

## INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

### Question 1

State with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

- (a) In respect of voluntary contributions in excess of Rs.20,000 received by a political party, exemption under section 13A is available where proper details about the donations are maintained; there is no need to maintain books of account. (2 Marks)(May 2007)
- (b) Compensation on account of disaster received from a local authority by an individual or his/her legal heir is taxable. (2 Marks)(Nov 2008)
- (c) Mr. P, a shareholder of a closely held company, holding 16% shares, received advances from that company which is to be deemed as dividend from an Indian Company, hence exempted under section 10(34) of the Income-tax Act, 1961. (2 Marks)(June 2009)

### Answer

- (a) False.

The obligation under section 13A to maintain proper details of voluntary contributions in excess of Rs.20,000 is over and above the obligation to maintain such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom.

- (b) False.

As per section 10(10BC), any amount received or receivable as compensation by an individual or his/her legal heir on account of any disaster from the Central Government, State Government or a local authority is exempt from tax.

- (c) False.

As per section 10(34) of the Act, only income by way of dividend referred to in section 115-O shall be exempt in the hands of shareholders. Corporate dividend tax is not leviable on deemed dividend under section 2(22)(e) and hence, such deemed dividend is not exempt under section 10(34).

## Taxation

### Question 2

Briefly discuss about the provisions relating to deductibility of expenditure incurred in relation to income not includible in assessee's total income. (4 Marks) (May 2007)

#### Answer

- (i) As per section 14A, expenditure incurred in relation to any exempt income is not allowed as a deduction while computing income under any of the five heads of income.
- (ii) However, the Assessing Officer is not empowered to reassess under section 147 or to pass an order increasing the liability of the assessee by way of enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154, for any assessment year beginning on or before 1.4.2001 i.e. for any assessment year prior to A.Y. 2002-03.
- (iii) The Assessing Officer is empowered to determine the amount of expenditure incurred in relation to such income which does not form part of total income in accordance with such method as may be prescribed by the CBDT in this regard.
- (iv) Such method should be adopted by the Assessing Officer if he is not satisfied with the correctness of the claim of the assessee, having regard to the accounts of the assessee.
- (v) Further, the Assessing Officer is empowered adopt such method, even where an assessee claims that no expenditure has been incurred by him in relation to income which does not form part of total income.

### Question 3

How is exemption granted by section 10(10CC) in respect of income-tax paid by employer?

(4 Marks) (Nov 2007)

#### Answer

Section 10(10CC) provides for exemption in the hands of an employee, being an individual deriving income by way of perquisites, not provided by way of monetary payment within the meaning of section 17(2). This applies where the tax on such income is actually paid by the employer, at the option of the employer, on behalf of such employee notwithstanding anything contained in section 200 of the Companies Act, 1956.

This provision will provide relief to the employee if the employer is willing to bear the tax burden in respect of non-monetary perquisites provided by it to the employee as otherwise the tax so paid by the employer would have been treated as income of the employee.

### Question 4

Whether the income derived from saplings or seedlings grown in a nursery is taxable under the Income-Act, 1961? (2 Marks)(June 2009)

## Incomes which do not form part of Total Income

Answer

As per Explanation 3 to section 2(1A) of the Act, income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income and exempt from tax, whether or not the basic operations were carried out on land.

Question 5

Will a charitable trust forfeit the exemption granted to it, if it holds shares in a public sector company? (2 Marks) (May 2008)

Answer

According to section 13(1)(d), investment in shares in a public sector company is allowed to be made by a charitable trust. Therefore, a charitable trust holding shares in a public sector company can continue to claim exemption.

Question 6

When is a charitable trust required to file its audit report alongwith return of income?

(2 Marks) (June 2009)

Answer

A charitable trust is required to get its accounts audited by a Chartered Accountant and file the audit report in the prescribed form, duly signed and verified by such accountant, along with its return of income when the total income of the trust before giving effect to section 11 and 12 exceeds the maximum amount not chargeable to tax i.e. Rs.1,60,000.

Question 7

Explain the meaning of expression "advancement of any other object of general public utility" in the context of "Charitable Purpose" defined under section 2(15) of the Act.

(4 Marks) (June 2009)

Answer

The proviso to section 2(15) of the Act provides that "advancement of any other object of general public utility" shall not be a charitable purpose, if it involves carrying on of:

- (i) any activity in the nature of trade, commerce or business, or
- (ii) any activity of rendering of any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application of the income from such activity or the retention of such income, by the concerned entity.

The expression "advancement of any other object of general public utility" includes any object which will be beneficial even to a segment of society and not necessarily to the whole mankind. However, the object should not be for the benefit of specified individuals.

