest of \$ 150 was credited in the said bank account in March, 2022. In the P.Y.2021-22, he earned business income of ₹ 26 lakhs from his start up venture in Pune in addition to interest on fixed deposits of ₹ 1,70,000 from State Bank of India, Pune Branch. He deposited ₹ 1,50,000 in five year term deposit with Bank of India, Pune Branch, out of rental income earned by him in USA. Compute his tax liability (rounded off) for A.Y.2022-23, assuming that the value of 1 US \$ = ₹ 79 throughout the F.Y. 2021-22 and that he does not opt for section 115BAC.
- (a) ₹ 6,22,440
- (b) ₹ 6,69,240
- (c) ₹ 10,36,770
- (d) ₹ 12,17,690
16. M/s Fit & Fair, a partnership firm, commenced operations of the business of a new three-star hotel in Pune, Maharashtra on 1.4.2021. The firm consisting of two working partners, with equal shares, reports a net profit of ₹ 26,00,000 after deduction of the following items:
- (i) Depreciation as per books of accounts ₹ 15,80,000.
- (ii) Interest on capital @ 15% per annum (as per the deed of partnership). The amount of interest is ₹ 50,00,000.
- (iii) Interest on loan includes an amount of ₹ 6,00,000 paid to Mr. Rajveer, a resident, on which tax was not deducted.
- The firm purchased a new motor car for the above business for ₹ 7 lakh on 10th March, 2021 and capitalized the same in its books of account as on 1st April, 2021. Further, in April, 2021, it incurred capital expenditure of ₹ 2 crores (out of which ₹ 1.50 crores was for acquisition of land and ₹ 50 lakhs on building) exclusively for the above business. The firm also installed and put to use new centralised air conditioners on 15.5.2021 costing ₹ 3,20,000.
- The capital expenditure incurred by the firm were paid by account payee cheque or use of ECS through bank account.

The firm also has another existing business of running a four-star hotel in Mumbai, which commenced operations fifteen years back, the profits from which are ₹ 41,38,000 computed as per Income-tax Act for the A.Y.2022-23.

Compute total income and tax payable by the firm for the A.Y.2022-23, assuming that the firm has fulfilled all the conditions specified for claim of deduction under section 35AD and opted for claiming deduction under section 35AD; and has not claimed any deduction under Chapter VI-A under the heading "C. – Deductions in respect of certain incomes".

17. M/s Diamond Industries Ltd., an Indian company, is engaged in assembling and manufacturing of automobiles and auto components in Indore, Madhya Pradesh. The net profit after debit/credit of the following amounts to its Statement of Profit and Loss for the year ended 31-03-2022 was ₹ 9,50,00,000.

- (i) Depreciation calculated as per useful life of its assets ₹ 2,80,00,000.
- (ii) Donation of ₹ 12,00,000 given to a political party by way of account payee cheque.
- (iii) The company has paid ₹ 50,00,000 on 15-08-2021 to a research institution recognized and notified by the Central Government which has as its object, undertaking of scientific research.
- (iv) Dividend received from foreign company of ₹ 15,00,000 in which it holds 30% of the equity share capital.
- (v) Long-term capital gain of ₹ 4,00,000 on sale of equity shares on which STT was paid at the time of acquisition and sale.
- (vi) Interest at 10% p.a. on ₹ 4,20,00,000 being amount borrowed from State Bank of India on 01-06-2021 for purchase of machinery. The interest outstanding as on 31-03-2022 was paid on 01-12-2022.
- (vii) Profit of ₹ 8,00,000 on sale of a plot of land to PQR Limited, an Indian company, the entire shares of which are held by the Diamond Industries Ltd. The plot was acquired on 30th June, 2020.
- (viii) Salary of ₹ 1,00,00,000 to foreign technicians for installation of machinery at the factory premises was paid.
- (ix) The company sold automobile parts for ₹ 22,00,000 to M/s ABC Co Engineers, a sole proprietary concern, on 01.11.2019. On 01.02.2022 ₹ 12,00,000 was written off in the books as bad debts. The sole proprietor died on 01.03.2022 and the company managed to collect ₹ 11,00,000 towards full and final settlement on 30.03.2022. The entire amount collected was shown as bad debts recovered and credited to Statement of Profit and Loss.

Additional Information:

1. Depreciation computed as per Income-tax Rules, 1962 is ₹ 1,50,00,000 other than on the additions in assets made during the year.

2. Additions made to the assets were as follows:
- Office Building ₹ 3,00,00,000 - Put to use from 15-12-2021.
 - Computers ₹ 25,00,000 - Put to use on 11-05-2021.
 - Plant and machinery ₹ 5,00,00,000 - Installed and put to use on 01-01-2022.
3. The company declared and distributed dividend for the financial year 2021-22 on 31.5.2022 for ₹ 12,00,000.

Compute the total income of the company and tax liability for the assessment year 2022-23, assuming company opts for concessional tax regime under section 115BAA. Total turnover of the company for the P.Y. 2019-20 was ₹ 402 crores.

18. Mr. Rajesh is a resident unitholder of PQR Ltd. and Shipra Ltd. PQR Ltd. is incorporated as an Investment Fund and Shipra Ltd. is a Real Estate Investment Trust. (REIT), which holds 100% shareholding in GPL Ltd., an Indian company. Mr. Rajesh holds 10% units in both Shipra Ltd. and PQR Ltd. since the year 2019.

The particulars of income of Shipra Ltd. and PQR Ltd. for the previous year 2021-22 are given below:

Particulars	Shipra Ltd.	PQR Ltd.
Dividend Income from GPL Ltd.	₹ 2 crores	
Interest Income from GPL Ltd.	₹ 3 crores	
Short-term capital gains on sale of developmental properties	₹ 1 crore	
Business income		₹ 35 lakhs.
Long-term capital losses		₹ 27 lakhs
Interest income		₹ 52 lakhs

GPL Ltd. does not exercise option under section 115BAA for A.Y. 2022-23. Shipra Ltd. and PQR Ltd. distribute 90% of its income to the unit-holders during the year. Compute total income and tax payable by Mr. Rajesh for the A.Y. 2022-23, assuming that he has opted for section 115BAC.

19. Examine the applicability of provisions relating to deduction/collection of tax at source and compute the liability, if any, for deduction/collection of tax at source in the following cases for financial year ended 31st March, 2022 as per provisions contained under the Income-tax Act, 1961:
- Mr. Devansh, an Indian Citizen, residing in New York, came to India on a visit on 15.2.2022. He paid ₹ 6 lakhs to a tour operator, M/s Journey Trip, based in Mumbai for a tour package to Malaysia for 1 week. He left for Malaysia on 1.3.2022 and returned to India on 8.3.2022. Thereafter, he was in India upto 5.4.2022 on which

date he took his return flight to New York. He does not have any source of income in India.

- (ii) XYZ Ltd. was incorporated on 1.4.2021 for trading goods. Its turnover for the P.Y. 2021-22 is ₹ 12 crores. During the P.Y.2021-22, it purchased goods from M/s. White Ride, the details of which are as follows:

On 1.8.2021 for ₹ 25,00,000;

On 15.9.2021 for ₹ 30,00,000 and

On 15.12.2021 for ₹ 15,00,000.

The above dates represent the date of credit to the account of M/s. White Ride. Payment is made after one month (i.e., on the same date in the immediately following month). M/s White Ride's turnover for the F.Y. 2020-21 and F.Y. 2021-22 was ₹ 11 crores and ₹ 9.7 crores, respectively.

20. Mr. Ravi Prakash, a resident Indian aged 52 years, gifted a sum of ₹ 30 lakhs to his wife Mrs. Sudha on the occasion of her 50th birthday. Out of the said sum, Mrs. Sudha purchased a car for ₹ 29,52,000 inclusive of RTO charges of ₹ 2,15,000, insurance of ₹ 51,575, extended warranty of ₹ 25,255 and accessories charges of ₹ 35,460 during the P.Y. 2021-22. These charges were shown separately in the invoice. Mrs. Sudha's furnished her Aadhaar No. to the dealer. She is a housewife and does not have any income except rental income of ₹ 25,000 p.m. in respect of a house property gifted to her by her father.

Mr. Ravi Prakash is of the opinion that his wife is not required to furnish return of income, since her total income does not exceed the basic exemption limit. Examine.

21. The assessment of Mr. Arora was completed u/s 143(3) of the Income-tax Act 1961 with an addition of income of ₹ 9 lakh to the returned income. Mr. Arora contends that the order of assessment is bad in law as no notice was issued u/s 143(2) even though he had participated in the assessment proceedings. The Assessing Officer, relying on section 292BB, contends that since Mr. Arora has participated in assessment proceedings, he cannot raise such objection.

Examine the validity of the contentions of both Mr. Arora as well as the Assessing Officer.

22. Mr. Vijay furnished his return of income for A.Y.2021-22 declaring total income of ₹ 28,00,000 for the A.Y. 2021-22. He received an assessment order under section 143(3) on 26.11.2022 enhancing the total income for the A.Y.2021-22 by ₹ 5,00,000. He is aggrieved by the said order and is desirous of knowing whether he can file an application before the Dispute Resolution Committee (DRC). He informs you that no order of detention has been made and no prosecution proceedings have been initiated or instituted against him under any law for the time being in force. However, penalty under section 271D has been levied on him for failure to comply with the provisions of section 269SS.

Can Mr. Vijay file an application before the DRC?

- (i) If yes, what is the time limit for making an application to DRC against such order under the Income-tax Act, 1961. He is also keen to know, whether, in case he is aggrieved by the order passed by the DRC, can he file appeal against such order of DRC?
 - (ii) Would your answer be different, if assessment order is based on information received under a DTAA with Country X?
23. Spacecraft Ltd., an Indian company, has entered into a contract for ₹ 4.5 crores with DOT Inc., Country X for the Financial Year 2021-22. DOT Inc. maintains an online web-platform through which it provides end user computer software through an End-user Licence Agreement (EULA) as per the contract. The broad terms of the EULA between the two companies are as follows-

Grant of licence. DOT Inc. grants Spacecraft Ltd. a limited non-exclusive licence to install, use, access, display and run the click wrap web-based Computer Software (CWCS) on a single local hard disk(s) or other permanent storage media of one computer. Spacecraft Ltd. should not make CWCS available over a network where it could be used by multiple computers at the same time.

Reservation of rights and ownership. DOT Inc. reserves all rights not expressly granted to Spacecraft Ltd. in this EULA. The CWCS is protected by copyright and other intellectual property laws and treaties. DOT Inc. owns the title, copyright and other intellectual property rights in the CWCS. The CWCS is licenced (only for use and not any other purpose), not sold. DOT Inc. does not have any offices outside Country X.

Discuss the tax implications/TDS implications of such receipt in the hands of DOT Inc., Country X and payment by Spacecraft Ltd., India under Chapter VIII of the Finance Act, 2016 (as amended by the Finance Act, 2021) and Income-tax Act, 1961, considering the India- Country X DTAA also, the relevant extract of which is given hereunder:

Extract of Article 12 of India-Country X DTAA

Royalties and Fees for Technical Services

1. *Royalties and fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.*
2. *However, such royalties and fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties or fees for technical services, the tax so charged shall not exceed 10 per cent.*
3. *The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use :*
 - (a) *any copyright of a literary, artistic or scientific work, including cinematograph film or films or tapes used for radio or television broadcasting, any patent,*

trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, including gains derived from the alienation of any such right, property or information

24. Mrs. Rajni, aged 63 years, is married and settled in Ranchi. She is a Hindustani classical dancer and choreographer who performs in concerts in India and Country M. She visits Country M every year in October to participate in the Spring dance concert held there. For the rest of the year, she performs in dance programs organized in India. India does not have a DTAA with Country M.

She earns CMD 10120 from concerts held in Country M. She also owns a residential house property in Country M. She earned rental income of CMD 25,000 from such property. She also paid municipal taxes of CMD 200 in respect of this property, which is not deductible in Country M. All income from Country M is taxable in Country M @20%. The entire tax due in Country M has been duly paid by Mrs. Rajni.

She earns ₹ 15 lakhs from performances in dance programs held in India. She has interest income of ₹ 4.2 lakhs (gross) from bank fixed deposits in her name and ₹ 15,000 from savings bank account in India.

She pays medical insurance premium of ₹ 29,000 to insure her health and ₹ 32,000 to insure the health of her husband, a resident aged 65 years. She deposits ₹ 1.50 lakhs in her public provident fund and ₹ 4 lakhs in five-year fixed deposit in the name of her son, Mr. Priyanshu. The TT buying rate as on 31.3.2022 for Country M Dollar (CMD) is ₹ 69.

Compute the total income and net tax payable by Mrs. Rajni for A.Y.2022-23, providing for deduction under section 91. Assume that Mrs. Rajni does not opt for section 115BAC.

25. Matrix Inc. incorporated in Country X, holds 26% controlling interest in Pilu Ltd., an Indian Company. Pilu Ltd. declared dividend of ₹ 50,00,000 during the P.Y. 2021-22. The DTAA between India and Country X, which came into force on 1.1.2018, provides for taxation of dividend @15%. Thereafter, India entered into a DTAA with Country Y, which came into force from 15.5.2018. The India-Country Y DTAA, *inter alia*, provides for concessional tax rate of 10% in respect of dividend. Country X is an OECD member since 2015 and Country Y is also an OECD member since 2017.

Mr. Jack, CFO of Matrix Inc. seeks your opinion on whether the concessional tax rate provided in the DTAA between India and Country Y can be availed by a resident of Country X and if so, are there any further conditions to be satisfied in this regard. You may assume that the protocol annexed to India's DTAA's with all OECD member countries contain the relevant tax parity clause.

Would your answer change, if Country Y had become an OECD member only in the year 2020?

SUGGESTED ANSWERS

MCQ No.	Most Appropriate Answer	MCQ No.	Most Appropriate Answer
1.	(d)	9.	(b)
2.	(c)	10.	(c)
3.	(c)	11.	(c)
4.	(c)	12.	(c)
5.	(b)	13.	(d)
6.	(d)	14.	(d)
7.	(d)	15.	(a)
8.	(c)		

16. Computation of total income and tax payable of M/s Fit & Fair for A.Y. 2022-23

Particulars	₹
Profits from the specified business of new hotel in Pune	26,00,000
Add: Items debited but to be considered separately or to be disallowed	
Depreciation	15,80,000
Interest on capital to partners@15% p.a. (Interest allowable to the extent of 12% p.a., since the same is authorized by the partnership deed. Thus, interest of ₹ 10,00,000, being in excess of 12% p.a. i.e., ₹ 50,00,000 x 3%/15% would be disallowed)	10,00,000
30% disallowance of interest on loan on which tax is not deducted [30% of ₹ 6,00,000]	<u>1,80,000</u>
	<u>27,60,000</u>
	53,60,000
Less: Permissible expenditures and allowances	
100% of capital expenditure allowable as deduction under section 35AD in respect of –	
- Building (expenditure on land not eligible for deduction)	50,00,000
- New Motor Car (capital expenditure for purchase of car prior to 1.4.2021 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2021)	7,00,000
- New Air conditioner	<u>3,20,000</u>
	<u>60,20,000</u>
Loss from the specified business of new hotel in Pune	<u>(6,60,000)</u>

Profit from the existing business of running a hotel in Mumbai	41,38,000
Less: Loss from the specified business of new hotel in Pune	<u>6,60,000</u>
Net profit from business after set-off of loss of specified business against profits of another specified business under section 73A	<u>34,78,000</u>
Total Income	34,78,000
	₹
Income-tax @30% on total income of ₹ 34,78,000	10,43,400
Add: Health & education cess @4%	<u>41,736</u>
Tax liability	<u>10,85,136</u>
Tax liability (rounded off)	10,85,140

Computation of Alternate Minimum Tax liability of M/s Fit & Fair for A.Y.2022-23

Particulars	₹
Total income (computed above)	34,78,000
Add: Deduction under section 35AD	<u>60,20,000</u>
	94,98,000
Less: Depreciation in respect of –	₹
- Building @10% of ₹ 50,00,000	5,00,000
- New Motor Car (capital expenditure for purchase of car prior to 1.4.2021 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2021@15% of ₹ 7,00,000	1,05,000
- New Air conditioner @15% of ₹ 3,20,000	<u>48,000</u>
Adjusted total income	88,45,000
Alternate Minimum Tax@18.5%	16,36,325
Add: Health & education cess@4%	<u>65,453</u>
Tax liability under section 115JC	17,01,778
Tax liability under section 115JC (Rounded off)	17,01,780
Since the regular income-tax payable is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income and tax is leviable @18.5% thereof <i>plus</i> health and education cess@4%. Therefore, the tax liability is ₹ 17,01,780	
AMT Credit to be carried forward under section 115JD	₹
Tax liability under section 115JC	17,01,780
Less: Tax liability under the regular provisions of the Income-tax Act, 1961	<u>10,85,140</u>
AMT Credit to be carried forward	6,16,640

17. Computation of total income and tax liability of M/s Diamond Industries Ltd. for the A.Y. 2022-23 as per section 115BAA

	Particulars	Amount in ₹
I	Profits and gains of business and profession	
	Net profit as per Statement of Profit and Loss	9,50,00,000
	Add: Items debited but to be considered separately or to be disallowed	
	(i) Depreciation as per useful life of assets	2,80,00,000
	(ii) Donation to political party	12,00,000
	[Since donation to political party is not wholly and exclusively for the purpose of business or profession, it is not allowable as deduction u/s 37. Since the amount of contribution is debited to statement of profit and loss, the same has to be added back]	
	(iii) Contribution to research institution approved and notified by the Central Government for scientific research	50,00,000
	[As per section 35(1)(ii), 100% deduction is allowed for amount paid to a research institution undertaking scientific research, if such institution is approved for this purpose and notified by the Central Government. However, since company is opting for section 115BAA, deduction in respect of this contribution is not allowed. Since the amount of contribution is debited to statement of profit and loss, the same is required to be added]	
	(vi) Interest on borrowing paid to State Bank of India (SBI) [10% x ₹ 420 lakhs x 10/12]	35,00,000
	[Interest on borrowing from SBI upto 1.1.2022, being the date when machinery is installed and put to use, is not allowable as deduction since it has to be capitalized as part of the cost of the asset. Interest for January, February and March 2022 is disallowed as per section 43B since it is not paid on or before the due date of filing return of income i.e., 31.10.2022. Since the entire	

interest has been debited to the statement of profit and loss, it has to be added back while computing business income]		
(viii) Salary for installation of machinery	1,00,00,000	
[As per ICDS V, expenses which are specifically attributable for bringing the fixed asset to its working condition would form part of actual cost. Therefore, salary to foreign technicians for installation of machinery is a capital expenditure and not allowable as deduction. Since it has been debited to the statement of profit and loss, it has to be added back while computing business income]		
		<u>4,77,00,000</u>
		14,27,00,000
Less: Items credited but not chargeable to tax or chargeable to tax under other head of income/expenses allowed but not debited		
(iv) Dividend received from foreign company	15,00,000	
[Dividend received from foreign company is taxable under the head "Income from other Source". Since the same has been credited to Statement of Profit and loss, it has to be deducted while computing business income.		
(v) Long-term capital gain on sale of equity shares	4,00,000	
[Long-term capital gain on sale of equity shares is taxable under the head "Capital Gains". Since the same has been credited to Statement of Profit and loss, it has to be deducted while computing business income.		
(ix) Bad debt recovered	10,00,000	
[The deduction of bad debt allowed u/s 36 was ₹ 12 lakhs out of the total debt of ₹ 22 lakhs; Since the amount not written off as bad debt is ₹ 10 lakhs (₹ 22 lakhs - ₹ 12 lakhs) while the amount recovered in respect of such debt is ₹ 11 lakhs, only the		

<p>excess sum of ₹ 1 lakh would be chargeable to tax as business income. Since the entire amount of ₹ 11 lakhs recovered has been credited to the statement of profit and loss, ₹ 10 lakhs has to be reduced while computing business income.]</p> <p>(vii) Profit on sale of plot of land</p> <p>Capital gains arising on sale of plot of land are taxable under the “Capital Gains”. Since the same has been credited to the statement of profit and loss, the same has to be reduced while computing business income]</p>	8,00,000	
		37,00,000
		13,90,00,000
Less: Depreciation as per Income-tax Rules, 1962	1,50,00,000	
Depreciation on assets acquired during the P.Y.		
- Office building		
Purchased and put to use on 15.12.2021 [₹ 300 lakhs x 10% x 50%, since it has been put to use for less than 180 days during the year]	15,00,000	
- Computer		
Purchased and put to use on 11.5.2021 [₹ 25 lakhs x 40%, since it has been put to use for 180 days or more during the year]	10,00,000	
- Plant and machinery		
On P & M installed and put to use on 1.1.2022 [₹ 624.5 lakhs (₹ 500 lakhs + ₹ 100 lakhs of salary for installation + ₹ 24.5 lakhs, being interest from 1.6.2021 to 31.12.2021) x 15% x 50%, since it has been put to use for less than 180 days during the year]	46,83,750	2,21,83,750
Additional depreciation (since company is opting for section 115BAA, additional depreciation is not allowed)	-	-
Profits and gains from business or profession		11,68,16,250

II	Capital Gains		
	Profit on sale of plot of land [Short-term capital gains arise on sale of plot of land held for less than 24 months. However, in this case, since the transfer is to a 100% subsidiary company, which is an Indian company, the same would not constitute a transfer for levy of capital gains tax as per section 47(iv)]	-	
	Long-term capital gain on listed equity shares	<u>4,00,000</u>	4,00,000
III	Income from Other Sources		
	Dividend received from a foreign company		15,00,000
	Gross Total Income		11,87,16,250
	Less: Deduction under Chapter VI-A		
	Deduction under section 80GGB [Donation to political party is not allowable as deduction to Diamond Industries Ltd., since the company is opting for section 115BAA]		-
	Deduction under section 80M allowable, even if, company is opting for section 115BAA, to the extent of lower of dividend received and dividend distributed. Therefore, ₹ 12,00,000, being the amount of dividend distributed allowable as deduction		12,00,000
	Total Income		11,75,16,250

Computation of tax liability as per section 115BAA

Particulars	Amount in ₹
Tax payable on LTCG @10% u/s 112A on ₹ 3,00,000, being the LTCG in excess of ₹ 1,00,000	30,000
Tax payable on dividend @15% u/s 115BBD on ₹ 3,00,000 [15,00,000 – 12,00,000 being the amount deduction available under section 80M]	45,000
Tax @ 22% on ₹ 11,68,16,250	<u>2,56,99,575</u>
	2,57,74,575
Add: Surcharge @ 10%	<u>25,77,458</u>
	2,83,52,033
Add: Health and education cess @4%	<u>11,34,081</u>
Tax liability	<u>2,94,86,114</u>
Tax liability (rounded off)	2,94,86,110

18. Computation of total income and tax payable in the hands of Mr. Rajesh

	Particulars	₹
(i)	<p>Dividend income from GPL Ltd. (SPV) As per section 10(23FD), the component of dividend income distributed to unitholders is not taxable in the hands of unitholders, since GPL Ltd. (SPV) has not exercised the option u/s 115BAA. Accordingly, ₹ 18 lakhs (10% of ₹ 1.80 crore, being 90% of ₹ 2 crore), being the dividend component of income received by Mr. Rajesh from Shipra Ltd. is <u>not</u> taxable in his hands.</p>	-
(ii)	<p>Interest income from GPL Ltd. (SPV) As per section 115UA(3), interest income distributed to unit holders would be deemed as income of the unit holders. Accordingly, ₹ 27 lakhs [i.e., 10% of ₹ 2.7 crores (90% of ₹ 3 crores)], being the interest component of income distributed to Mr. Rajesh, is taxable in the hands of the Mr. Rajesh.</p>	27,00,000
(iii)	<p>Short-term capital gains on sale of developmental properties by Shipra Ltd. As per section 115UA(2), STCG on sale of development properties is taxable at maximum marginal rate of 42.744% in the hands of the REIT. No tax liability arises in the hands of Mr. Rajesh on ₹ 9 lakh (10% of ₹ 90 lakh, being 90% of ₹ 1 crore), being the capital gain component of income distributed to him, by virtue of section 10(23FD).</p>	-
(iv)	<p>Business Income of PQR Ltd. Business income of an investment fund is taxable in the hands of investment fund. Consequently, as per section 10(23FBB), business income accruing or arising to or received by a unitholder of an investment fund is not taxable in his hands.</p>	-
(v)	<p>Long-term capital loss of PQR Ltd. Long-term capital loss of ₹ 2,70,000 (10% of ₹ 27 lakhs) can be carried forward and set-off by Mr. Rajesh, since he holds such units for more than 12 months, against income from long-term capital gains arising in the subsequent years, since there is no long-term capital gain in the current year. It can be carried forward for a maximum of 8 assessment years.</p>	-
(vi)	<p>Interest income of PQR Ltd. As per section 10(23FBA), interest income would be exempt in the hands of Investment fund. As per section 115UB, ₹ 5,20,000 lakhs</p>	5,20,000

(10% of ₹ 52 lakhs) would be taxable as income from other sources in the hands of Mr. Rajesh. Even if investment fund distributed only 90% of its income to the unit holders during the year, the remaining 10% of income would be deemed to be credited to the account of each unitholder on the last day of the previous year i.e., 31.03.2022. Further, income which has been included in the total income of the unitholders in the previous year on accrual basis shall not once again be included in the previous year in which such income is actually paid to him by the investment fund.	
Total income	32,20,000

Computation of tax payable by Mr. Rajesh for A.Y.2022-23

Particulars	₹	₹
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000 @5%	12,500	
₹ 5,00,001 – ₹7,50,000 @10%	25,000	
₹ 7,50,001 – ₹10,00,000 @15%	37,500	
₹10,00,001 – ₹12,50,000 @20%	50,000	
₹ 12,50,001 – ₹ 15,00,000 @25%	62,500	
₹ 15,00,001 – ₹ 32,20,000@30%	<u>5,16,000</u>	7,03,500
Add: Health and education cess @4%		<u>28,140</u>
Tax liability		7,31,640
Less: Tax deducted at source		
- under section 194LBA @ 10% by Shipra Ltd. in respect of interest income from SPV	2,70,000	
- under section 194LBB @10% by PQR Ltd.	<u>52,000</u>	<u>3,22,000</u>
Tax payable		4,09,640

19. (i) Section 206C(1G) provides for collection of tax@ 5% by every person, being a seller of an overseas tour programme package, who receives any amount from the buyer who purchases the package. The threshold limit of ₹ 7 lakh is **not** applicable in case of collection of tax at source by a seller of an overseas tour programme package from a buyer who purchases such package. Hence, tax has to be collected@5% of the amount received by the seller of an overseas tour programme package from a buyer even if the amount is less than ₹ 7 lakh.

However, as per *Notification No. 20/2022 dated 30.3.2022*, TCS u/s 206C(1G) would **not** be applicable, if the buyer is an individual who is **not** a resident in India [in terms of section 6(1) and (1A)]; and who is visiting India.

Mr. Devansh, an Indian citizen living in New York, came on a visit to India during the P.Y. 2021-22. He does not have any source of income in India. During that previous year, he stayed in India for only 39 days (14 days in February + 25 days in March). Since his stay in India during the P.Y.2021-22 is less than 182 days, he is non-resident in India for the said previous year.

Accordingly, in this case, since Mr. Devansh is a non-resident who is visiting India, M/s. Journey trip, the tour package operator, is not required to collect tax at source under section 206C(1G) on the amount of ₹ 6 lakh received from him for purchase of tour programme package to Malaysia.

- (ii) For the provisions of section 194Q to be attracted, a buyer is required to have a total sales or gross receipts or turnover from the business carried on by it exceeding ₹ 10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out. The CBDT has, vide *Circular No. 13/2021, dated 30.6.2021*, clarified that since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q shall not apply in the year of incorporation. Since XYZ Ltd. is incorporated in the P.Y. 2021-22, it would not qualify as a “buyer” for the purpose of section 194Q for the said previous year, inspite of its turnover exceeding ₹ 10 crores in the said previous year.

However, since White Ride’s turnover for the F.Y. 2020-21 exceeds ₹ 10 crores and its receipts from XYZ Ltd. exceed ₹ 50 lakhs, TCS provisions under section 206C(1H) would be attracted in its hands. TCS would be attracted at the time of receipt of consideration (i.e., in respect of receipts in excess of sale consideration of Rs.50 lakhs).

No tax is to be collected u/s 206C(1H) on 1.9.2021, since the aggregate receipts till that date i.e., ₹ 25 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

Tax of ₹ 500 (i.e., 0.1% of ₹ 5 lakhs) has to be collected u/s 206C(1H) by M/s White Ride on 15.10.2021 (₹ 30 lakh – ₹ 25 lakhs, being the balance unexhausted threshold limit).

Tax of ₹ 1,500 (i.e., 0.1% of ₹ 15 lakhs) has to be collected u/s 206C(1H) by M/s. White Ride on 15.1.2022.

20. Mrs. Sudha’s income from house property would be ₹ 2,10,000 (₹ 3,00,000 less 30% of net annual value). Since this is her only source of income, her gross total income/total income for A.Y.2022-23 would be ₹ 2,10,000, which is lower than the basic exemption limit. Hence, she is not required file her return of income for A.Y.2022-23 as per section 139(1)(b), since her gross total income/total income does not exceed the basic exemption limit of ₹ 2,50,000.

However, clause (iv) to seventh proviso of section 139(1) provides that a person (other than a company or a firm) who is not required to furnish a return u/s 139(1) has to furnish return on or before the due date if he/she fulfills such other conditions as may be prescribed under Rule 12AB.

Rule 12AB, *inter alia*, prescribes that any person other than a company or a firm, who is not required to furnish a return under section 139(1), has to file income-tax return in the prescribed form and manner on or before the due date if, the aggregate of tax deducted at source and tax collected at source during the previous year, in case of such person, is ₹ 25,000 or more.

Accordingly, it has to be examined whether, in Mrs. Sudha's case, the requirement to file return for A.Y.2022-23 arises due to TDS/TCS, in her case, exceeding ₹ 25,000 in the P.Y.2021-22.

As per section 206C(1F), every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ₹ 10 lakhs, has to collect tax from the buyer @1% of the sale consideration.

Accordingly, dealer of the car is required to collect tax at source of ₹ 26,247 @1% on ex-showroom price i.e., ₹ 26,24,710 (₹ 29,52,000 – ₹ 2,15,000 – ₹ 51,575 – ₹ 25,255 – ₹ 35,460) from Mrs. Sudha, being the buyer of the car.

Hence, as per the seventh proviso to section 139(1) read with Rule 12AB, Mrs. Sudha is required to mandatorily file her return of income for A.Y.2022-23, even though her gross total income/total income does not exceed the basic exemption limit, since tax collected at source during the P.Y. 2021-22, in her case is ₹ 26,247 which exceeds the threshold of ₹ 25,000.

21. As per section 292BB, any notice which is required to be served upon an assessee shall be deemed to have been duly served and the assessee would be precluded from taking any objection that the notice was-
- (a) not served upon him; or
 - (b) not served upon him in time; or
 - (c) served upon him in an improper manner,

if he had appeared in any proceedings or co-operated in any enquiry relating to assessment or re-assessment.

Issue of notice under section 143(2) is mandatory for making a regular assessment under section 143(3). The Apex Court in *CIT v. Laxman Das Khandelwal (2019) 417 ITR 325* held that section 292BB is a deeming provision that seeks to cure defects in any notice issued under any provision of the Income-tax Act, 1961, if the assessee has participated in the proceedings.

For section 292BB to apply, the notice must have emanated from the Department. It is only the infirmities in the manner of service of notice that the section seeks to cure. The section is not intended to cure the complete absence of notice itself.

Accordingly, non-issuance of notice under section 143(2) is not a curable defect under section 292BB in spite of participation by the assessee in assessment proceedings.

In the present case, since the assessment of Mr. Arora was completed u/s 143(3) without issuing notice u/s 143(2), the assessment is bad in law and not a curable defect u/s 292BB. Therefore, the contention of Mr. Arora is valid and the contention of the Assessing Officer is invalid in spite of the fact that Mr. Arora participated in the assessment proceedings.

22. Dispute Resolution Committee (DRC) would resolve dispute in the case of a person who opts for dispute resolution under Chapter XIX-AA in respect of dispute arising from any variation in the specified order in his case and who fulfils the specified conditions. Specified order includes an assessment order passed under section 143(3), where the aggregate sum of variations made *vide* such order does not exceed ₹ 10 lakh; the total income as per such return furnished by the assessee for the assessment year relevant to such order does not exceed ₹ 50 lakhs and such order is not based on search or requisition or survey or any information received under a DTAA.

Accordingly, in the present case, Mr. Vijay can file an application before DRC, since the assessment order received on 26.11.2022 is a specified order and he satisfies the specified conditions on account of no order of detention being made and no prosecution proceedings being initiated or instituted against him. Non-levy of penalty under income-tax law is not a specified condition, therefore, the levy of penalty under section 271D on him does not result in non-compliance with the specified condition. Mr. Vijay has to file an application for resolution of dispute in the prescribed form on or before 25.12.2022 i.e., within one month from the date of receipt of the specified order.

However, once a modified order is passed by the DRC, no appeal or revision would lie against such order.

If assessment order is based upon the information received under an DTAA entered with India, Mr. Vijay, will **not** be eligible to make an application before DRC, since it is not a specified order.

23. Section 165A of the Finance Act, 2016 provides for equalisation levy@2% on the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated by it, *inter alia*, to a person resident in India and a person who buys such goods or services or both using internet protocol address located in India.

First, it has to be determined whether DOT Inc., Country X is an e-commerce operator.

E-Commerce Operator means a non-resident who owns, operates or manages digital or electronic facility or platform for online sale of goods or online provision of services or both.

In the given situation, DOT Inc., Country X, a non-resident, maintains a digital platform for providing end user computer software. Therefore, DOT Inc. is an e-commerce operator.

However, the consideration received or receivable for e-commerce supply or services would **not** include the consideration, which are taxable as, *inter alia*, royalty or fees for technical services in India under the Income-tax Act, read with the DTAA notified by the Central Government under section 90 or section 90A.

The consideration paid by Spacecraft Ltd. to DOT Inc. for use of computer software as per the terms of EULA is **not "royalty"** as per the meaning assigned in the DTAA, since it does not create any interest or right to Spacecraft Ltd. which would amount to the use of or right to use any copyright. Accordingly, the same does not give rise to any income chargeable to tax in India. Since the provisions of the DTAA are more beneficial, the same would apply in the case on hand as decided by Apex Court in *Engineering Analysis Centre of Excellence P. Ltd v. CIT and Another (2021) ITR 471*.

In the given situation, DOT Inc. is an e-commerce operator defined in section 165A, since it provides services through its digital platform. Further, the consideration for such services is ₹ 4.5 crores which exceeds the threshold limit of ₹ 2 crores specified in section 165A. Also, all the other conditions specified in section 165A are satisfied viz. namely there is no PE for DOT Inc., Country X, in India and services are provided to a resident in India i.e., Spacecraft Ltd., an Indian company.

Hence, DOT Inc., Country X has to pay 2% on ₹ 4.5 crores which would amount to ₹ 9 lakhs, as equalisation levy. Spacecraft Ltd., India, the service recipient, need not deduct the amount as equalisation levy under section 165A (e-commerce supply or services), since the same is to be paid directly by the service provider i.e., DOT Inc., Country X.

24. Computation of total income and net tax payable by Ms. Rajni for the A.Y. 2022-23

Particulars	₹	₹
Income from house property		
Gross annual value ¹ [CMD 25000 x 69, being conversion rate as on 31.3.2022 – Rule 115]	17,25,000	
Less: Municipal taxes [CMD 200 x 69]	<u>13,800</u>	
	17,11,200	

¹ Rental income assumed to be gross annual value, in absence of information regarding standard rent, fair rent and municipal value.

Less: Deduction u/s 24@30%	<u>5,13,360</u>	
		11,97,840
Profits and gains of business or profession		
From dance programs held in India	15,00,000	
From concerts held in Country M [CMD 10,120 x 69 (being conversion rate as on 31.3.2022 – Rule 115)]	<u>6,98,280</u>	
		21,98,280
Income from Other Sources		
Income from bank fixed deposits in her name	4,20,000	
Income from savings bank account	<u>15,000</u>	<u>4,35,000</u>
Gross Total Income		38,31,120
Less: <u>Deduction under section 80C</u>		
Deposit in PPF	1,50,000	
Five year fixed deposit in the name of her son (does not qualify for deduction under section 80C)	-	
<u>Under section 80D</u>	50,000	
Medical insurance premium to insure her health and health of spouse (₹ 61,000, restricted to ₹ 50,000, being the maximum allowable for senior citizens)		
<u>Under section 80TTB</u> : Interest on bank FD and savings bank account restricted to	<u>50,000</u>	<u>2,50,000</u>
Total Income		35,81,120
<u>Tax on Total Income</u>		
Income-tax		8,84,336
Add: Health and Education Cess @4%		<u>35,373</u>
		9,19,709
Average rate of tax in India (i.e., ₹ 9,19,709/ ₹ 35,81,120 × 100)	25.682%	
Rate of tax in Country M	20%	
Doubly Taxed Income	18,96,120	

[₹ 11,97,840 (income from house property) + ₹ 6,98,280 (income from concerts)]		
Lower of Indian rate of tax and Rate of tax in Country M	20%	
<u>Deduction under section 91</u>		
20% of doubly taxed income of ₹ 18,96,120		<u>3,79,224</u>
Net tax payable		<u>5,40,485</u>
Net tax payable (rounded off)		5,40,490

25. The CBDT has, vide *Circular No. 3/2022 dated 3.2.2022*, clarified that the applicability of the Most Favoured Nation (MFN) clause and benefit of the lower rate or restricted scope of source taxation rights in relation to certain items of income including dividends provided in India's DTAA's with the third State (Country Y, in this case) will be available to the first (OECD) State (Country X, in this case) **only when all the following conditions are met**:

Condition	Satisfaction of condition in the case on hand
(i) The second treaty (with the third State) is entered into after the signature/ Entry into Force of the treaty between India and the first state	This condition is satisfied as India has entered into a DTAA with Country Y on 15.5.2018, after it has entered into a DTAA with Country X on 1.1.2018.
(ii) The second treaty is entered into between India and a State which is a member of the OECD <u>at the time of signing the treaty with it;</u>	This condition is satisfied as India has entered into a DTAA on 15.5.2018 with Country Y, which is a member of OECD since 2017. Hence, on 15.5.2018, Country Y was an OECD member.
(iii) India limits its taxing rights in the second treaty in relation to rate or scope of taxation in respect of relevant items of income	This condition is satisfied since in DTAA between India and Country Y, dividend is taxable@10%.
(iv) A separate notification has been issued by India, importing the benefits of the second treaty into the treaty with the first State as required by the provisions of section 90(1) of the Income-tax Act, 1961.	In this case, conditions (i), (ii) and (iii) mentioned above have been satisfied. The concessional rate of 10% can be applied for taxing the dividend received by Matrix Inc. from Pulu Ltd., an Indian company, only if India has issued a separate notification importing the benefits of India-Country Y tax treaty into India-

	Country X tax treaty, as required by the provisions of sections 90(1). If such notification has been issued, then, the concessional rate of 10% can be applied for taxing the dividend received by Matrix Inc. from Pilu Ltd., an Indian company; otherwise it cannot be applied, even if other conditions are satisfied.
--	---

In case if Country Y became an OECD member only in the year 2020, then, the concessional rate of 10% cannot be applied for taxing dividend received by Matrix Inc. from Pilu Ltd., since Country Y was not an OECD member on 15.5.2018, at the time when India signed the DTAA with it. Consequently, condition (ii) mentioned above would not be satisfied in such a case. Hence, dividend received by Matrix Inc. from Pilu Ltd. would be subject to tax@15%.