

FINAL EXAMINATION

June 2015

P-16(TMP)
Syllabus 2012

Tax Management and Practice

Time Allowed: 3 Hours

Full Marks: 100

The figures in the margin on the right side indicate full marks.

Wherever required, the candidate may make suitable assumptions and state them clearly in the answer.

Working notes should form part of the relevant answer.

All sub-divisions of a question should be answered continuously.

All questions in Income-tax relate to the assessment year 2015-16, unless stated otherwise.

SECTION A

Tax Management

Answer any five questions (14 marks each) from this section.

1. (a) Sarath Dtergents Ltd., suffered heavy losses due to a fire accident which happened in their factory on 01-05-2014.

The following particulars are furnished to you : ₹

(i) Excise duty on finished product is 12%. In addition, Education cess and SAH Education cess are chargeable.	
(ii) Transaction value of finished goods destroyed in fire	8,00,000
(iii) Value of input services used in the manufacture of finished products (Including total service tax of ₹ 37,080)	3,37,080
(iv) Value of input goods used in the manufacture of finished products (Including Canvat credit of ₹ 20,600)	2,20,600
(v) Insurance compensation received from the insurance company on 1-12-2014 for loss of stocks	8,00,000

You are required to :

- (i) Compute the amount of remission of duty granted to the assessee under Rule 21, of the Central Excise Rules, 2002 assuming that the necessary conditions stand fulfilled. 2

Please Turn Over

- (ii) Compute, the quantum of Cenvat credit to be reversed, if any. 3
- Will your answer change, if the amount of insurance compensation received is ₹ 8,50,000? 2
- (b) Balaji, an importer, has imported a machinery from Tokyo, in March, 2015 as per following details :

FOB value of machinery	USD	40,000
Date of arrival at Chennai port		12/3/2015
Bill of entry presented on the same day.		
Exchange rate was 1 USD = ₹ 65		
Customs duty on this date		15%
Goods were placed at the customs warehouse.		
Date of clearance from warehouse		22/7/2015
Exchange rate was 1 USD = ₹ 66		
Customs duty on this date		14%
CVD payable for the machinery is		10%

Required to find out :

- (i) Total Customs duty payable, and 5
- (ii) Interest, if any, payable by the importer. 2
2. (a) Ray Charitable Trust was formed on 1st April, 2013. The object of the trust is to provide financial assistance to the individuals who are below the poverty line and undergoing medical treatment in hospitals. The trust makes direct payments to the concerned hospitals where the individuals are admitted for treatment.

The trust applied for registration under section 12AA of the Income-tax Act, 1961 on 4th April, 2015 and the registration was granted by the Commissioner of Income Tax on 30th April, 2015.

Income of the trust from properties held in trust and voluntary contribution (not forming part of corpus of the trust) during the previous year 2013-14 and 2014-15 were ₹ 3.50 lacs and 5 lacs respectively. The trust applied ₹ 2 lacs and 3.50 lacs respectively, out of such incomes of the two years, towards its objects/purpose.

The trustees seek advice from you as to whether the trust is entitled to exemption under section 11 in

the assessment for Assessment Year 2014-2015, even though registration under section 12AA was sought and granted in April, 2015. The proceeding for Assessment Year 2014-2015 is pending before the Assessing Officer.

What should be your opinion?

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- (b) BKG LLP, a Limited liability partnership engaged in production of micro ovens is entitled to deduction under section 10AA of the Income-tax Act, 1961 in respect of export profit of a unit established in a notified special economic zone (SEZ). It has another unit engaged in production of same item, but this unit is not entitled to deduction under section 10AA. Relevant details are furnished below :

Profit of unit located in SEZ	₹ 30,50,000
Export sales of above unit	₹ 90,00,000
Domestic sales of above unit	₹ 10,00,000
Profit of unit located in other area	₹ 10,00,000

Compute the income-tax liability of the assessee-LLP for Assessment Year 2015-16.

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3. (a) Mr. Rohit sold a house property on 19-01-2015 for ₹ 110 lakhs. The stamp valuation authority assessed the value at ₹ 120 lakhs. The property was inherited by him from his grandmother by means of a 'will' in April, 2014. The property was originally acquired by his grandmother in April, 1979 for ₹ 2 lakhs. The fair market value of the asset on 01-04-1981 was ₹ 4 lakhs.

Mr. Rohit deposited ₹ 30 lakhs in REC Capital Gain Bonds in March, 2015 and ₹ 40 lakhs in NHAI Capital Gain Bonds in May, 2015. He acquired a residential house property in Colombo, Sri Lanka for ₹ 35 lakhs (converted in Indian rupees) in June, 2015.

Cost inflation indices : 1981-82 = 100

2014-15 = 1024

Compute the amount of capital gain chargeable to tax in the hands of Mr. Rohit for the assessment year 2015-16.

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- (b) Hema Chemicals Pvt. Ltd., was a manufacturer of goods falling under Chapter headings 32 and 84 of the First Schedule to the Central Excise Tariff Act. The goods falling under Chapter heading 84 were wholly exempt from duty vide an exemption notification. However, by mistake, duty was paid by the assessee in respect of such goods. For claiming SSI exemption, the assessee excluded such exempted turnover, but the same is opposed by the Department on the ground that the assessee had paid duty on the goods falling under one Chapter heading and the turnover attributable to it cannot

be excluded. The assessee has otherwise fulfilled all the necessary conditions for SSI exemption.

Test the veracity of the rival contentions, with the help of decided case law.

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(c) Brett Lee gives you the following information for the previous year 2014-15:

	₹
(i) Income from business (computed)	6,00,000
(ii) Dividend income from shares in listed Indian companies	90,000
(iii) Consultancy charges paid to investment consultant for investing in shares referred in (i) above. This has been deducted while computing business income given in (ii) above.	8,000
(iv) Interest expenditure relating to both taxable and non-taxable income. The entire amount has been deducted while computing income from business given in (i) above.	1,00,000

Value of investments on the first and last days of the previous year are ₹ 8 lakhs and ₹ 10 lakhs respectively.

Value of total assets appearing in Balance Sheet on the first and last day of the previous year are ₹ 40 lakhs and ₹ 50 lakhs respectively.

Brett Lee claims that no expenditure was incurred for earning exempt income during the year. The Assessing Officer is not satisfied with the claim of the assessee.

Compute the total income of Brett Lee for the assessment year 2015-16.

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4. (a) An interior designer based at Mumbai, renders his services in May 2014, to an Indian MNC based at New Delhi, for construction of a shopping mall at Dubai.

Determine the Place of Provision of Service (PoP) in the above situation and discuss if the service is taxable in India.

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(b) Daffodils Ltd., an Indian company rendered services to its off shore subsidiary Lily Inc., an associated enterprise, electronically. No invoice was raised by Daffodils Ltd., the assessee. An advice was given to the effect that the same will not be exigible to service tax, as the point of taxation cannot be determined.

Advise the assessee suitably.

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(c) Vasudha Automobiles Pvt Ltd., the assessee, assembled a machinery at its factory, to be used as

testing equipment. There were clear disclosures in its financial statements, as well as in the Directors' Report that the impugned machine was added as testing equipment. It was further stated by the assessee that such assembling was done to save precious foreign exchange, if a similar machine is to be imported.

The management seeks your advice as to whether such assembling will be regarded as manufacture for the purposes of excise duty.

Advise the assessee suitably, with the help of recent decisions.

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5. (a) Compute the net wealth of Mrs. Hemalatha, a resident, as on 31-3-2015 from the following information:

Particulars	Amount (₹ in lacs)
Residential house let out for 275 days	56
Advance given for purchase of urban land	32
Motor car exclusively used for business purposes	10
Jewellery	13
Market value of units in DEF Gold Mutual Fund	12
Industrial plot in urban area purchased on 12-1-2012	25
Loan taken for above plot	8

You are required to adduce brief treatment of each item in your answer.

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- (b) Ajay has exported certain products in February, 2015 and furnishes the following data:

Product exported	FOB value (₹)	Market value (₹)	Rate of duty drawback
I	3,00,000	2,40,000	30%
J	90,000	60,000	0.8%
K	2,200	2,300	2%
L	6,00,000	6,50,000	3%

Discuss whether any duty drawback is admissible under section 75 of the Customs Act, 1952. You are further informed that the import value of L is ₹ 7,00,000.

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- (c) Name any three schemes adopted in India for giving Import-Duty Relief to exporters.

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6. (a) Mrs. Sarala, a practising Cost Accountant has raised a bill on her client Miss. Chinmayi, on 23-3-2015, for the following amount:

	₹
Fees	1,00,000
Service tax at 12.36%	12,360
Total amount	1,12,360

On 26-3-2015, the client pays the assessee ₹ 1,05,000 in full settlement of the bill. What is the Point of Taxation?

What is the quantum of service tax liability and assuming that e-payment is made, what is the due date for making payment of service tax?

Will there be a change in quantum of service tax, if the client refuses to pay the service tax component and pays a sum of ₹ 1,00,000 only, in toto. 4

- (b) Lasya (P) Ltd. engaged in manufacture of toys, reported a net profit of ₹ 60,00,000 in the Profit and Loss Account for the year ended 31.03.2015. The following amounts were debited/credited to profit and loss account:

- (i) Non-compete fee paid to an ex-director ₹ 10,00,000 on 10.12.2014 and no tax was deducted at source.
- (ii) One employee who was employed only upto December 2014 was paid salary of ₹ 5,00,000 and on which no tax was deducted at source. The whereabouts of the employee is not known and it is not possible to ascertain whether he has admitted and paid income tax on such salary income.
- (iii) ₹ 11,50,000 was incurred towards sponsoring of higher studies of a director's son in United Kingdom.
- (iv) ₹ 15,00,000 was incurred on glow-sign boards displayed at dealer-outlets and on which depreciation at 15% was claimed.
- (v) One factory in Meerut was closed and a sum of ₹ 12,00,000 was paid as retrenchment compensation to employees on its closure.
- (vi) Dividend received from its subsidiary company located in Mysore ₹ 1,05,000.
- (vii) ₹ 1,20,000 representing amount forfeited after the buyer of a vacant site backed out of the agreement.

Compute the total income of Lasya (P) Ltd. for the assessment year 2015-16 (ignore MAT provisions). 6

- (c) Vimala & Co., a partnership firm, which suffered business loss of ₹ 5 lakhs and unabsorbed depreciation of ₹ 4 lakhs, filed its return of income for the assessment year 2014-15 in June, 2014. The firm originally consisted of five equal partners of which two partners retired from the firm on 01.04.2014. The firm has income of ₹ 8 lakhs for the previous year 2014-15.

It wants to know the 'due date' by which the return of income is to be filed for having unhampered carry forward of loss and depreciation. Assume the turnover of the firm as ₹ 105 lakhs. Your answer must be supported by reasons. 4

SECTION B

Tax Practice & procedures

Question No. 9 is compulsory.

Answer any one question from the rest in this section.

7. (a) A manufacturer's units were subjected to a search by the Excise Department. Thereafter, the manufacturer got his units registered a few days after the search. A consolidated return was filed for all the units subsequently, including for the period prior to the search. When proceedings were initiated by the Commissioner, a Settlement application was filed. The same was rejected by the Settlement Commission on the ground that the required conditions had not been fulfilled.

Is the rejection of the Settlement application justified in law? 5

- (b) Jhunjunwala Pipes Ltd., claimed Cenvat credit on the basis of private challans and not on the basis of prescribed documents. This was disallowed by the Department. Is the assessee entitled to the Cenvat credit? The documents were found genuine. You are required to offer your view on the basis of decided case law. 4

- (c) Swaran Singh, a resident individual, sold a factory building purchased by him 5 years back on 1-2-2015. He had been allowed depreciation during all the past years. This was the only asset in the block. He purchased a residential house in Chennai on 1-6-2015, investing the whole of capital gains. He does not own any other house property. He has claimed exemption under section 54F of the Income-tax Act, 1961. The Department opposes the claim of the ground that the asset sold was a depreciable asset and the resultant capital gain was short-term in nature.

(i) Is the assessee eligible for the exemption? 4

(ii) Will your answer be the same if the new residential house purchased is in London? 1

8. (a) Discuss with brief reason whether the following are taxable services as per the provisions of the Finance Act, 1994: 1×5
- (i) Services rendered by a service provider from India, for use in Singapore.
 - (ii) Services rendered by a service provider having his registered office in Kashmir, in the State of Tamil Nadu.
 - (iii) Services rendered by a betting house in Kerala.
 - (iv) Services rendered to an EOU.
 - (v) Services rendered outside India, received and used in India by an individual otherwise than for personal use.
- (b) Surya Petro P. Ltd., made a claim for deduction under section 80-IC of the Income-tax Act, 1961, which was disallowed. The Assessing Officer seeks to levy penalty under section 271(1)(c) of the Income-tax Act, 1961 for making an incorrect claim in the return of income. Is the same justified in law? 4
- (c) State whether tax has to be deducted at source under the provisions of the Income-tax Act, 1961:
- (i) Vaasu & Co., a partnership firm pays following amounts as interest to the partners in the firm X ₹ 43,000, Y ₹ 9,000. X is resident in India, Y is a non-resident and he is resident of Country J with which India has no DTAA. 3
 - (ii) Barun Pvt. Ltd., has paid ₹ 35,000 as sitting fees to D, who is a director not employed with the company. 2
9. (a) Strawberries Pvt. Ltd., a domestic company, has derived income from India, as well as from Country Y, with which India does not have a DTAA. The following details of income earned during the year ended 31-3-2015 are made available:

Type of Income	Earned in India (₹)	Earned in Y (₹)
Gross rental income from house property	12,00,000	6,00,000
Municipal taxes paid	40,000	30,000
Own business income	7,20,000	11,20,000
Share in profits of firm	2,50,000	3,00,000
Agricultural income	4,00,000	2,41,000

Qn. In country Y, municipal taxes are not allowed as deduction and the gross rentals are taxed. Agricultural income and share income from firm in Country Y are exempt in that nation. The Income tax rate in Y is flat 25%.

Ascertain the income-tax payable by the assessee. 8

(b) Latha Footwears Ltd., is a manufacturer of footwear. In the course of manufacture of the final product, it produces and captively uses a fabric called "double texturised fabric", which is never marketed anywhere. The Department contends that this is a distinct and separate product and there is a theoretical possibility of it being marketable, and that hence excise duty is leviable. Is the contention of the Department justified in law? 5

(c) The assessee mistakenly paid higher excise duty in March, 2015, even though the same had been reduced by way of a notification. The buyer of the assessee however refused to pay the duty at higher rate and paid only at the correct/reduced rate and raised debit notes on the assessee for the difference. Based on this, the assessee applied for refund of excess duty paid.

Will the assessee succeed in getting the refund? 3