

NATIONAL LAW UNIVERSITY, DELHI

LL.M., Semester-I (Batch of 2021)

End Semester Assessment, December-2021

Paper: International Taxation

Total Marks: 50

Instructions:

1. Mail your assignments only to **submissions.llm@nludelhi.ac.in**
2. All questions are compulsory.
3. This is an open book exam. Students are free to consult their class notes as well as assigned reading materials.
4. No clarification shall be sought on the question paper.
5. Mention ONLY your Name, Roll No. and Subject Paper on the Cover/First page. Start writing your answers from the next/second page only. **Do not** mention your name and roll no on any other page.

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- Q.1. 'Rapple' (an American Company) was in the hotel business and 'Trapple' (an Indian Hotel Owner) engaged Rapple to provide some services in different phases for hotel development. Rapple therefore, entered into a comprehensive services agreement with Trapple and as a result, Rapple started working in Trapple's Hotel development project in India. Rapple did not use any of the employees of Trapple and used only its own staff. In fact, Trapple had very limited access to the place. Employees of Trapple had no direct access to the project and they were supposed to take prior permission from Trapple before doing anything on the project, Hotel.

In the light of the above facts, explain what is Permanent Establishment and as to whether the existence of Permanent Establishment (PE) of Rapple in India gets established and consequently, as to whether the payments received by Rapple would be chargeable to tax in India?
(Marks 20, Maximum: 1000-1200)

- Q.2. It is the duty of the liaison office of a foreign company 'X' situated at London, to collect the information on the industrial and economic policy of the Indian Government and furnish the same to the head office of the Company. It is also the function of the liaison office to procure tender documents and sent them to the head office. Some of their employees also work as interpreters for the overseas personnel whomsoever travels to India. No condition of RBI was violated in setting up of the liaison office.

In the light of the above facts, explain as to whether the work performed by the liaison office can be termed as preparatory or auxiliary in nature and does it tantamount to Permanent Establishment?
(Marks 10, Maximum: 700-1000 Words)

- Q.3. Discuss any two considerations which have to be borne in mind while determining as to when any agent can be considered as Independent for the purposes of Para 6 of Article 5 of the OECD Model Convention. Also explain, whether a commission agent, who not only sells the goods of the enterprise in his own name but also habitually acts as a permanent agent in relation to that enterprise and has authority to conclude contract, can be termed as a Dependent Agent or an Independent Agent for the purposes of establishing Permanent Establishment of the Enterprise?
(Marks 10, Maximum: 700-1000 Words)