

## INTERMEDIATE EXAMINATION

December 2015

Indirect Taxation

P-11(ITX)

Syllabus 2012

Time Allowed: 3 Hours

Full Marks : 100

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

*All questions are compulsory. In question No. 1, all sub-questions are compulsory.*

*In question numbers 2 to 8, student may answer any two of the three sub-questions (a), (b) and (c).*

1. Answer the following questions with suitable reasons: 1×20=20
- (a) What are the Constitutional provisions under which service tax is levied?
  - (b) A manufacturer availed Cenvat credit on 31.3.2014. What is the time limit within which he must utilise that Cenvat credit, otherwise it lapses?
  - (c) Is supply to buyer in Nepal considered as 'export' under Central Excise, if payment is received in Indian rupees from Nepalese buyer?
  - (d) Who is required to file Annual Financial Statement under Central Excise?
  - (e) A manufacturer is manufacturing steel patta which is an item covered under Compounded Levy Scheme of Central Excise. He does not want to avail that scheme. He intends to pay excise duty under normal scheme of payment of excise duty. Advise him.
  - (f) State distinction between 'transit goods' and 'transshipment of goods'.
  - (g) An importer imported goods on which the value declared by him was incorrect. He intends to approach Settlement Commission. The customs duty liability is ₹ 4.75 lakh. Advise if he can approach Settlement Commission.
  - (h) An importer has recently imported some machinery. He intends to import some more machinery. He has some doubt about eligibility of an exemption to his imports. He intends to approach Authority of Advance Ruling for getting firm ruling on this issue. Advise him.
  - (i) What is the validity period of duty credit scrip issued under reward scheme under Foreign Trade Policy?
  - (j) What is RCMC under Foreign Trade Policy?
  - (k) Determine point of taxation when date of completion of service is 10-6-2014, invoice was issued on 27-7-2014 and payment for service was received in advance on 30-5-2014.
  - (l) What are the fees payable to Government while applying for service tax registration?
  - (m) Indian Institute of Management, Ahmedabad (IIM) had arranged campus recruitment of final passed students. Various companies participated in the campus recruitment. IIM collected charges of ₹ 30 lakhs from the companies. Is IIM liable to pay service tax?
  - (n) Ganesh Transport Company provided goods transport service to ABC Pvt. Ltd. on 4.3.2014, and issued consignment note showing freight amount of ₹ 1,00,000. ABC Pvt. Ltd. paid the freight amount to Ganesh Transport Company on 5.11.2014. Calculate service tax payable by Ganesh Transport Company. Assume service tax rate of 12% plus education cess as applicable.

Please Turn Over

- (o) A landlord had given his commercial property on rent. He issued invoice for rent charging service tax @ 14%. The tenant stated that he is not liable to pay service tax in terms of rent agreement. The tenant paid only net amount to landlord. The landlord did not deposit service tax with Government stating that he is not liable to pay service tax as tenant has not paid service tax amount to him. He is only acting as collecting agent. Is his contention valid?
- (p) A manufacturer supplied goods for export to merchant exporter in India located in another State. The merchant exporter then exported the goods. State how the manufacturer can claim exemption from payment of Central Sales tax.
- (q) Goods are sold in Delhi Airport in duty free shops. Is State VAT (sales tax) payable on such sale?
- (r) A dealer made inter-state sale by charging CST @ 2% on assumption that buyer will issue C form. However, the buyer did not issue any C form. State implications.
- (s) LMN Investments has advanced loan of ₹ 30 crores to PQR Ltd. The book value of total assets of PQR Ltd. is ₹ 80 crores. Are LMN Investments and PQR Ltd. 'associated enterprises'?
- (t) Determining Arm's Length Price (ALP) is never easy. The task is particularly difficult in case of intangibles. Name any two of such intangibles.

2. Answer any two of the three sub-questions (a), (b) and (c). 2×2=4
- (a) State provisions of works contract as contained in Constitution of India. 2
- (b) State distinction between taxable event in Central Excise and State VAT (sales tax). 2
- (c) State in brief provisions where Parliament can impose restrictions on rate of sales tax (VAT) which can be imposed by State Government on goods sold within the State. 2

3. Answer any two of the three sub-questions (a), (b) and (c). 8×2=16
- (a) (i) Following information are available in respect of manufacture of an Engine which has been used for captive consumption within the factory. Calculate assessable value on which excise duty is payable. 6

Particulars	₹
Cost of direct materials (inclusive of excise duty of ₹ 1,545)	16,545
Cost of direct employees	12,300
Consumable stores and repairs	8,400
Quality Control Cost	4,300
Research and Development Cost	2,700
Production Overheads	3,000
Administrative Overheads	1,500
Selling and distribution cost	3,600
Scrap value realised	1,500

- (ii) Explain distinction between 'goods' and 'excisable goods'.

- (b) (i) State eligibility of following purchases for availment of Cenvat credit of excise duty paid on those purchased goods:
- (1) Raw material
  - (2) Petrol
  - (3) Office equipment
  - (4) Capital goods used in mines away from the factory
  - (5) Goods used in canteen for employees
  - (6) Lubrication oil
  - (7) Inputs used for making structure for support of capital goods
  - (8) Spare parts used for maintenance of motor vehicle owned by company 4
- (ii) A manufacturer cleared some goods of assessable value of ₹ 10 lakhs, on payment of appropriate excise duty, which was 12% (ignore education cess and SAH education cess). The goods were rejected by customer and were returned to the manufacturer. The manufacturer carried out re-work. After re-work, he cleared the goods. At the time of sale, the applicable excise duty on that product was 14% (ignore education cess and SAH education cess). Discuss liability of the manufacturer in following situations: 4
- (1) The process of re-work was not 'manufacture'. He sold the goods from factory to another buyer for ₹ 11 lakhs.
  - (2) The re-work carried out by the manufacturer was 'manufacture' within the provisions of Central Excise Act. He sold the goods from factory to another buyer for ₹ 9 lakhs.
  - (3) He could not do re-work and the returned goods were sold as scrap for ₹ 30,000.
- (c) (i) A manufacturer purchased 2000 units of Cenvatable raw material and availed Cenvat credit of ₹ 2,00,000. Out of the 2000 units, 1500 units were issued to production and were in shop floor. Balance 500 units were in stores. Due to accidental fire, all 2000 units were destroyed. Discuss eligibility of Cenvat credit of duty paid on the raw material. 2
- (ii) State issues under excise law, which can be decided by single member bench of Tribunal (CESTAT). 3
- (iii) A manufacturer (not eligible for SSI exemption) cleared 100 pieces from his factory at Bangalore and sent to his Chennai depot on 1.1.2014. The net price of that product (excluding duties and taxes) on 1.1.2014 was as follows:
- (1) Sale from factory ₹ 90 per piece
  - (2) Sale from Chennai Depot ₹ 100 per piece. The excise duty rate was 12% (ignore education cess and SAH education cess). The goods were sold from Chennai Depot on 5.3.2015. On that day the net prices were as follows:
    - (I) Sale from factory - ₹ 95 per piece
    - (II) Sale from Chennai Depot - ₹ 105 per piece.

The excise duty rate was 12.5% (ignore education cess and SAH education cess).

    - (A) Calculate excise duty payable.
    - (B) State the due date for payment of excise duty on this transaction. 2+1=3

4. Answer *any two* of the three sub-questions (a), (b) and (c). 6×2=12
- (a) (i) Explain provisions relating to 'pilferage' in customs law. 2  
(ii) What are 'coastal goods'? 2  
(iii) Explain 'injury margin' in provisions relating to anti dumping duty. 2
- (b) (i) State in brief provisions relating to refund of special CVD of 4% paid while importing goods. 3  
(ii) ABC Ltd. imported machinery which was kept in warehouse on 1.4.2014. Ex-bond Bill of Entry for home consumption was presented on 1.11.2014. It was assessed and returned to ABC Ltd. on 3.11.2014. ABC Ltd. paid customs duty payable ₹ 5,00,000 on 14.11.2014 and cleared the goods from the warehouse. Calculate the interest payable by ABC Ltd. 3
- (c) Sathanarayana Pvt. Ltd., a manufacturer imported his raw material in a vessel. The assessable value of machinery as per section 14 of Customs Act is ₹ 24,70,000. The Bill of Entry was filed on 28.2.2015 when customs duty payable was 12%. The vessel was granted entry inwards on 4.03.2015, when customs duty rate was 14%. The importer paid customs duty on 12.03.2015, when customs duty rate was 10%. Calculate customs duty payable. Rate of CVD may be taken as 14%. Education cess and SAH Education cess was not payable on CVD.  
Calculate customs duty payable. How much Cenvat credit is available to Sathanarayana Pvt. Ltd. 6
5. Answer *any two* of the three sub-questions (a), (b) and (c). 4×2=8
- (a) State similarities and distinctions between Advance Authorisation and DFIA (Duty Free Import Authorisation). 4
- (b) An exporter has imported certain machinery on full payment of customs duty. Later, he manufactured goods utilising that machinery and exported the goods. He wishes to know whether he can get any benefit of rebate of customs duty he had paid on the machinery.  
Advise the manufacturer explaining the relevant provisions. 4
- (c) State import policy in respect of (i) second hand goods (ii) Free samples. 4
6. Answer *any two* of the three sub-questions (a), (b) and (c). 10×2=20
- (a) (i) What is the rate of interest payable if there is delay in payment of service tax? 2  
(ii) John & Co, a proprietary firm, is providing maintenance and repair services. The firm is registered under service tax provisions. The net value of services (excluding service tax) provided by the firm are as follows:  
(1) 2011-12—₹ 12 lakhs, (2) 2012-13—₹ 14 lakhs, (3) 2013-14—₹ 8 lakhs (4) 2014-15—  
₹ 12 lakhs.  
Calculate the service tax payable by the firm for the year 2014-15. Assume service tax rate of 14%. Ignore education cess and SAHE cess. 2

- (iii) Bristi Ltd. is engaged in business of renting of immovable properties owned by it. During the year 2014-15, it has collected following amounts:

I	Vacant land used for agriculture	₹ 10 lakhs
II	Building let out to RBI	₹ 12 lakhs
III	Building let out to company for office	₹ 9 lakhs
IV	Temple hall let out for religious purposes	₹ 0.25 lakh
V	Building located in USA let out to T (who is in Kolkata) for use as hotel	₹ 30 lakhs
VI	House let out to students for residential purposes	₹ 6 lakhs
VII	Building rented to Zap Secondary School (recognised by Government)	₹ 24 lakhs
VIII	Rent from guest house (per day rent ₹ 500)	₹ 1.5 lakhs

Calculate service tax payable by considering service tax rate @ 14%. Ignore education cess and SAH education cess. 6

- (b) (i) Mr. Hiyastab, a Cost Accountant, has provided following services during April 2014 to March 2015—

(1) Cost Audit fees received from Government companies ₹ 11 lakhs, (2) Stock audit fees received from Banks ₹ 7 lakhs, (3) Consultancy services provided to UN Organisation ₹ 8 lakhs, (4) Cost audit fees received from private companies ₹ 5 lakhs, (5) Fees for appearing before CESTAT (Tribunal) ₹ 9 lakhs. He had availed input services on which the service providers had charged service tax of ₹ 1 lakh. These input services are common to all the services provided by him. Calculate the net amount of service tax payable by Mr. Hiyastab, by considering service tax rate @ 14% ignore education cess and SAH education cess. 4

- (ii) Mr. Ram was employed with XYZ Ltd. As per terms of the contract, he was required to give three months notice before leaving job. However, Mr. Ram requested for immediate release and offered to pay three months salary of ₹ 6 lakhs in lieu of notice. The company accepted his offer and released him from employment. Discuss implications relating to service tax. 2

- (iii) A consulting engineer provided following services in a month—

(1) Free Professional advice to his friend [normal charges for such service would be ₹ 10,000], (2) Computer software services ₹ 10 lakhs, (3) Consultancy Services to Government of Gujarat ₹ 8 lakhs. Service tax was charged separately, wherever applicable. He has paid ₹ 50,000 as cess under Section 3 of the Research and Development Cess Act, 1986.

What is the amount of service tax payable by him? Assume service tax rate of 14%. Ignore education cess and SAHE cess. 4

- (c) (i) A service provider charged excess service tax in his invoice dated 15-09-2014 by mistake. He paid the service tax for month of September 2014 on 5.10.2014. He filed ST-3 return for the period April 2014 to September 2014 on 24.10.2014.

What is the last date for filing refund claim in respect of excess service tax paid by him? 2

- (ii) A contractor provided service of erection and commissioning to John and Michael Pvt. Ltd., without any material. The contractor had charged service tax in his invoice. The company paid ₹ 26,00,000 to the contractor after deducting income tax (TDS of income tax) @ 10% under section 194 J of Income Tax Act, in full settlement of Bill. Find out the total bill amount of the contractor, assuming service tax rate of 14% (ignore education cess). 5
- (iii) Janak and Sons, a firm of advocates provided service to JLK Manufacturers Ltd. and issued invoice on 15.6.2015 for ₹ 1,00,000. JLK Manufacturers Ltd. paid the bill amount to Advocates on 20.12.2015. State person liable to pay service tax, service tax payable and due date of payment of service tax. Assume service tax rate of 14%. Ignore education cess. 3

7. Answer any two of the three sub-questions (a), (b) and (c). 6×2=12

- (a) (i) A manufacturer sent his manufactured goods to his branch in another State. Which form is required to be issued and by whom, so that the manufacturer can claim exemption from Central Sales Tax? What would be the consequences, if that form is not issued? 2
- (ii) Anuradha & Co., a registered dealer in VAT, furnishes following details of purchases and sales for the month of March, 2015:

Particulars	Amount ₹
Opening balance of VAT Input Tax Credit	25,000
Opening balance of stock of inputs	Nil
Purchase of goods from registered dealers within the State (including State VAT)	28,62,500
Purchases from outside State against issue of C form (including CST amount)	15,30,000
Net sales within State excluding State VAT	55,00,000
Closing stock of goods purchased within the State as on 31.03.2015 (inclusive of VAT paid on purchases)	1,14,500

VAT rate on both inputs and outputs is 14.5%. Determine VAT liability of dealer for the month of March, 2015. 4

- (b) (i) Discuss the role of a Cost Accountant in successful implementation of VAT provisions in a business organisation. 2
- (ii) M/s Simple Traders have purchased goods @ ₹ 3,45,000 including VAT. He intends to earn gross margin of 10% on his net purchase cost. The VAT rate is 15% on both purchases and sales.
- (1) Find his selling price and the net VAT payable by him on this transaction.
- (2) Illustrate how the VAT is payable by Simple Traders only on his 'value added'. 2+2=4

(c) (i) What is distinction between 'exempted transaction' and 'zero rated transaction' in VAT? 2

(ii) Laxman & Co. furnishes to you the following information:

- (1) Inter-State sale of goods (it includes ₹ 10,00,000 being the value of goods transferred to Chennai Branch for which Chennai Branch had issued Form F) ₹ 69,00,000
- (2) Dharmada (Charity) collected separately ₹ 25,000 [This was collected only from buyers who had voluntarily agreed for such charge]
- (3) Weighment charge recovered separately from buyers 2,40,000
- (4) Cash discount shown in invoice as per trade practice ₹ 60,000
- (5) Transit Insurance charges recovered from buyers to cover transit loss based on their request ₹ 50,000.

Calculate the turnover and CST payable, on the assumption that all the sales were made to registered dealers, who have issued C forms. Assume that the price is exclusive of CST. 4

8. Answer any two of the three sub-questions (a), (b) and (c). 4×2=8

(a) What is advance pricing agreement (APA)? Who are eligible to enter into APA Agreement? 2+2=4

(b) C Ltd., a resident Indian company, sold goods to its associated enterprise D Inc. of USA. D Inc. sold goods to its independent buyers at US dollars 15,000. D Inc. earned profit of 15% on purchase cost in that transaction.

Calculate Arm's Length price in the hands of C Ltd.

State the effect on C Ltd., if C Ltd. sells the goods to D Inc. (i) above the Arm's Length Price, (ii) below the Arm's Length Price. 2+2=4

(c) State purpose of Safe Harbour Rules. State provisions of 'safe harbour' in respect of software development service. 3+1=4