

Roll No.....

NATIONAL LAW UNIVERSITY, DELHI

LL.M. Degree Programme, I-Semester (Batch of 2018)

End-Semester Examinations, December- 2018

Paper: International Taxation

Time: 3:00 Hours

Total Marks: 50

Instructions:

1. Read the questions carefully and answer. Answer all the questions.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper except your roll no.

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- Q1. Discuss at least two main objectives of Double Taxation Avoidance Agreements and explain whether it is good for the developing countries to enter into DTAA's?

(Marks 15)

- Q2. Differentiate between the term 'business connection' and 'permanent establishment' with illustrations.

(Marks 10)

A non-resident US company 'X' (Assessee), entered into an agreement with 'Y Company' (Indian Shipping Company) in France to provide helicopter services (Repair and maintenance), and to fulfil the terms of the agreement, 'X' engaged another Japanese non-resident company 'Z' for repairs and maintenance of its helicopters during its operations. 'Z' carried repair services on helicopters piled in Germany only. Income Tax Officer held that 'X' has permanent establishment in India in terms of section 9(1) of the Income Tax Act and was, therefore, liable to pay income-tax. On appeal, the Commissioner (Appeals) reversed the finding of the Income Tax Officer on the ground that no helicopters, which were plied in India, were sent to 'Z' for repairs, nor were any repairs carried out by Z to those helicopters of the assessee during the relevant assessment year. In fact, Z rendered repair services in foreign country (Germany) qua only those helicopters of 'X' which were plied outside India.

In the light of the above facts and circumstance, explain whether 'X' has permanent establishment (PE) in India and therefore liable to pay tax in India or not? **(Marks 10)**

- Q3. M/s RTS Limited (assessee), is a company incorporated in Canada and is a tax resident of Canada. The assessee is engaged in the business of providing RTS Dealing – 1 and RTS Dealing – 2 (Electronic deal matching systems) enabling authorized dealers in foreign exchange such as banks, etc. to effect deals in spot foreign exchange with other foreign exchange dealers. The main server of the assessee is located in Geneva and the assessee has executed a Dealing Services Marketing Agreement with M/s. R India Pvt. Ltd ('RIPL') whereby RIPL will market the services of the assessee to the subscribers in India. During the Financial Year in issue, the assessee earned revenue of Rs. 5,00,00,000/- from its subscribers/ customers in India. The assessee claimed that the revenue is in the nature of business profit and can be taxable in India only if it has a Permanent Establishment (PE) in India. And, assessee further claimed that he had no PE in India and therefore, its revenue from the Indian subscribers are not liable to tax in India. The assessee has also claimed that the revenue earned by the assessee are not in the nature of royalty or fee for technical services and accordingly not liable to tax under the DTAA.

In the light of the above facts, explain whether RTS Limited had earned income from Royalty?

(15 Marks)