

*Fin623 Mid Term Subjective (2009 & Dec 2010)*

*Solved by*

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**Q. 2 what is the rule of double derivation of income and double deduction of expense also write section? Mark5**

**Answer**

**Rules to Prevent Double Derivation of Income and Double Deductions (Section 73)**

Where:

Any amount chargeable to tax on the basis that it is receivable, the amount shall not be charged that it is received;

Or

Any amount is chargeable to tax on the basis that it is received the amount shall not be chargeable to tax again on the basis that it is receivable.

**With regard to expenditure, where:**

Any expenditure is deductible on the basis that it is payable, the expenditure shall not be deductible again on the basis that it is paid;

Or

Any expenditure is deductible on the basis that it is paid, the expenditure shall not be deductible again on the basis that it is payable.

**See answer page 90 above question**

**Rules to prevent double Derivation and double Deductions: Section 73**

**Sec 73**

**(1) Where:**

**a.any amount is chargeable to tax under this ordinance on the basis that it is receivable, the amount shall not be chargeable again on the basis that it is received;**

**or**

**b.Any amount is chargeable to tax under this ordinance on the basis that it is received, the amount shall not be chargeable again on the basis that it is receivable;**

**or**

**(2) For the purposes of this Ordinance,**

**Where:**

- (a) Any expenditure is deductible under this Ordinance on the basis that it is payable, the expenditure shall not be deductible again on the basis that it is paid; or  
(b) Any expenditure is deductible under this Ordinance on the basis that it is paid, the expenditure shall not be deductible again on the basis that it is payable.

**What is the non resident status of Pakistan source income?**

**Marks 5**

**Answer**

Business income of a non- resident person shall be Pakistan- source income to the extent to which it is directly or indirectly attributable to-

- A permanent establishment of the non-resident person in Pakistan
- Sales in Pakistan of goods or merchandise of the same or similar kind as those sold by the person through a permanent establishment in Pakistan
- Other business activities carried on in Pakistan of the same or similar kind as those effected by the non-resident through a permanent establishment in Pakistan (or)
- Any business connection in Pakistan

## **2. Income of Non-Residents Chargeable to Tax**

All "**Pakistan – source**" incomes of non-residents are taxable under Pakistan Tax Law, including:-

·Business Income. ·Business incomes attributable to PEs. ·Business incomes from activities similar to those carried on through PEs. ·Business incomes from rendering services ·Gains from disposal of any asset used in deriving business income in Pakistan. ·Profits on debts. ·Pensions or annuities. Technical Fees ·Dividends paid by a resident company ·Royalty or Rental Income ·Gain from alienation of any property or right. ·Salaries ·Execution of Contracts ·any other amount:

**Mr. sohail going come in Pakistan 1st march 2008 to attend marriage ceremony and he is going back to Singapore 22nd march 2008 however he extend his visit and going back 30th may 2009. What is residential status of Mr. Sohail in tax year 2009? Marks 3**

**Answer**

Resident

**Define section 47 and Section 48? Mark 3**

**Answer**

Section 47 Scholarships

- Any scholarship granted to a person to meet the cost of person's education shall be exempt from tax.

#### **Section 48 Support Payments under an Agreement to Live Apart**

Any income received by a spouse as support payment under an agreement to live apart shall be exempt from tax under this Ordinance.

#### **Another Paper:**

#### **Q.1 Define employment & also mention section?**

#### **Answer**

#### **Employment Sec. 2(22)**

#### **Employment includes:**

- A directorship or any other office involved in the management of a company;
- A position entitling the holder to fixed or ascertainable remuneration; or
- Holding or acting in any public office.

#### **Q2: profit on debt in which conditions will be Pakistan source of income.**

1. Resident person **(25) page**
- 2-Non Resident Person **(25) page.**

#### **Answer**

Profit on debt shall be Pakistan-source income if it is-

- (1) Paid by a resident person, except where the profit is payable in respect of any debt used for the purposes of a business carried on by the resident outside Pakistan through a permanent establishment; or
- (2) Borne by a permanent establishment in Pakistan of a non-resident person.

#### **Q.3: define section 49(23page)**

#### **Answer**

#### **Section 49 Federal & Provincial Govt. and Local Authority Income**

- Income of Federal Government exempt from tax
- Income of Provincial Government or a Local Authority in Pakistan shall be exempt under all heads of income other than income from Business, derived outside its jurisdictional area, which shall be taxable.
- Federal Government, a Provincial Government or a Local Authority shall not be liable to any collection or deduction of advance tax.

#### **Another Paper:**

- 1) Define these sections section 47, section 48 under the IT ordinance 2001 (3 marks)

#### **Answer**

Section 47 Scholarships

- Any scholarship granted to a person to meet the cost of person's education shall be exempt from tax.

#### **Section 48 Support Payments under an Agreement to Live Apart**

Any income received by a spouse as support payment under an agreement to live apart shall be exempt from tax under this Ordinance

2) Mr. Ali is a resident of Pakistan, 1000 salary received in UK paid by the UK Company; he paid the income tax on his salary in UK. The tax treatment of Mr. Ali's income in Pakistan with IT ordinance 2001, also mention the section that is applicable (3)

Ans:

**Handouts (22, 23)**

**I think no.**

**3) Explain the two terms with their relevant sections (5 marks)**

**Resident individual (page 23,26,27)**

**Resident AOP(27,36,)**

#### **Answer**

##### ***Resident Individual (Section 82)***

- An individual shall be a resident individual for a tax year if the individual:
- is present in Pakistan for a period of, or periods amounting in aggregate to, one hundred and [eighty-three] days or more in the tax year;

or

- is an employee or official of the Federal Government or a Provincial Government posted abroad in the tax year.

##### ***Resident Association of Persons Sec. 84***

An association of persons shall be a resident association of persons for a tax year if the control and management of the affairs of the association is situated wholly or partly in Pakistan at any time in the year.

**4) If the utility bills are paid by the employer to an employee, give the rationale with the applicable section (5 marks)**

**5) Why the government imposes the taxes to its citizens, what element should be taken into account while formation of the tax laws (5 marks)**

**Another Paper:**

**Q: what is meant by reduction in tax liability? Give an example from Income Tax Ordinance 2001? 3 marks**

#### **Answer**

### **Reduction in Tax Liability under Second Schedule Part 3**

- Any amount received as flying allowance by pilots etc. and junior commissioned officers or other ranks shall be taxed @2.5% as separate block.
- Senior citizen-age 60 years & above where taxable income not exceeding Rs. 500,000/- tax liability reduced by 50%

**Q: what does Bench Mark rate means? Also mention which section describe bench mark rate? 3 marks**

### **Answer**

**Sub Sec. (14) in this section “Benchmark rate” means:**

- For the tax year commencing on the first day of July 2002, a rate of 5% per annum; and
- For the tax year next following the tax year refer to in sub clause (i), the rate for each successive year taken as 1% above the rate applicable for the immediately preceding tax year but not exceeding such rate, if any, as the federal Govt., may, by notification, specified in respect of any tax year.
- “Services” includes the provision of any facility; and
- “Utilities” includes electricity, gas, water, and telephone.

Benchmark rate for the **tax year 2009 is 11 %.**

**Q: list down the examples of Income from Agriculture under section 41 of the ordinance (any five) 5 marks**

### **Answer**

1. Income from growing flowers and creepers
2. Interest on capital received by a partner from a firm engaged in agricultural operation.
3. Profit on sale of standing crops or the produce after harvest by a cultivating owner or tenant of land.
4. The fees collected from owners of cattle (normally used for agricultural purpose) for allowing them to graze on forest lands covered by jungle and grass grown spontaneously
5. Compensation received from an insurance company for danger caused by hailstorm or another natural calamity to crops or agricultural produce.
6. Share of profit of a partner from a firm engaged in agricultural operation (similarly salary received by him for services in agricultural operations as salary is only a mode of adjustment of the firm's income).

**Q: An association of persons named M/S Khan and sons has its most of its branches in Pakistan is it sufficient to be resident AOP or not?**

**Answer**

M/S Khan is resident AOP because control and management of the affairs of the association is situated wholly or partly in Pakistan at any time in the year.

**Explain with reference to Income Tax Ordinance 2001? 5 marks**

**Answer**

**Income Tax Ordinance, 2001**

To update the tax laws and bring our law in accordance with international standards, this ordinance was promulgated on 13<sup>th</sup> September, 2001, which became effective from 1<sup>st</sup> July, 2002.

**Basic Features of Income Tax Ordinance 2001**

Scheme of the Ordinance is given below:

- There are thirteen chapters
- Chapters are divided into:
  - Parts &
  - Divisions
- There are 240 Sections
- This ordinance comprises of seven Schedules
- Schedules are integral part of the Ordinance

**Q: list down some important characteristics of salary? 5 marks**

**Another Paper:**

**1. Under which circumstances business income of a non-resident person shall be considered as Pakistan-source income? (Marks 3)**

**Answer**

Business income of a non-resident person shall be Pakistan-source income to the extent to which it is directly or indirectly attributable to-

- A permanent establishment of the non-resident person in Pakistan
- Sales in Pakistan of goods or merchandise of the same or similar kind as those sold by the person through a permanent establishment in Pakistan
- Other business activities carried on in Pakistan of the same or similar kind as those effected by the non-resident through a permanent establishment in Pakistan (or)
- Any business connection in Pakistan

Where the business of a non-resident person comprises the rendering of independent services (including professional services and the services of entertainers and sports persons), the Pakistan-source business income of the person shall include [in addition to any amounts treated as Pakistan-source income under sub-section (3)] any remuneration

derived by the person where the remuneration is paid by a resident person or borne by a permanent establishment in Pakistan of a non-resident person

**4. Section 102 deals with Foreign-source of income of resident individuals. Identify the tax treatment. (Marks 3)**

**Answer**

**Foreign Source Salary of Resident Individuals Sec. 102**

(1) Any foreign-source salary received by a resident individual shall be exempt from tax if the individual has paid foreign income tax in respect of the salary.

(2) A resident individual shall be treated as having paid foreign income tax in respect of foreign-source salary if tax has been withheld from the salary by the individual's employer and paid to the revenue authority of the foreign country in which the employment was exercised.

**Question No: 29 ( Marks: 3 )**

**What exemption granted under section 46 of IT Ordinance 2001?**

**Answer**

**Section 46 Profit on Debt**

Any profit received by a non – resident person on a security issued by a resident person shall be exempt from tax provided:

- Persons not associates
- Security widely issued by resident person outside Pakistan
- Profit on security was paid outside Pakistan
- Security approved by Central Board of Revenue (CBR)

**Question No: 30 ( Marks: 3 )**

**Under which conditions any royalty is treated as Pakistan source income if it is paid by:**

- i. **Resident person**
- ii. **Non-resident person**

**Answer**

A royalty shall be Pakistan-source income if it is:

• Paid by resident person, except where the royalty is payable in respect of any right, property, or information used, or services utilized for the purposes of a business carried on by the resident outside Pakistan through a permanent establishment; or

• Borne by a permanent establishment in Pakistan of a non-resident person

**Question No: 32 ( Marks: 5 )**

**Determine total income of Mr. Sharif, a non-resident individual for tax year 2009. Relevant data is given below:**

- i. Share of profit received in Singapore from a business controlled through a permanent establishment in Pakistan Rs 200,000.**
- ii. Salary income of Mr. Sharif from an employment in Pakistan Rs600,000**
- iii. Remittance received from China Rs 400,000**
- iv. Profit on debt received on deposits kept with a bank in Pakistan Rs 50,000**

**Question No: 29 ( Marks: 3 )**

**What is the difference between remittance and receipt of income? Which one is chargeable to taxable?**

### **Answer**

#### **Difference between remittance and receipt of income**

Receipt of income is the money that you receive and you might have to return it on a later stage. Further the receipt can be on sale of goods, or business receipts out of which the profit shall be your income. If salaried, the salary is your income for the purpose of tax calculations. While a **remittance** is a transfer of money by a foreign worker to his or her home country. See "Remittance Man" below for the historical use of the word, which is the opposite of the modern use.

**Question No: 30 ( Marks: 3 )**

**Section 102 deals with Salary received from Foreign-Source by resident individual. What is the tax treatment of such salary?**

### **Answer**

#### **Foreign Source Salary of Resident Individuals Sec. 102**

(1) Any foreign-source salary received by a resident individual shall be exempt from tax if the individual has paid foreign income tax in respect of the salary.

(2) A resident individual shall be treated as having paid foreign income tax in respect of foreign-source salary if tax has been withheld from the salary by the individual's employer and paid to the revenue authority of the foreign country in which the employment was exercised.

**Question No: 31 ( Marks: 5 )**

**Profit on debt earned by a non-resident person is exempt from tax under clause (77) of Part I of the second schedule. Is this exemption only available to "Individuals" as**



reference has been made to persons being citizens of Pakistan or otherwise? Provide the details of this clause.

### Answer

No this exemption is also available Approved loans, Foreign currency accounts held in the Pakistani account, profit on rupee help with a scheduled bank in Pakistan, profit from the private foreign currency accounts held in the authorized banks.

**Question No: 32 ( Marks: 5 )**

**Mr. Irfan resident of Pakistan received salary from UK. He has also paid tax on his salary from UK as per the tax laws prevailing there. What will be the tax treatment of his salary as a Pakistani resident? Which section of the income tax ordinance deals this scenario?**

Answer Foreign-Source Salary Income [102]

Mr. Irfan's salary from UK would be exempted from tax, because he has paid tax on his salary from UK. Under **Foreign-Source Salary Income [section102]** foreign source salary income of a resident individual will be exempt from tax, if he has paid foreign income tax in respect of such income. Payment of foreign tax means that the employer has deducted the tax at source and deposited the same to the revenue authorities of the country in which employment was exercised.

**Question No: 31 ( Marks: 5 )**

**Why the right to acquire share is not chargeable to tax under Employee Share Scheme section 14. Under what condition the right to acquire share under section 14 is taxable?**

### Answer

**Employee Share Schemes sec 14:**

- The value of a right or option to acquire share under this scheme shall be not chargeable to tax.
- Where shares issued are subject to a restriction on transfer of the shares
  - a) no amount shall be chargeable to tax under the head Salary until the earlier of
    - i. the time the employee has a free right to transfer the shares; or
    - ii. the time the employee disposes of the shares &
  - b) the amount chargeable to tax to the employee shall be fair market value of shares at the time employee has free right to transfer as reduced by any amount given as consideration for the grant of a right or option to acquire the shares.
- Where in a tax year an employee disposes of a right or option to acquire shares under an employee share scheme, the amount chargeable to tax shall include the amount of any gain made on the disposal computed accordance with the following formula:

**A-B**

- Where A is the consideration received from the disposal of the right or option.
- B is the employee's cost in respect of the right or option.

**Question No: 30 ( Marks: 3 )**

**If Mr. Kamal resident of Pakistan suffered a foreign loss against the income received from foreign country in tax year. What is the treatment of such foreign loss? Which section deals this kind of loss? Such losses can be carried forward up to how many years?**

**Answer**

Foreign losses Sec.104: Deductible expenditures incurred by a person in deriving foreign source income chargeable to tax under a head of income shall be deductible only against that income. Foreign losses carried forward up to 6 years.

**Question No: 32 ( Marks: 5 )**

**If Mr. Basit resident of Pakistan suffered a foreign loss against the income received from foreign country in tax year 2008-09. What is the treatment of such loss? Which section deals this kind of loss?**

**Answer:** Under Sec.104 Foreign losses Deductible expenditures incurred by a person in deriving foreign source income chargeable to tax under a head of income shall be deductible only against that income. These type of losses carried forward up to six years.

**Question No: 31 ( Marks: 5 )**

**Define Income that is charged to tax under section 2(9).**

**Answer**

**Business Defined Section 2(9)**

“Business includes any trade, commerce, manufacture, profession, vocation but doesn’t include employment”

Following incomes (except exempt income) shall be charged to tax under the head ‘Income from Business’.

- a) Profits & Gains from any business in a tax year.
- b) Income derived from any trade, profession, sale of goods or provision of any services.
- c) Income from hire or lease of tangible movable property.
- d) FMV of Perquisites derived by a person by virtue of business relationships.
- e) Management Fee derived by a management company.

Income from Business also includes:

- Any profit on debt derived by a person. (it is only applicable to such person, whose business is to derive such income. e.g.; a banking company)
- Any amount received by schedule bank from mutual fund, as share of profit.
- Profit earned on debts in course business shall be chargeable to ‘income from business’.
- Income on leasing by lessor, being banks, leasing companies etc.

Income derived from any trade, profession, sale of goods or provision of any services.

- Income from hire or lease of tangible movable property
- FMV of Perquisites derived by a person by virtue of business relationships.
- Management Fee derived by a management company

**Question No: 16 ( Marks: 3 )**

**Mr. Zeeshan an employee of federal government has been posted at Paris on 1<sup>st</sup> July, 2006. He came on a visit to Pakistan on 1<sup>st</sup> November, 2006 and returned back to Paris on 15<sup>th</sup> December, 2006. For the rest of the period pertaining to tax year 2007, he remained in UK.**

**Determine residential status for the tax year 2007 with respect to section 81 of Income Tax Ordinance 2001.**

**Answer**

**Mr. Zeeshan is resident of tax year 2007**

**Question No: 17 ( Marks: 3 )**

**Enumerate the essentials of Taxation Management.**

- **Understanding and application of updated laws particularly tax laws, rules and procedures.**
- **Application/use of benefits such as Tax credits, rebates, exemptions, reductions etc. available under the law.**
- **Maintenance of Records/Books of Accounts as per requirement of law.**
- **Disclosure of true facts (no concealment).**

**Question No: 18 ( Marks: 3 )**

**Determine tax year in the light of following information:**

- a) Mr. Kamran a rice exporter deriving income during the period from 1<sup>st</sup> January 2004 to 31<sup>st</sup> December 2004.**

**Answer : Tax year is 2005**

- b) M/S XYZ an insurance company having an accounting period from 1<sup>st</sup> January 2006 to 31<sup>st</sup> December 2006.**

**Answer : Tax year is 2007**

- c) Mr. X an individual derived income during the period from 1<sup>st</sup> July 2002 to 30<sup>th</sup> June 2003.**

**Answer : Tax year is 2003**

**Question No: 19 ( Marks: 3 )**

**Make a comparison between the residential status of Resident AOP and Resident Company.**

*Resident Association of Persons Sec. 84*

An association of persons shall be a resident association of persons for a tax year if the control and management of the affairs of the association is situated wholly or partly in Pakistan at any time in the year.

*Resident Company– Sec. 83*

A company shall be resident company for a tax year if:

- it is incorporated or formed by or under any law in force in Pakistan;
- the control and management of the affairs of the company is situated wholly in Pakistan at any time in the year;

or

- c. It is a Provincial Government or local authority in Pakistan.

**Question No: 20 ( Marks: 3 )**

**Is the income of non- resident taxed in Pakistan? Which part of his/her income is taxed?**

**Yes non-resident person charged only on Pakistan Source Income. Sec.11(6)**

**Business income of a non- resident person shall be Pakistan- source income to the extent to which it is directly or indirectly attributable to-**

- a permanent establishment of the non-resident person in Pakistan;
- Sales in Pakistan of goods or merchandise of the same or similar kind as those sold by the person through a permanent establishment in Pakistan.
- Other business activities carried on in Pakistan of the same or similar kind as those effected by the non-resident through a permanent establishment in Pakistan (or)
- Any business connection in Pakistan.

**Question No: 31 ( Marks: 5 )**

**Why Government levy tax on Person? What are the important elements that take into consideration while levying tax?**

**5. This question was related to identification of tax year of the given cases. (Marks 5)**