CS- EXECUTIVE

TAX LAWS & PRACTICE

DEC, 2013 EXAM PAPER SOLUTION

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An Analysis of Exam Paper

- **100% Questions from concepts taught in classroom**
- **Questions asked in exam are below the level taught in classroom**

Q1(a) Discuss, with reasons in brief, the admissibility or otherwise of the following items while computing income of a business :

(i) Fine paid under the Customs Act, 1962 for importing prohibited goods while the business earned a huge amount of profit.

(ii) Capital expenditure on in-house scientific research related to business of the assessee.

(iii) Donations to a registered political party.

(iv) Contribution to the approved gratuity fund.

(v) Salary paid to the proprietor's son who is working as a manager of the business.

The salary is reasonable. (5 marks)

Ans1(a)

(i) Not Allowed

As per Sec.37(1), an expense incurred for any purpose which on or is prohibited by any law is not deductible.

(ii) Allowed

As per Sec. 35(i)(iv), any expense carried on by assessee related to business of assessee is deductible except cost of land.

(iii) Not Allowed

Donations to registered political party shall be allowed as Deduction from Gross Total Income u/s 80GGB/ 80GGC.

(iv) Allowed

Amount contributed to gratuity is retirement benefit to employees incurred exclusively for business purpose.

(v) Allowed

Any payment made to relative is disallowed u/s 40A(2) only if it is unreasonable .

Q1(b) Riya has a house property in Delhi, particulars of which are as under:

		(₹)
—	Municipal value	3,00,000
—	Standard rent	3,12,000
—	Municipal taxes paid	50,000
—	Interest on money borrowed for acquiring the house after 1st April, 2009	1,60,000
—	Actual rent for 10 months	35,000 per month
	Period of occupation for own residence	2 months

Compute the income from house property for the assessment year 2013-14. (5 marks)

Ans1(b)

Income from House Property	
GAV	3,50,000
-Municipal Taxes	50,000
NAV	3,00,000
-Deduction u/s 24	
Sec 24(a) Standard Deduction @30%	90,000
Sec 24(b) Interest on borrowed capital	1,60,000
Income from House Property	50,000

Working Note:

(1) MV = 3,00,000

FR = 35,000 X 12 = 4,20,000 (Since not Provided, assumed to be equal to Actual Rent)

SR = 3,12,000

AR = 35000 x 10 3,50,000

(2) Computation of GAV

Step1: MV or FR whichever is higher subject to SR	3,12,000
Step2: Actual Rent – Unrealised Rent	3,50,000
Step3: Step 1 or Step 2 whichever is higher	3,50,000
Step4: Step 3 less loss due to Vacancy	3,50,000

GAV = 3,50,000

Q1(c) Write a note on the provisions of 'alternate minimum tax' (AMT) under the Income-tax Act, 1961. (5 marks)

Ans 1(c) "**Alternate Minimum Tax**" shall be the amount of tax computed on Adjusted Total Income at a rate of 18.5%.

"**Adjusted Total Income**" means the Total Income or Net Income of the non-corporate assessee as increased by –

(a) Amount claimed as deduction by the non-corporate assessee under sections 80H to 80RRB other than section 80P;

(b) Amount claimed as deduction by the non-corporate assessee under section 10AA.

To whom Alternate Minimum Tax shall be applicable [Section 115JEE (1)]

The provisions of Alternate Minimum Tax shall apply to a non-corporate assessee who has claimed any deduction under:

(a) Sections 80-IA to 80RRB other than section 80P; or

(b) Section 10AA.

To whom Alternate Minimum Tax shall not be applicable [Section 115JEE (2)]

The provisions of Alternate Minimum Tax under Chapter XII-BA *shall not apply to-*

(a) an Individual; or

(b) a Hindu Undivided Family; or

(c) an Association of Persons or a Body of Individuals (whether incorporated or not) or

(d) an Artificial Juridical Person referred to in section 2(31) (vii), if the Adjusted Total Income of such person does not exceed ₹ 20,00,000.

Q1(d) Explain the deduction in respect of medical insurance premium under section 80D. (5 marks)

Ans 1(d) Deduction is available to Individual/HUF in respect of Medical Insurance Premium u/s 80D

Mediclaim Policy of GIC paid by any mode other than cash or Central Government Health Scheme or similar scheme notified by Central Government. • Insurance can be taken on the health of Self, Spouse and Dependent Children	Up to ₹ 15,000 Up to ₹ 20,000 (if any one is Senior Citizen)
• Insurance can be taken on the health of Parents (Father & Mother whether dependent or not)	Up to ₹ 15,000 Up to ₹ 20,000 (if any one is Senior Citizen i.e. 60 years or more)
• Preventive health check up of Self, Spouse, Parents & dependent children paid by any mode (cash payment allowed)	Upto ₹ 5,000. However the overall qualifying limit given above remains unchanged

Q1(e) Describe any five methods under which the arm's length price relating to an international transaction is determined under section 92C. (5 marks)

Ans 1(e) Transfer Pricing – Classification of Methods

As per Sec.92C of the Income Tax Act, 1961, the methods for determining Arm's Length Price may be represented as under:

(1) Comparable Uncontrolled Price Method,
(2) Resale Price Method,
(3) Cost plus Method,
(4) Profit Split Method,
(5) Transactional Net Margin Method,
(6) Such other method as may be prescribed by the Board.

Comparable Uncontrolled Price method (CUP)

Step I : Identify the price charged/ paid for property transferred or services provided in a **comparable uncontrolled transaction(s).**

Step II : **Adjust** the price derived in Step I above **for differences**, if any, which could materially affect the price in the open market.

(a) between the international transaction and the comparable uncontrolled transactions, or
(b) between the enterprises entering into such transactions.

Step III : Arm's Length Price = Step I **Add/Less**: Step II

Resale price method (RPM)

Step I : Identify the price at which property purchased or services obtained by the enterprise from an associated enterprise is resold or are provided to an **unrelated enterprise.**

Step II : Reduce the normal GP margin accruing to the enterprise or to an unrelated enterprise from the purchase and resale of the same or similar property or from II) obtaining and providing the same or similar services, in a comparable uncontrolled transaction (s).

Step III : Reduce expenses incurred by the enterprise in connection with the purchase of property or obtaining of services.

Step IV : Adjust for functional and other differences, including differences in accounting practices, if any, between the international transaction and the comparable uncontrolled transactions, or between the enterprises entering into such transactions, which could materially affect the amount of gross profit margin in the open market.

Step V : Arm's Length Price = Step I **Less** Step II & III **Add / Less** Step IV.

Cost plus Method

Step I : Determine the direct and indirect costs of production incurred by the enterprise in respect of property transferred or services provided to an associated enterprise.

Step II : Determine the normal GP mark-up to such costs (computed under same accounting norms) arising from the transfer or provision of the same or similar property or services by the enterprise, or by an unrelated enterprise, in a comparable uncontrolled transaction(s).

Step III : Adjust the normal gross profit mark-up referred to in Step II to take into account the functional and other differences, if any, between the international transaction and the comparable uncontrolled transactions, or between the enterprises entering into such transactions, which could materially affect such profit mark-up in the open market.

Step IV : Arm's Length Price = Step I Add Step III

Profit Split Method (PSM)

This method is mainly applicable in international transactions involving transfer of unique intangibles or in multiple international transactions which are so inter-related that they cannot be evaluated separately for the purpose of determining the Arm's Length Price of any one transaction.

Step I : Determine the combined net profit of the associated enterprises arising from the international transaction in which they are engaged of such combined net profit.

Step II: This is determined on the basis of the functions performed, assets employed and risks assumed by each enterprise and on the basis of reliable external market data which indicates how such contribution would be determined by unrelated enterprises performing comparable functions in similar circumstances.

Step III : Split the combined net profit amongst the enterprises on the basis of reasonable returns and in proportion to their relative contributions, as determined in Step II. (See note below)

Step IV : Arm's Length Price - Profit apportioned to the assessee under Step III.

Note : Combined Net Profit shall be split as under:

III. A. First Split = Reasonable Return: Allocate an amount to each enterprise so as to provide it with a basic return appropriate for the type of international transaction with reference to market returns achieved in similar types of transactions by independent enterprises.

III. B. Second Split = Contribution Ratio: Allocate the residual net profit amongst the enterprises in proportion to their relative contribution.

III. C. Total Profit: Share of profit of each enterprise = Step III.A + III.B

TRANSACTION NET MARGIN METHOD (TNMM)

Step I : Compute the net profit margin realised by the enterprise from an international transaction entered into with an associated enterprise, in relation to costs incurred or sales effected or assets employed by enterprise or having regard to any other relevant base.

Step II : Compute the net profit margin realised by the enterprise or by an unrelated enterprise from a **comparable uncontrolled transaction (s),** having regard to the same base as in Step I.

Step III : Adjust the net profit margin as per Step II for differences, if any, which could materially affect amount of net profit margin in the open market :

(a) between the international transaction and the comparable uncontrolled transactions, or

(b) between the enterprises entering into such transactions.

Step IV : Net Profit Margin for uncontrolled transactions = Step II **Add/Less** Step III.

Step V : Arm's Length Price = Transaction Value x Net Profit Margin as per Step IV above.

Q2(a) When is an assessee liable to pay advance tax ? For whom it is not compulsory? (3 marks)

Ans 2(a) When a person becomes liable to pay advance tax

Every person is liable to pay advance tax if advance tax payable is ₹ 10,000 or more. All items of income are liable for payment of advance tax.

Following are not liable to pay advance tax:

1. An assessee, who has opted for the scheme of computing business income under section 44AD on presumptive basis at the rate of 8% of turnover, shall be exempted from payment of advance tax related to such business.

2. An individual, who is of the age of 60 years or more at any time during the previous year and who does not have any income chargeable under the head 'Profits and gains of business or profession' is not required to pay advance tax. [Sec. 207]

Q2(b) Explain the provisions of the Income-tax Act, 1961 under which income of a minor child is included in the income of parents. (3 marks)

Ans. 2(b) Income of minor child [Sec. 64(1A)]

- **(i)** All incomes that accrue to minor child (including minor married daughter) will be included in the total income of that parent whose total income is greater (before including income of minor child).
- **(ii)** If marriage of parents does not exist, then included in income of that parent who maintains the child.
- **(iii)** Where any such income is once included in the total income of either parent, any such income of any succeeding year shall be included in the income of other parent only if AO is satisfied.
- **(iv)** In the following cases income of minor shall not be clubbed-
  - (a) Child is suffering from any disability of the nature specified in Section 80U, like physically disabled, totally blind etc.
  - (b) Income of child on account of manual work or activity involving skill, talent or specialized knowledge etc.
- **(v)** Any income to minor on investing income of manual work or special talent shall be clubbed.
- **(vi)** If income of child is so included, the parent shall be entitled to an exemption of maximum ₹ 1,500 in respect of **each** minor child.
- **(vii)** If the minor child becomes major during the PY, then the incomes which have accrued to him till the date he attains majority shall be clubbed u/s 64(1A).

Q2(c) Profit of a partnership firm is ₹ 4,00,000 after charging interest on capital @20% of its total capital of ₹ 8,00,000. How much remuneration is allowable under section 40(b) to its partners? (3 marks)

Ans2(c) Computation of Book Profit

Profit of the charging interest on capital	4,00,000
Add: Excessive interest to Partner on Capital (8,00,000 x 8%)	64,000
Book profit	4,64,000

Maximum remuneration allowable u/s 40(b) is 90% on first ₹ 3 lakh and 60% on balance.

Maximum Remuneration = 3,00,000 X 90% + 1,64,000 X 60%

= 2,70,000 + 98,400

= 3,68,400

Q2(d) Distinguish between 'domestic company' and 'foreign company'. (3 marks)

Ans. 2(d) Domestic Company means [Sec. 2(22A)]

- An Indian Comapany
- Any other company which, in respect of its income liable to tax under this act, has made the prescribed arrangements for the declaration and payment, within India, of the dividends (including dividends on preference shares) payable out of such income.

Foreign Company means [Sec. 2(23A)] a company, which is not a domestic company

Q2(e) How is 'survey under section 133A' different from 'search under section 132' ? (3 marks)

Ans. 2(e) “Surveys" are conducted under Section 133 A of the Income Tax Act and should start during normal business hours, "searches" can be conducted any time of the day. A "search" is ordered by a director, Investigation, or a commissioner-level officer and conducted by an assistant director who heads the team, while a "survey" can be ordered by a junior I-T officer also and can be done by an inspector. During "survey", IT officials look into documents such as books of account, bank accounts, cash, stock and non-valuable documents. Originals are normally returned.

However, wherever "searches" have been conducted, I-T officials have impounded documents, valuables, computers and information prima facie is believed to have not been disclosed.

Q2A(i) Write short notes on the following :

(a) Block of assets for the purpose of charging depreciation.

(b) Dividend distribution tax under section 115-O. (3 marks each)

Ans. 2A(i)(a) Block of Assets [Sec. 2(11)]

The term “block of assets” means a group of assets falling within a class of assets comprising –

(a) Building

(b) Furniture & Fitting

(c) Plant & Machinery

(d) Intangible Assets

In respect of which the same percentage of depreciation is prescribed.

Ans. 2A(i)(b) Tax on distributed profits of the Domestic companies [Sec.115-O]

This section overrides all other provision of the Act. If for ay assessment year, any amount is declared, distributed or paid by a domestic company by way of dividends (whether interim or otherwise) whether out of current or accumulated profits it shall pay an additional income-tax on the dividends (being called the Corporate Dividend Tax) at the rate of 15%

For the purpose of calculating the CDT, the above said amount of Dividend declared, distributed or paid shall be reduced by the amount of dividend, if any, received by the distributing domestic company during the financial year. However, the following condition have to be satisfied in this regards:

(a) Such dividend is received from its subsidiary

(b) The subsidiary has paid CDT on such dividend ; and

Further, the amount of dividend, paid to or on behalf of, the New Pension System Trust mentioned under section 10(44), shall also be reduced.

However, the same amount of dividend shall not be taken into account for reduction more than once.

Q2A(ii) Arvind earned a gross total income of 10,00,000 during the previous year 2012-13. He made the following donations through crossed cheques in the previous year :

— ₹ 30,000 to National Foundation for Communal Harmony

— ₹ 50,000 to approved institutions

— ₹ 20,000 to Prime Minister’s National Relief Fund

— ₹ 80,000 to Mumbai Municipal Corporation for promoting family planning.

Calculate the amount of deduction admissible under section 80G for the assessment year 2013-14.(4 marks)

Ans 2A(ii) Deduction u/s 80G

<u>Donation to which qualifying limit not applicable</u>

National foundation for communal ttarmony (100%)	30,000
Prime Minister's National Relief FUND (100%)	20,000
<u>Donation to Which qualifying limit applicable</u>	
Mumbai Municipal Corporation for family planning (100%)	80,000
Approved Institution (50%)	10,000
	1,40,000

Q2A(iii) Mention the due dates for filing return of income for different categories of assessees. (5 marks)

Ans. 2A(iii)

Different Situations	**Due date of submission of return**
1. Where the assessee is a company	September 30
2. Where the assessee is a person other than a company 2.1 In case where accounts of the assessee are required to be audited under any law 2.2 Where the assessee is a "working partner" in a firm whose accounts are required to be audited under any law	September 30
3. Assesses required to file Transfer Pricing Report under Sec. 92E pertaining to International Transaction	November 30
4. In any other case	July 31

Q3(a) Kartar furnishes the following particulars for the previous year 201213 in respect of an industrial undertaking established in special economic zone during the financial year 2007-08 :

	(₹)
Total sales	60,00,000
Export sales	40,00,000
Profit from above undertaking	8,00,000

Compute the amount of exemption available to Kartar under section 10AA. (5 marks)

Ans 3(a) PY 2012-13, is the 6th year from commencement of business.

Deduction u/s 10AA $= \text{Profit} \times \frac{\text{Export sales}}{\text{Total sales}} \times 50\%$

$= 8,00,000 \times \frac{40,00,000}{60,00,000} \times 50\%$

$= 2,66,667$

Q3(b) Shyam is owner of a goods transport company. During the previous year, he used two light commercial vehicles for 8 months 3 days and one heavy commercial vehicle for 6 months. In addition, he possesses 4 heavy vehicles throughout the year. His receipts from freight were ₹ 13,00,000 and his operating expenses were ₹ 9,70,000 including ₹ 2,50,000 for depreciation. As per income-tax rules, depreciation allowable was ₹ 2,80,000. Whether Shyam should opt for the presumptive profit under section 44AE? (5 marks)

Ans3(b) Income computed u/s 44AE

Type of Carriage	No. of Months (including part of month)	Rate per month	Amount
2 light Commercial Vehicle	9	4,500	81,000
1 heavy Commercial vehicle	6	5,000	30,000
4 heavy Commercial Vehicle	12	5,000	2,40,000
			3,51,000
<u>**Income computed as per normal provision**</u>			
Freight Collected			13,00,000
- Operating Expenses (other than Dep)			7,20,000
- Depreciation			2,80,000
			3,00,000

Shyam may not opt fot presumptive profit u/s 44AE. He may claim lower profit of ₹ 3,00.000 if he keeps and maintains proper books of account as per Sec. 44AA and gets the same audited u/s 44AB.

Q3(c) From the following information, compute the taxable capital gains of Sanjay :

— He sold his self generated goodwill for ₹ 15,00,000 after using it for six years.
He spent ₹ 1,50,000 for the development of the goodwill.

— The bonus shares (not listed) held by him in R K Ltd. were sold for ₹ 4,20,000 on 28th March, 2013. The face value of the shares which were allotted in May, 2012 was ₹ 2,50,000.

— Short-term capital loss from the transfer of a building used for his business ₹ 1,00,000.

— A car purchased by him for ₹ 5,00,000 in 2005-06 for personal use, was sold on 1st July, 2012 for ₹ 2,10,000. (5 marks)

Ans3(c) <u>Computation of taxable Capital gain</u>

	<u>Long term Capital Gain</u>			
	<u>Goodwill</u>			
	Sale consideration	15,00,000		
-	Cost of Acquisition	Nil		
-	Cost of Improvement	Nil		15,00,000
	<u>Short term Capital Gain</u>			
	<u>Bonus Share</u>			
	Sale consideration	4,20,000		
-	Cost of Acquisition	Nil	4,20,000	
	Building		(1,00,000)	3,20,000
				18,20,000

Working note:

1. Amount spent on development of goodwill is not deductible .
2. Cost of acquisition of bonus share is Nil
3. Car purchased for personal use is not capital asset.

Q4(a) Sumit is an Indian and resident and ordinary resident in India. The value of his assets and liabilities as per Schedule III of the Wealth-tax Act. 1957 as on 31st March, 2013 are as follows :

		(₹)
—	Guest house in Hong Kong	10,00,000
—	Jewellery gifted to his wife	15,00,000
—	His value of interest in the assets of a firm as a partner	8,00,000
—	Cash in hand	3,00,000
—	He took a life insurance policy for ₹ 5,00,000 which has surrender value as on 31st March, 2013	75,000
—	He has a commercial complex at Delhi having 20 offices which were let-out	30,00,000
—	He owns a residential house in Mumbai, which is let-out for 320 days in the previous year	10,00,000

Compute the net wealth and wealth-tax liability of Sumit. (6 marks)

Ans4(a) Computation of Taxable Wealth

Guest House in Hong Kong	10,00,000
Jewellery gifted to his wife	15,00,000
Cash in hand	2,50,000.
Net wealth	27,50,000
Wealth Tax Liability	Nil

Working Note:

Commercial complexes & Residential property let out for at least 300 days during previous years is not covered by definition of asset under wealth Tax.

Q4(b) Dev is an officer of Rajasthan Government. He is in the pay scale of ₹ 20,000-800-28,000 since 1st June, 2011. He gets dearness allowance @10% of his basic salary and entertainment allowance @ ₹ 1,000 per month. The employment tax payable to State Government was ₹ 2,000 but Dev paid ₹ 1,500 in the previous year. He has paid ₹15,000 as premium on a policy of ₹ 1,00,000 which was taken on 1st April, 2012. He also paid part-time coaching fees of his son ₹ 10,000. Compute the tax liability of Dev for the assessment year 2013-14. (6 marks)

Ans4(b) Computation of Total Income & Tax on it

Income under head Salary

Basic	20,000 × 2 + 20,800 x 10		2,48,000
+ DA			24,800
+ Entertainment Allowance			12,000
	Grass Salary		2,84,800
-	Deduction		
	Entertainment Allowance	5,000	
	Employment Tax	1,500	6,500
	Gross Total Income		2,78,300
-	Deduction u/c VI- A		
	Sec 80C LIP		10,000
	Total Income		2,68,300

Tax on it @10% on 68,300	6,830
+ EC @ 2%	537
+ SHEC @ 1%	268
Tax Payable	7,635
Tax Payable (rounded of u/s 288 B)	7,640

Working note:

1. Assuming salary gets due on last day of the current month.
2. LIP – Deduction upto 10% of Sum assured
3. No deduction for coaching fees

Q4(c) How does residential status affect the tax liability of an assessee ?

Ans. 4(c)

	Resident and ordinarily resident in India	**Resident but not ordinarily resident in India**	**Non-resident in India**
Indian Income	Taxable in India	Taxable in India	Taxable in India
Foreign Income	Taxable in India	Taxable in India if business is controlled wholly or partly from India or the profession is set up in India.	Not taxable in India

Q5(a) "Service tax is generally payable by the service provider, but in certain circumstances it is the liability of the service receiver". Do you agree ? Explain.

Ans. 5(a) Yes, Service Tax is generally payable by the service provider but in certain circumstances, it is liability of the service receiver.
Section 68(2) empowers the Central Government to notify certain specified persons to pay service tax in respect of certain services in the prescribed manner. The specific classes of persons liable to pay service tax are notified in Rule 2(1)(d) of Service Tax Rules, 1994 vide Notification No. 30/2012.

In respect of following services, service tax liability tax liability is to be discharged by service recipient & at times by service recipient & provider both:

- Insurance Agent
- Goods transport agency (Applicable to transport by road)
- Sponsorship
- Arbitral tribunal
- Support services by government or local authorities excluding renting of immovable property.
- Renting or hiring of motor vehicle to carry passengers to any person who is not in similar line of business.
- Services of Advocate
- Supply of manpower or Security services
- Service portion in execution of Works Contracts (Job Work, AMC)

- Import of Services
- Services by director to company (excluding director in employment). e.g. Sitting fee, Reimbursement of expenses.

Q5(b) Who can avail input tax credit ? Can input tax credit be carried forward ? Discuss. (5 marks)

Ans. 5(b) A service provider is eligible for availing cenvat credit of service tax paid on his input services, excise duty paid on his inputs and excise duty paid on his capital goods.

- One to one correlation not necessary in Cenvat. No requirement of establishing relation between input/ input services and output services.
- A service provider is eligible for Cenvat credit on capital goods, if these are used for providing output service. The definition does not say 'exclusively used'. It also does not specify the period for which the capital goods should be used. Legally, even if they are used for one day, they are 'used'. Also if capital goods are used partially for providing output service Cenvat credit of excise duty paid on capital goods will be available.
- The eligible capital goods should be used for providing output services. There is no requirement that these should be brought in the premises or used within the premises of service provider himself.
- Service Provider cannot avail depreciation in respect of excise portion for which cenvat credit is availed. e.g. if cost of 'capital goods' is ₹ 1.16 lakhs, out of which ₹ 0.16 lakh is duty paid, assessee can claim depreciation under Income Tax only on ₹ 1 lakh, if he has availed Cenvat credit of ₹ 0.16 lakh.
- No Cenvat credit if output service is exempt.

The unutilized Cenvat Credit at year end can be carried forward. There is no time limit for carrying forward this balance.

Q5(c) Piyush rendered a taxable service to a client on 25th August, 2013. A bill of ₹ 40,000 was raised on 29th August, 2013 for which ₹ 15,000 were received from the client on 1st October, 2013 and balance on 23rd October, 2013. Answer the following:

(i) If service tax was separately charged in the bill, what is the value of the taxable services and service tax payable?

(ii) If no service tax was separately charged in the bill:

— Is Piyush liable to pay service tax, even though the same has not been charged by him?

— In case, he is liable, what is the value of taxable services and service tax payable? (5 marks)

Ans5(c)

(i) Value of Taxable Service = ₹ 40,000

Service Tax Payable = ₹ 40,000 x 12.36%

= ₹ 4,944

(ii) Even if service tax is not charged piyush is liable to pay service tax.

Now, Value of taxable service $= 40{,}000 \times \frac{100}{112.36}$

= 35,600

Service Tax Payable $= 40{,}000 \times \frac{12.36}{112.36}$

= 4,400

Q6(a) Explain the term 'inter-State sale' as per the Central Sales Tax Act, 1956. When is a sale or purchase deemed to have taken place in the course of inter-State sale?

Ans. 6(a) Tax on Inter-state Sales

Every dealer is liable to pay tax under the Central Sales Tax Act, 1956 on all sales of goods (other than Electrical Energy) effected by him in the course of inter-state trade or commerce during the year. The tax is payable if the sale or purchase:

- occasions the movement of goods from one state to another, or
- is effected by a transfer of documents of title to the goods during their movement from one state to another.

Further, the dealer is liable to pay tax under this Act on sale of taxable goods effected by him in the course of inter-state trade or commerce, notwithstanding the turnover limit of sales or purchases for registration and liability for tax has not exceeded under the State Tax Laws of the appropriate State.

Q6(b) For whom registration is compulsory under service tax? What is the time-limit for registration? How much fees is determined for it? (5 marks)

Ans. 6(b) Persons who must Mandatorily Obtain Registration - The following categories of person must mandatorily obtain registration:

- Every person liable to pay service tax
- An input service distributor
- Every provider of taxable service whose aggregate value of taxable service in a financial year exceeds ₹ 9 lakh.

Time-Limit for Making Application

The position in respect of the three categories of persons is as follows:

- **Persons who are liable to pay service tax -** Under rule 4(1), the application for registration is required to be made within 30 days from the date on which levy of service tax is brought into force in respect of the relevant services.
- **Input service distributors –** An input service distributor must make the application in form No. ST-1 within a period of 30 days of the commencement of business.
- **Small service providers-** The small service providers must make the application in Form No. ST-1 within a period of 30 days of the date in the financial year on which the aggregate value of taxable services has exceeded ₹ 9 lakh.

No fees are determined for Service Tax Registration.

Q6(c) Determine the VAT liability of Sambhav from the following information:

—	Purchases from local market *(including VAT)*	₹ 2,60,000	
—	VAT rate on input	4%	
—	Transportation, insurance and handling charges	₹ 6,000	
—	Goods sold at a profit margin	15%	
—	VAT rate on sales	10%	(5 marks)

Ans6(c) Cost of Purchase $= 2,60,000 \times \frac{100}{104} = 2,50,000$

Input VAT $= 2,60,000 \times \frac{4}{104} = 10,000$

Cost of Purchase 2,50,000

+ Transportation, Insurance	
& handling charges	6,000
	2,56,000
+ Profit @ 15%	38,400
Sale Value(before VAT)	2,94,400
Out put VAT	= 2,94,400 x 10% = 29,440
VAT liability	= Output VAT – Input VAT
	= 29,440 - 10,000
	= 19,440

Q6A(i) Distinguish between 'exempt sales' and 'zero rate sales' under the VAT scheme. (5 marks)

Ans. 6A(i) Exempted Sales Vs. Zero Rated Sales

Zero Rated Sales	Exempted Sales
Zero rated sales are taxable goods but no tax is payable since the rate of tax is zero.	Exempted sales are not taxable. Hence no VAT is payable on exempted goods.
In respect of zero rated sales, the taxes paid earlier on purchases made for effecting that sale is refunded to the seller.	No such refund is allowed in respect of sale of exempted goods.
Export of goods outside India fall under zero rated goods. Thus no VAT is payable on export of goods. VAT paid on purchases of goods which are exported is refunded to the exporter within 3 months.	No such refund is given in respect of exempted sale.

Q6A(ii) In what purchases, input tax credit is not allowed under VAT?

Ans. 6A(ii) For the following purchases, ITC is not allowed:

- Credit of tax on capital goods: Credit will be available on tax paid on capital goods purchased within the state and used in manufacture or processing. Other capital goods are not eligible. However different state VAT Laws provide different method of setoff on capital goods. In some cases credit is available in instalments.
- Goods purchased from unregistered dealers are not eligible for input tax credit.
- No credit is available for goods purchased from other Countries.
- Purchase of goods used as fuel in power generation.
- Purchase of goods to be dispatched as branch transfers outside states.
- Purchase of goods in cases where the dealer does not have invoices showing amounts of tax charged separately by the selling dealer.
- Purchase of non-creditable goods.
- Purchase from a dealer who has opted for composition scheme.

Q6A(iii) What do you understand by 'point of tax' in service tax? How is point of tax determined where service is taxed for the first time? (5 marks)

Ans. 6A(iii) Point of taxation shall be earlier of the three:

(i) The date of issue of invoice, if such invoice is issued within 30 days of completion of service [in case of continuous supply of service, the invoice must be issued within 30 days from each of the event dates specified in the contract for payment by service receiver].

(ii) The date of completion of service, if such invoice is not issued within 30 days as aforesaid,

(iii) The date on which the payment is received by the service provider.

Where a service is taxed for the first time, then,

(a) No tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable.

No tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within the period referred to in rule 4A of Service Tax Rules, 1994.

New service brought to tax for first time would not be taxable if:

- Service provided before change of rate
- Payment received before change of rate, if cheque/ draft is received it must be credited to bank account on or before 4.4.13.
- Invoice issued within **14 days** of service provided (even if issued after levy)