

FINAL EXAMINATION

June, 2016

P-16(TMP)
Syllabus 2012

Tax Management and Practice

Time Allowed: 3 Hours

Full Marks: 100

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

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

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 2016-17, unless stated otherwise.

Question No.1 is compulsory and answer any five from the rest of 7 questions.

1. (a) Choose the most appropriate alternative(s):

1×5=5

- (i) An application under section 12AA of the Income-tax Act for registration of a charitable or religious trust or institution is to be disposed of by the Principal Commissioner of Income-tax or Commissioner of Income-tax, by passing an order before the expiry of
- (A) 3 months from the end of the month in which the application for registration was received.
- (B) 6 months from the date of submission of application by the trust or institution.
- (C) 6 months from the date of completion of enquiry by the Principal Commissioner of Income-tax or Commissioner of Income-tax.
- (D) 6 months from the end of the month in which application for registration was received.
- (ii) Which of the following conditions are to be satisfied for levy of Central Excise Duty? [If more than one condition is applicable, write both, say for example, A, B and C]
- (A) The final product should be excisable goods.
- (B) Such product should be manufactured or produced.
- (C) Such product should be owned by the manufacturer.
- (D) Such manufacture or production should be carried out in India.
- (iii) In case of a company which is not an Indian company, the determining factor for its residential status under the Income-tax Act, 1961 is
- (A) whether there is a Permanent Establishment in India.
- (B) whether atleast one executive director is a resident in India.
- (C) whether the place of effective management is in India.
- (D) None of the above

Please Turn Over

- (iv) Input which is eligible for CENVAT credit is
- (A) medicines for use in company medical clinic.
 - (B) consumables used for maintenance of convention hall given on rent to outsiders.
 - (C) diesel used for vehicles used for transporting raw materials to factory.
 - (D) motor vehicles.
- (v) The rate of tax deductible at source on the interest income paid to non-residents by real estate investment trust (REIT) would be
- (A) NIL
 - (B) 5%
 - (C) 10%
 - (D) 30%

(b) Fill up the blanks:

1×5=5

- (i) Leasing of machinery with transfer of right to use _____(is/is not) liable to service tax.
- (ii) Rate of surcharge applicable to a foreign company having total income of ₹ 12 crore is _____%.
- (iii) Service provided by an Indian company to another Indian company by way of undertaking repairs to machinery located in Singapore is _____(taxable /not taxable) for levy of service tax purposes.
- (iv) In order to claim exemption under section 54B in respect of capital gain from transfer of agricultural land, land should have been used for agricultural operation by the assessee or his parents for at least _____ years before transfer.
- (v) Penalty for non-registration of factory/warehouse under the Central Excise Rules would be up to ₹ _____.

(c) Answer the following with brief reasons:

2×5=10

- (i) An SSI unit omitted to file its return for the quarter ended 31.12.2015. It filed the return ER-3 on 10.02.2016. What is the maximum amount that can be collected as late fee for filing the return after the due date?
- (ii) What is the point of taxation when service tax is payable under reverse charge, where an invoice has been raised?
- (iii) Can a partnership firm or HUF with less than ₹ 50 lakhs turnover opt to pay service tax on receipt basis?
- (iv) The premises of Mr. Dayal was affected by cyclone leading to loss of stock to the extent of ₹ 2 lakhs and on that ₹ 80,000 was allowed as deduction in the income-tax assessment. After 2 years, the State Government awarded ₹ 2 lakhs as compensation to Mr. Dayal. How much of the receipt is chargeable to income-tax or exempt from income tax?
- (v) A proprietor declares his turnover for the financial year 2015-16 as ₹ 80 lakhs and wants to declare income under section 44AD of the Income-tax Act, 1961. He has brought forward business loss of ₹ 1 lakh and unabsorbed depreciation of ₹ 3 lakhs relating to assessment year 2015-16 eligible for set off. Compute his total income for the Assessment Year 2016-17.

2. (a) AFB Ltd. manufactures water heaters and has its factory in Pune. During March, 2016, it stock transferred its entire production to its central depot in Nagpur from where the products are sold to customers. The relevant particulars are as follows:

No. of water heaters transferred to depot	1000 nos.
Sale price to independent buyers ex-depot as prevailing during the month	₹ 5,000 per piece.
The following are included in ex-depot sale price:	
Freight cost from factory to depot	₹ 5 lakhs
Freight cost from depot to customers	₹ 10 lakhs
Packing cost	₹ 1 lakh

The company increased the sale price of water heaters to ₹ 5,500 per piece with effect from 10.04.2016.

Out of the 1000 nos. water heaters transferred to depot during the month, 700 nos. were sold to customers from the depot on or after 14.3.2016 at the increased price of ₹ 5,500 per piece.

- iii Calculate the Central Excise Duty payable by AFB Ltd. for the month of March, 2016.

Assume excise duty rate at 12.5%. Ignore Cess.

8

- (b) AB Private Limited, an Indian company (having 5,000 shares of ₹ 100 per share) is engaged in producing cooking spices. CD Private Ltd., another Indian company is engaged in producing edible oil and processing foods. It is decided that AB Private Limited will be amalgamated with CD Private Limited with effect from 1st March, 2016. The total consideration for transfer of assets is ₹ 9.75 lakhs, the break-up of which is as follows:

Capital assets ₹ 6 lakhs.

Net current assets ₹ 3.75 lakhs.

Consideration is to be satisfied by issue of 3 equity shares of CD Private Limited at ₹ 130 per share for every 2 equity shares of AB Private Limited.

One Mr. Ganesh held 700 equity shares in AB Private Limited which were acquired in the financial year 2009-10 for ₹ 2,00,000. Mr Ganesh received 1,050 equity shares from CD Private Limited consequent to amalgamation in March, 2016.

Against the above backdrop, you are required to answer the following questions:

- (i) Does the transaction of amalgamation attract any income-tax liability in the hands of AB Private Ltd.?
- (ii) Compute capital gain in the hands of Mr. Ganesh on receipt of shares of CD Private Limited.
- (iii) Compute capital gain in the hands of Mr. Ganesh if he sells the shares of CD Private Limited at Rs.600 per share on 31st March, 2016.
- (iv) Will sale of shares of CD Private Limited by Mr. Ganesh affect the tax benefit, if any availed by AB Private Limited?
- (v) Suggest any investment plan for Mr. Ganesh to mitigate his tax liability.

Note: Cost inflation index: FY 2009-10: 632; FY 2015-16:1081.

8

3. (a) Vasumathi Hotels has provided the following information for the month of December, 2015:

Sl. No.	Services Provided	₹
(i)	Outdoor catering services provided to a coaching institute, coaching students for civil service examination	3,00,000
(ii)	Renting of rooms (declared tariff ₹ 3,000 per room per day)	2,10,000
(iii)	Supply of food in convention centre for organizing convention along with rent thereof	5,00,000
(iv)	Catering services provided to a CBSE affiliated school	1,00,000
(v)	Serving food in a restaurant with air-conditioned facility	7,00,000

Note: The amounts mentioned above are exclusive of service tax. You may assume that the assessee is not eligible for small service provider exemption under Notification No. 33/2012 and does not avail CENVAT credit on inputs and capital goods.

You are required to compute the amount of service tax liability of Vasumathi Hotels for the month of December, 2015.

8

- (b) Krishna Ltd. distributed a dividend of ₹ 42 lakhs on 28.09.2015. It has received the following dividends:
- A sum of ₹ 5,00,000 from Info-Computer (P) Ltd. in which it holds 90% equity capital. Info Computer (P) Ltd. paid DDT under section 115-O on the dividend paid.
 - A sum of ₹ 20,00,000 from Norway Trading LLC, Dubai in which Krishna Ltd. has 60% equity capital.

From the above information, compute the amount of dividend distribution tax payable by Krishna Ltd.

8

4. (a) Compute the customs duty payable by an importer of a machine with reference to the following particulars:

Particulars	US\$
Ex-factory price of the exporter	5,000
Transport charges from the exporter's factory to port of shipment	250
Handling charges for loading in the ship	25
Buying commission paid by the importer	20
Ocean freight from exporting port to India	500
Insurance charges	Not ascertainable

Exchange rate to be considered: 1 \$ = ₹ 60.

Assume basic customs duty rate at 10%. Excise duty of similar goods manufactured in India is 12%. Ignore Cess.

8

- (b) Mr. Kalam is entitled to salary of ₹ 50,000 per month. He is given an option by his employer either to choose house rent allowance or rent free accommodation owned by the company. The HRA would be ₹ 7,500 per month though he has to pay actual monthly rent of ₹ 10,000. He is employed in the city of Jaipur.

Compute the most beneficial option which the assessee should exercise, based on net take-home cash benefits.

8

5. (a) (i) Mr. Thomas provides taxable service which are exported. He claimed rebate of service tax paid on input services used in providing the services which were exported by him in July, 2015. The Assistant Commissioner of Central Excise has denied the claim of Mr. Thomas and the disallowance was confirmed by Commissioner (Appeals).

Does Mr. Thomas have the right to file an appeal with CESTAT, against the order of Commissioner (Appeals)? Your answer must be with reference to the amendment made by the Finance Act, 2015.

4

- (ii) State the 'due date' of return under the Central Excise Act/Rules in respect of the following cases:

4

(A) A manufacturing company not eligible for SSI concession.

(B) Manufacturing company eligible for SSI concession even if it does not avail the concession.

(C) Half yearly return, in the case of persons liable to pay service tax.

(D) Quarterly return of CENVAT-able invoices issued by registered dealers.

- (b) (i) In 2010 Brijesh borrowed ₹ 15 lakhs at 15% interest per annum from Ashok for his business purpose. This loan has not been repaid so far by Brijesh. His average bank balance in current account was around ₹ 7 lakhs on which the bank was not paying him any interest. On 1st June, 2014 Brijesh's wife, Tina borrowed from him ₹ 7.50 lakhs repayable on demand at 7.5% interest per annum. She lent this money and received interest @ 18% p.a. In course of assessment of Brijesh, the Assessing Officer disallowed 50% of this interest paid to Ashok on the ground that the loan to the extent of 50% has been diverted for non-business purpose i.e. for lending to wife. Further, interest earned by Tina by advancing ₹ 7.50 lakhs was included in the hands of Brijesh by invoking section 64(1)(iv).

5

Examine the correctness of the actions of the Assessing Officer.

- (ii) ABN Bank Ltd. is incorporated in Australia and it carries on banking business. It has branches in different countries including India. During the Financial Year 2015-16, the Indian branch of the bank paid interest of ₹ 25 lakhs and ₹ 10 lakhs to its head office in Australia and the branch office in London.

Explain with reasons whether interest so paid shall be liable to tax in India in the hands of HO and London branch.

3

6. Ind Bharat Ltd. is engaged in manufacturing of textiles. Its Statement of Profit & Loss shows a Net Profit of ₹ 108 lakhs for the year ended 31.03.2016, after debiting or crediting the following items: 16
- (i) Depreciation debited as per SLM basis ₹ 10 lakhs.
 - (ii) Normal depreciation allowable ₹ 21 lakhs. The company has made addition to machinery, a new twisting machine on 12th June, 2015 of ₹ 15 lakhs. The new machine was put to use on 30th June, 2015.
 - (iii) The company made cash payment for purchases on 05.06.2015 (bank holiday) ₹ 2,00,000.
 - (iv) A bad debt write off in Financial Year 2012-13 of ₹ 5,00,000 was allowed in the assessment. ₹ 2,00,000 was recovered this year and is credited to general reserve.
 - (v) Cash payment of ₹ 80,000 to a transporter on 04.06.2015 and who furnished his PAN.
 - (vi) Sales tax of ₹ 1,50,000 for the Financial Year 2014-15 was paid on 10.02.2016.
 - (vii) Rent paid ₹ 2,40,000 inclusive of service tax of ₹ 28,000. Tax was not deducted on the service tax on rent paid.
 - (viii) Expenditure towards alteration of Memorandum of Association for increase in authorized share capital ₹ 1 lakh.
 - (ix) Legal expenses for issue of bonus shares ₹ 5,00,000.
 - (x) Donation paid to a political party ₹ 4,50,000 by cheque and ₹ 2,70,000 by cash.
 - (xi) Purchase of raw material from a company in which the directors are interested for ₹ 32,00,000 and the market value of the goods is ₹ 30 lakhs.
 - (xii) Expenditure incurred towards complying with Corporate Social Responsibility obligation under the Companies Act, 1956 ₹ 3 lakhs.

Compute the total income and tax payable by the company for the Assessment Year 2016-17. Ignore MAT provisions.

7. (a) (i) An advocate rendered service to a private limited company engaged in business and raised a bill with the following amounts: 4
- (I) Legal fees ₹ 50,000;
 - (II) Reimbursement of out of pocket expenses like travelling, photocopying, typing etc. ₹ 5,000;
 - (III) Court fee paid on behalf of company ₹ 10,000.
- Compute the service tax and Swachh Bharat Cess liability in respect of the above.
- (ii) Do you agree that the circulars issued by the Central Board of Excise and Customs (CBEC) contrary to the judgments of Supreme Court and High Courts are not binding on the authorities under the respective statutes? 4
- (b) A manufacturer availed CENVAT credit on service tax paid on transportation bills for transporting its final products from its factory to the premises of its customers. Such credit was disallowed by the department on the ground that such freight related to transportation beyond the place of removal. The manufacturer contends that since as per terms of contract the ownership of the products is transferred to the customers only after reaching the customers' premises, such freight related to transportation upto the place of removal and therefore the credit should be allowable. Discuss whether the contention of the manufacturer is correct. 8

8. (a) 'Advance Authorisation' is not transferable, while material imported under DFIA (Duty Free Import Authorisation) will be transferable after fulfillment of export obligation. Is this true? Write a brief note to the management about Advance Authorisation and DFIA in this context. 8
- (b) (i) Ms. Mala, a resident (aged 56) derived income of ₹ 15,00,000 from a business in a foreign country during the Financial Year 2015-16. She paid flat tax at 30% on the above said income. She has rental income of ₹ 12,00,000 from a let out property at Mumbai for the year. Interest on moneys borrowed for the acquisition of house property at Mumbai amounts to ₹ 90,000. The Government of India does not have any agreement with the foreign country for avoidance of double taxation. Compute the tax payable by Ms. Mala for the Assessment Year 2016-17. 4
- (ii) ABC Ltd. an Indian company exported goods to XY Inc. for ₹ 29 lakhs. XY Inc. is located in a Notified Jurisdictional Area (NJA).

ABC Ltd. charged the following for the below said countries to whom similar goods of identical quantity and trade terms were sold:

Company Name	Location	Value of export
EF Inc.	USA	30 lakhs
RRLLP	UK	36 lakhs

Assume the above said companies are not associated enterprises of ABC Ltd., and that permissible variation notified by Central Government for such class of international transaction is 3% of the transaction price. Examine the tax implications under section 94A of the Income-tax Act, 1961 in respect of sale of goods to XY Inc. 4