

FINAL EXAMINATION

June 2013

F P14(TXM)
Syllabus 2008

Indirect & Direct—Tax Management

Time Allowed: 3 Hours

Full Marks: 100

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

Answer Question No. 1 (carrying 25 marks), which is compulsory and any five from the rest.

1. Fill in the blanks:

1 × 25 = 25

- (i) Sec. 44AB of Income Tax Act makes it obligatory for every person carrying on business to get his accounts of any previous year, audited by an accountant before specified date if the total sales, turnover or gross receipts in business for the previous year exceeds _____ (Rs. 100 lakhs/Rs. 60 lakhs).
- (ii) Asstt./Deputy/Joint Commissioner is required to scrutinize the return filed by the assessee who is paying duty of more than rupees five crores per annum through PLA under Central Excise Law in every _____ (six/twelve) months and send a report to Commissioner.
- (iii) Power generating unit which claims depreciation on SLM basis _____ (can/cannot) claim additional depreciation under sec. 32(1)(iia) of Income Tax Act @ 20% of actual cost of eligible new machinery or plant acquired and installed in a previous year.
- (iv) As per Sec. 10(10D) of Income Tax Act, any sum received under a life insurance policy (including the bonus on such policy) is exempt, provided in respect of such policy issued on or after 01.04.2012 in respect of which the premium payable for any of the years does not exceed _____ (10%/20%) of the actual capital sum assured.
- (v) Cenvat Credit _____ (can/cannot) be utilized for payment of Service Tax in respect of services where the person liable to pay tax is the Service Receiver.
- (vi) In case of goods covered under Section 4A of the Central Excise Act, packing or repacking and relabelling _____ (is/is not) treated as deemed manufacture.
- (vii) An Assessee eligible for SSI concession (even if it does not avail the concession) is required under rule 12(1) of Central Excise Rules to file quarterly return in the prescribed format _____ (ER 3/ER 8) by 10th of next month of the quarter.
- (viii) Goods manufactured in notified "designated area" in the continental shelf and Exclusive Economic Zone of India is _____ (liable/ not liable) to excise duty.
- (ix) A certificate of registration shall be issued in prescribed Form ST-2 under Service Tax laws within _____ (7/30) days of the receipt of the application.
- (x) A residential property which is let out for a minimum period of _____ (240/300) days in the previous year is not treated as asset u/s 2(ea) of Wealth Tax Act.
- (xi) _____ (Green/Yellow) bill of entry is for clearance from warehouse on payment of customs duty.
- (xii) Mr. A holds 25% of the equity shares in LMN Ltd., a listed company. He has borrowed a sum of rupees ten lakhs from this company on 21.03.2013. As on this date, the accumulated profits and free reserves are rupees eight lakhs. The deemed dividend taxable under section 2(22)(e) of the Income Tax Act, 1961 is Rs. _____ (8,00,000/10,00,000/Nil).
- (xiii) Where a job work is given to a partnership firm by a corporate assessee, the rate of tax to be deducted at source under section 194 C of the Income Tax Act, 1961 is _____ % (1/2/4).
- (xiv) E filling of service tax return is _____ for a non-corporate assessee (mandatory/optional).

Please Turn Over

- (xv) Cenvat credit _____ be availed by a service provider in respect of special CVD paid u/s 3(9) of Customs Tariff Act (can/cannot).
- (xvi) EOU can sell a portion of their production in Domestic Tariff Area (DTA) upto 50% of their _____ value of exports in earlier year (FOB/CIF).
- (xvii) The net wealth computed under the provisions of the Wealth Tax Act shall be rounded off to the nearest _____ Rupees (one hundred/one thousand).
- (xviii) For a farm house not to be treated as an "asset" under section 2(ea) of the Wealth Tax Act, it should be located _____ kilometers beyond the municipal or corporation limits (8/25/16).
- (xix) Demurrage charges payable to port trust authorities for delay in clearing goods _____ (are/are not) to be added for calculating assessable value of goods.
- (xx) Under special brand rate of duty drawback, the rate should not be less than _____ (5%/1%) of FOB value of the product except when amount of drawback per shipment is more than Rs. 500.
- (xxi) Bonafide Samples and prototypes up to _____ (Rs. 10,000/Rs. 5000) are exempt from customs duty if imported by post or in Air Craft or by Courier Service.
- (xxii) Under Public Provident Scheme 1968, the maximum limit for subscription by an individual for the A.Y. 2013-14 is _____ (Rs. 70,000/Rs.1,00,000).
- (xxiii) Under section 44 BBA of Income Tax Act, 1961 _____ (8%/5%) on turnover is deemed to be income from business of operation of Aircraft in case of Non Resident.
- (xxiv) CENVAT Credit _____ (is/is not) available if there is loss of input due to leakage in storage tank during process.
- (xxv) Cost of installation if charged separately _____ (shall/shall not) be a part of sale price for the calculation of sales tax liability.
2. (a) Discuss briefly with reference to decided case laws as to how the 'value' shall be determined under section 14 of the Customs Act, 1962 read with Customs Valuation Rules, 1988 in the following cases:
- (i) Goods are offered at specially reduced price to buyer and the buyer is asked not to disclose the specially reduced price to any other party in India. 2
- (ii) There has been a price rise between the date of contract and the date of importation. The contract was over 6 months before the date of shipment. 2
- (b) Explain with reference to Foreign Trade Policy 2009-14.
- (i) What do you mean by "Status Holder"? Who are eligible for recognition as Status Holder? 2
- (ii) What is the average export value to be achieved to become the Status Holder? 2
- (c) M/s. Akash Ltd. manufactured an Intermediate Product 'A' using the raw material 'X' on 28th Feb., 2013. Product 'A' is movable, marketable and excisable. Intermediate Product 'A' is issued for captive consumption to manufacture Product 'B' on dt. 02.03.2013. Product 'B' was manufactured on dated 05.03.2013 and is exempt from duty. The value of product 'A' is Rs. 15 lakhs and product 'B' is Rs. 18 lakhs. The rate of excise duty on product 'A' on dated 28.02.2013, dated 02.03.2013 and on dated 05.03.2013 was 5%, 6% and 10% respectively plus education cess 3%. Explain in detail:
- (i) Whether any Excise Duty is payable by M/s. Akash Ltd.? If yes, on which product? 2
- (ii) Is it required to issue invoice for intermediate product 'A'? 1
- (iii) Is there any VAT applicable on Captive Consumption? 1
- (iv) What is the date of removal of intermediate product 'A' for Captive Consumption? 2
- (v) What is the excise duty payable? 1

3. (a) M/s. XYZ Ltd. presented shipping bill in respect of an export consignment to the Customs Authority on dated 8th March, 2013. The Customs Authority granted entry outward to the ship on dated 11th March, 2013. The loading of goods in ship had commenced only after dated 17th March, 2013. A notification was issued under Customs Act, 1962, exempting the export goods from Customs Duty on dated 17th March, 2013. M/s. XYZ Ltd. contends that, since loading of goods in the ship had commenced after dated 17th March, 2013 the export consignment is eligible for the benefit of exemption notification. Briefly explain whether the contention of M/s. XYZ Ltd. is tenable in law? 3
- (b) (i) Who should be approached when an assessee is aggrieved by an order/decision of the Adjudicating authority subordinate to Commissioner of Central Excise/Service Tax in respect of Service tax? 1
- (ii) What is the procedure for filling the Appeal? 2
- (iii) What is the statutory time limit for filling appeal with Commissioner (Appeals)? 1
- (iv) Can the statutory time limit for filling the appeal to the Commissioner (Appeals) be extended? If yes, under what circumstances? 1
- (c) Following details pertaining to Mr. Vaamana, a resident Indian aged 58 years, are furnished to you: 7

	(Rs.)
(i) Salary received from ABC Ltd.	7,20,000
(ii) Profession tax paid by employer	12,000
(iii) Loss from own business not covered by section 35 AD	2,20,000
(iv) Long term capital gains from sale of listed shares in recognised stock exchange, held for more than one year	1,30,000
(v) Long term capital gains from sale of residential house property	1,20,000
(vi) Winning from T.V. games show (Net of TDS Rs. 30,000)	70,000
Expenses incurred for participating in the show	5,000
(vii) Loss in card games	12,000
(viii) Loss from agricultural lands in India	32,000

Compute the total income of the assessee under proper heads of income for the assessment year 2013-14.

4. (a) Determine the transaction value and the excise duty payable from the following information:
- (i) Total invoice price is Rs. 36,000
- (iii) The invoice price includes the following:
- (A) Sales Tax = Rs. 2000
- (B) Surcharge on ST = Rs. 200
- (C) Octroi = Rs. 200
- (D) Insurance from factory to depot = Rs. 200
- (E) Freight from factory to depot = Rs. 900
- (F) Rate of Basic excise duty = 10% advalorem
- (G) Rate of special excise duty = 24% advalorem 5
- (b) M/s. Infratech Ltd. carried out following works all of which liable to VAT as transfer of property involved in the execution of works contract. The value of different works excluding all taxes are given below.
- For New construction—Rs. 50 lakhs, (In addition to it the service receiver supplied material worth of Rs. 20 lakhs used in the contract).

Addition and alteration to the damaged structure on land to make it workable Rs. 25 lakh.

Supply along with erection, installation, commissioning of plant · Rs. 70 lakh.

Maintenance and repair of goods · Rs. 40 lakh.

Maintenance & repair of immovable property · Rs. 30 lakh.

Compute taxable value of Service and service tax thereon under rule 2A(ii) of Service Tax (Determination of value) Rules, 2006. 5+1

- (c) In the context of marketability test under excise law, test the veracity of the following statements:
- (i) A product with a low shelf life of 3-5 days does not fulfill the marketability test; 2
 - (ii) Theoretical possibility of product being sold is not sufficient to establish the marketability of a product. 2
5. (a) Determine the value of perquisite chargeable to income tax in the hands of Mr. Hari Kashyup, drawing annual salary of Rs. 4,80,000 for the assessment year 2013-14: 5
- (i) Employer has a mineral water bottling plant. 2,400 litres have been supplied during the year to the assessee. Manufacturing cost to employer is Rs. 3 per litre; suppliers of identical product sell the same at Rs. 5 per litre in the open market.
 - (ii) The employer is running a school. Assessee's younger brother, who is dependent on him, is studying there. The cost of providing such education to the employer is Rs. 10,000. Cost of such education in similar school is Rs. 18,000.
 - (iii) The employer has granted housing loan of Rs. 20 lacs at 6% per annum, on 01.07.2012. The interest rates charged for similar loans by certain other entities are as follows:

State Bank of India	9% p.a.
National Housing bank	9.5% p.a.
 - (iv) Interest free loan of Rs. 18,000 was availed from employer for undergoing medical treatment of disease specified in Rule 3A of the Income Tax Rules, 1962. Assessee has no medical insurance policy. Adduce brief reasons for each item.
- (b) List out any six export incentives given to manufacturers under the EXIM policy. 6
- (c) Briefly explain, whether M/s. PQR Ltd., a manufacturer can avail cenvat credit in following cases: 4
- (i) Inputs used in Trial runs.
 - (ii) Materials used in expenses on modernization and repair of factory building.
 - (iii) Goods for personal use of employees.
 - (iv) Expenses on market research.
6. (a) M/s. B Ltd., a domestic company has unit A & B. Unit A which commenced business two years back is engaged in the business of developing a toll road. Unit B is carrying on the business of trading in cement. Unit B transfers cement of the value of Rs. 8.50 crores to Unit A for Rs. 6.5 crores. Briefly explain whether transfer pricing provisions under Income Tax Act, 1961 are attracted. 4
- (b) M/s. ABC & Co is a partnership firm consisting of three partners Mr. A, Mr. B & Mr. C. It is engaged in civil construction. The turnover of the business for the year ending 31st March, 2013 amounted to Rs. 95 lakhs. Following additional information is available.
- ◆ Maintenance charges of Rs. 68,000 paid to contractor on which tax has not been deducted at source and deposited so far.

- ◆ Bad debt written off in the books of accounts are Rs. 92,000.
- ◆ Interest @ 12% is provided to partner C on his capital of Rs. 5 lakhs as per partnership deed.
- ◆ The firm carried forward business loss of Rs. 50,000 and unabsorbed depreciation of Rs. 1,20,000 which is carried forward from assessment year 2010-11.
- ◆ The firm preferred and opted for presumptive taxation under section 44AD for the assessment year 2013-14.
- ◆ The firm has not paid any advance tax during the previous year 2012-13.

(i) Compute Net Income of the firm from business. 5

(ii) What would be the liability of the firm for levy of interest u/s 234B & 234C for failure on their part to pay advance tax? 2

(c) Determine the CENVAT allowable if goods are produced or manufactured in a Free Trade Zone or by a 100% Export Oriented Unit and used in any other place in India from the following data.

- (i) Assessable value Rs. 770 per unit,
- (ii) Quantity cleared 1000 units and
- (iii) BCD- 10%, CVD- 14% plus education cess as applicable. 4

7. (a) Rahul imports machinery worth 50,000 US\$ on CIF basis. 3

Following dollar rates are available on the date of presentation of bill of entry:

RBI floor Rate : Rs. 45.60

- (i) Inter bank closing rate : Rs. 45.20
- (ii) Rate notified by CBE & C under section 14(3)(a)(i) of the Customs Act : Rs. 46
- (iii) Rate at which bank has realized the payment from importer Rahul : Rs. 45.80

Find the assessable value for customs purposes.

(b) M/s. Traders Ltd. furnished the following information related to transaction of sales effected from Kolkata to New Delhi. All sales are effected against issue of declaration in Form C.

- (i) Basic price of 10,000 kgs of material sold - Rs. 3,00,000
- (ii) Excise duty - 10% ad valorem and education cess as applicable
- (iii) Trade discount @ 8%
- (iv) Additional Trade discount given after discount at (iii) above as a regular buyer of 2%
- (v) Quantity rejected by buyer within 3 days of delivery - 1,000 kgs
- (vi) Quantity returned by buyer after 6 months of despatch - 1,000 kgs.

Determine :

- (i) The value of Net Sales 4
- (ii) Central Sales Tax liability 1

(c) Discuss whether a Duty Free Import Authorisation (DFIA) is transferable. 3

(d) Mrs. Aishwarya transferred tenancy rights in a building for a consideration of Rs. 80 lakhs. The Assessing Officer, while computing capital gains from the transaction, sought to apply the provisions of section 50C of the Income Tax Act, 1961 and adopted the stamp duty valuation of Rs. 120 lakhs. Discuss the correctness of this action. 4

8. (a) "VKS Infra Pvt. Ltd." is an Indian company engaged in undertaking infrastructure projects. In April, 2010, it has received a big highway project for expansion of existing roads in one area and also for re laying of existing roads in another area. There is an apprehension in the mind of the managing director of the company that these projects will not entitle the company to claim deduction under section 80 IB(4). Advise the company suitably. 5
- (b) The assessee, Mr. Janak is a partner in a firm Vimal & Co. The assessee had borrowed funds on interest at the rate of 15% per annum. These funds were utilized for lending moneys to the aforesaid firm. No interest was charged on this loan. Discuss whether any disallowance is required under any of the provisions of the Income Tax Act, 1961, in computing the total income of the assessee. 4
- (c) Determine the Net Wealth of Mr. Ramana, a non resident for the assessment year 2013-14 based on the following information obtained on 31st March, 2013. 6
- (i) He own a commercial complex and had earned a rental income of Rs. 12,00,000 during the year from it. It is valued at Rs. 6 crores. Loan taken for the same is Rs. 4.5 crores.
 - (ii) He has jewellery worth Rs. 1.5 crores which he has pledged and taken a loan of Rs. 1 crore. This was used to buy a land in Mumbai, which was later transferred as gift to his wife on 30th March, 2013 on their wedding anniversary.
 - (iii) He also has a foreign make motor car purchased outside India. He had ordered it to be transported to India and is expected to reach by April 7, 2013. The ship was on international waters on 31st March, 2013.
 - (iv) He bought a land 12 kms away from Chennai for Rs. 50 lakhs. He planned to construct a residential house property at an estimate of Rs. 2 crores. 50% of the work was completed on 31st March, 2013.
 - (v) He has a residential house property at Washington, USA, valued at Rs. 8 crores.
 - (vi) He has another house property at Chicago, USA, valued at Rs. 6 crores for which a loan of Rs. 4 crores has been taken.
-