

NATIONAL LAW UNIVERSITY, DELHI
LL.M. Programme, I-Semester (Batch of 2019)
Repeat Examination, February - 2020
Paper: International Taxation

Time: 3:00 Hours

Total Marks: 50

Instructions:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Answer all the questions.
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- Q.1** The decree was awarded in favour of an Assessee (Company 'ABC' who is registered at Switzerland and decree-holder), who as per decree had awarded monies in respect of breach of contract and interest thereon. The department of Income Tax had issued notice to Assessee for paying tax on aforesaid 'compensation and interest received through decree' as it falls under the category of 'windfall gain' and, hence, covered under Article 22 of DTAA between India and Switzerland. Article 22 consists of income received from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any nature which could be taxed, if at all, in India. In the light of the above cases, explain whether compensation and interest received by the assessee as decree-holder was taxable in India? **(15 Marks)**
- Q.2** An employee of a company 'X' is entitled to use an office belonging to another company 'Y' (a newly acquired subsidiary) for a longer period in order to ensure that the later company complies with its obligations under the contracts concluded with the former company. Explain, the term 'Fixed Place of Business' in reference to 'Permanent Establishment' and also explain whether in this case, the office of company 'Y', which is at the disposal of the employee of company 'X' will constitute a Permanent Establishment? **(20 Marks)**
- Q.3** Company 'X' (Assessee) who is a US Tax Resident deals in the business of diamond grading and preparation of diamond dossiers. Its Indian subsidiary ('PIL') was an independent entity, rendering grading services to its clients in India and, all the service-related risk and client-facing risks with regard to stones sent to the assessee for grading purposes was borne by PIL. PIL had neither concluded any contracts nor secured any orders for the assessee in India, due to lack of authority. Explain whether PIL could be regarded as 'Agency PE' of the assessee in India? **(15 Marks)**