


Name:	
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, December 2018

Course: International Taxation Laws Course Code: LLBL 554 Semester: IX

Programme: B.Com., LL.B. (Hons.) Taxation Law

Time: 03 hrs.

Max. Marks: 100

Instructions:

SECTION A

S. No.	Statement of question	Marks	CO
Q 1	Statement of question		
1.	What do you understand with thin capitalization?	2	CO3
2.	Define the term "resident" under OECD DTAA.	2	CO3
3.	Define "immoveable property" under OECD DTAA.	2	CO2
4.	What do you understand with associated enterprises?	2	CO3
5.	Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in State. (that/other).	2	CO2

SECTION B

Q	Statement of question	Marks	CO
6.	Write a note on New Tax Base (Green Taxes: Energy, transport and other pollutive emissions/products).	5	CO2
7.	Write a short note on the following - a. Taxation of non-resident in India. b. Transfer Pricing	5X2 = 10	CO3, CO2
8.	Distinguish between the credit method and exemption method of avoiding double taxation.	5	CO3


SECTION-C

Q	Statement of question		
9.	What are the rules of interpretation of tax treaties? How will you differentiate the approach of interpreting the tax treaties in comparison with the other treaties under public international law?	10	CO3
10.	What so you understand with the arm's length principle in international taxation? What difficulties does it present for multinational enterprises? Can you suggest a better approach?	10	CO4

SECTION-D

Q	Statement of question		
11.	<p>DelCorp Co. incorporated in Cayman though its promoters belonged to USA. Delcorp major subsidiaries are present in the oriental countries, i.e. Hong Kong, Singapore, Japan and South Korea. In the last Board Meeting, Mr. Del who has major stake in Delcorp, proposed to venture into Indian market as the demand of Mobile phone was increasing exponentially in India. There are some domestic players only who are allowed to sell phones in India. But now market has been opened for the foreign players as well and Delcorp want to tap this opportunity. For this purpose, Delcorp established an assembly unit in Bangalore where it assembled mobile phones. After assembling the phones the company started selling the phone to the Indian customers through the online portals. Encouraged by the response from the Indian market, now it wants to make its presence in entire India. For this, it is looking a distribution partner having strong network with the pan Indian presence. For this purpose, it entered into negotiation with Alpha Mails Co. for acquiring a majority stake in the company. It wants to buy 60 % of the share from a promoter group to dislodge that promoter. Delcorp has approached you to know the tax implications of its sales of Laptops in India. Critically analyze all the issues, which may be involved. Both, India and Singapore & India and Cayman Island have DTA based OECD DTAA Convention. You may use the following additional information for this purpose (and allowed to take any presumption, if necessary)–</p> <p>Both the DTAA's are identical to OECD model convention on Income & Capital. All the States follow the classical system of corporate taxation and all the States follow the worldwide basis of taxation.</p>	30	CO4
12.	State A and B entered into a DTA based on OECD DTAA. State A is a Civil Law country whereas State B is a Common Law country. Traditionally, State B has been treating Customary Laws as the part of its Municipal Law. State A is very much concerned about the high rate of taxation being paid by the companies incorporate in State A. It has appointed a team of academicians to assess and interpret the nature and scope of the tax treaty with State A. The government of State B has approached to you. Based on facts above stated,	10	CO4

	what suggestions would you make to State B for interpreting the tax Treaty between A & B?		
13.	<p>A UK based mutual fund is contemplating making long-term investments in India, which is going to involve routing funds to India through any tax-efficient jurisdictions. The two jurisdictions currently under consideration are Mauritius and Singapore.</p> <p>A. What are the respective advantages of routing investments?</p> <p>B. Is there any clarity in Indian law regarding the impact of retrospective tax amendments on tax treaty entitlements?</p>	10	C02, CO3

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SECTION A

S. No.	Statement of question	Marks	CO
Q	Statement of question		
1.	What are the fiscally transparent entities?	2	CO2
2.	Define a place of business.	2	CO2
3.	Define Conduit Company.	2	CO2
4.	What do you understand with tax havens?	2	CO2
5.	Define Controlled Foreign Corporations.	2	CO2

SECTION B

Q	Statement of question	Marks	CO
6.	What are the methods of collecting taxation from non-residents in India?	5	CO3
7.	Explain how a state might seek to establish the limits of its tax jurisdiction in the cases of online contracting, as per the OECD DTAA Convention.	5	CO3
8.	What do you understand with the green tax base?	5	CO3
9.	The notion of fixed place of business has more exceptions than rules. Do you agree?	5	CO3

SECTION-C			
Q	Statement of question		
10.	Write a detailed note on future challenges in the realm of international taxation.	10	CO1
11.	OECD DTAA favors the capital exporter countries. Do you agree? Discuss to what extent UN DTAA model eradicates this problem.	10	C03
SECTION-D			
Q	Statement of question		
12.	<p>Mr. Capri and Ms. Anjani Cos. hold all the shares in the XYZ Co. (non- listed Public Limited Co.) which is a seller of assembled premium Laptops. The XYZ Co. is incorporated in Mauritius and until last year, it had grabbed more than 50% of market shares. The Company is profitable, and has been paying the corporate tax @ 25% PA. Now the govt. of Mauritius has allowed the foreign company to sale their laptops online and the XYZ is afraid of losing a large part of market share. Hence, the board of directors (including Capri and Anjani) have decided to foray in the India market, as the market is largely untapped; and now Indian government has very recently allowed the foreign players to sale their laptops to Indian customers online. The customers of XYZ would place the order online through the company website in India and make their payment online. The mobile phones were delivered directly to the homes of the customers from Mauritius through an intermediary based outside of India. Later in 2018, XYZ rented a large accommodation to store its laptops and recruitment was done to hire local employees. The company entered into the contract with a local courier company as well. But the increasing sales compelled the company to find out a local partner. XYZ identified K & G Co. as the most suitable partner for the purpose as it was already a top player in this field and had a very strong network in South & West. XYZ entered into the negotiation to acquire 100% of the shares and real estate (some properties were based in Mauritius).</p> <p>XYZ Co. Company has approached you to know the tax implications of its sales of Laptops in India. List all the issues involved in this case. How can it reduce the tax in India and Mauritius? Both the nations are the signatory to the OECD Convention and there is the DTA between two nations.</p>	30	CO4

13.	Distinguish between OECD Convention and UN Convention provisions with regard to the following - A. Permanent Establishment B. Dispute settlement C. Business Profits	20	C03
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