

**PAPER 11- INDIRECT TAXATION**

## Answer to PTP\_Intermediate\_Syllabus2012\_Dec2015\_Set 2

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The following table lists the learning objectives and the verbs that appear in the syllabus learning aims and examination questions:

	<b>Learning objectives</b>	<b>Verbs used</b>	<b>Definition</b>
<b>LEVEL B</b>	KNOWLEDGE What you are expected to know	List	Make a list of
		State	Express, fully or clearly, the details/facts
		Define	Give the exact meaning of
	COMPREHENSION What you are expected to understand	Describe	Communicate the key features of
		Distinguish	Highlight the differences between
		Explain	Make clear or intelligible/ state the meaning or purpose of
		Identify	Recognize, establish or select after consideration
		Illustrate	Use an example to describe or explain something
	APPLICATION How you are expected to apply your knowledge	Apply	Put to practical use
		Calculate	Ascertain or reckon mathematically
		Demonstrate	Prove with certainty or exhibit by practical means
		Prepare	Make or get ready for use
		Reconcile	Make or prove consistent/ compatible
		Solve	Find an answer to
		Tabulate	Arrange in a table
	ANALYSIS How you are expected to analyse the detail of what you have learned	Analyse	Examine in detail the structure of
		Categorise	Place into a defined class or division
		Compare and contrast	Show the similarities and/or differences between
	Construct	Build up or compile	
	Prioritise	Place in order of priority or sequence for action	
	Produce	Create or bring into existence	

**Paper 11- Indirect Taxation**

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). Wherever necessary, you may make suitable assumptions and state them clearly in your answer.

Working notes should form part of the answer.

1. Answer the following questions with suitable reasons: [1×20=20]
- (a) Discuss whether putting together different duty paid items in a kit or box amounts to manufacture.
  - (b) State the frequency at which a SSI unit has to file its return under Excise Law.
  - (c) In relation to the Cenvat, mention the time limit within which credit is to be taken.
  - (d) An Indian firm provides a technical inspection and certification service for a newly developed bike launched by an overseas firm, which has to meet emission standards in different countries. The testing is carried out in Maharashtra (20%), Kerala (30%) and in Colombo (50%). Decide the place of provision of service with reason.
  - (e) "If any article is not subjected to excise duty, then no additional duty of customs can be levied." – Discuss
  - (f) Who decides the cases with respect to default in export obligations under the FTP?
  - (g) State the minimum value addition which is to be required for tea under Advance Authorisation Scheme.
  - (h) Define 'declared goods' as per sec.2 (c) of CST Act.
  - (i) State the amount of penalty which a person is liable to pay for improper exportation of prohibited goods.
  - (j) Decide whether ship demurrage charges on chartered vessels includible or not in the cost of transport in case of valuation of imported goods.
  - (k) Name the constitutional power by which tax can be imposed on interstate sale or purchase of goods.
  - (l) Give two examples of goods which are non-excisable.
  - (m) State the features of Service Tax Code (STC) Number.
  - (n) Mention the turnover limit to determine small service provider to levy service tax.
  - (o) Discuss whether the service of police protection by the Department of police to the Chief Minister is chargeable to service tax.
  - (p) Give some examples of deemed sale under VAT.
  - (q) "Goods under CST Act include materials, articles, stocks and commodities." – Critically examine.
  - (r) State the purpose to formulate safe harbour rules in the context of international transfer pricing.
  - (s) State the basic objective to determine Arm's length price.
  - (t) Whether service tax is payable on remittance received from abroad?

Answer:

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- (a) Putting together different duty paid items in a kit or box does not amount to manufacture as no new product emerges which is movable and marketable.
- (b) A SSI unit has to file its return on quarterly basis under Excise law.
- (c) Cenvat credit must be taken within 6 months from the date of issuance of invoice.
- (d) Notwithstanding the fact that the greatest proportion of service is outside the taxable territory, the place of provision will be the place in the taxable territory where the greatest proportion of service is provided. In this case, it is Kerala.
- (e) In case if any process does not amount to manufacture or production, then such article cannot be subjected to excise duty. On importation of such article India, no additional duty of customs can be levied.
- (f) To provide assistance to firms who have defaulted under FTP for reasons beyond their control as also facilitating merger, acquisition and rehabilitation of sick units, it has been decided to empower Settlement commission in CBEC to decide such cases w.e.f. 01-04-2005.
- (g) Advance Authorisation Scheme requires exports with a minimum value additional of 50% in case of tea.
- (h) As per sec.2 (c) of CST Act, 'declared goods' means goods declared u/s 14 to be of special importance in interstate trade or commerce.
- (i) The quantum of penalty cannot exceed three times the value of the goods as declared by the exporter or the value as determined under the customs Act, whichever is greater.
- (j) The ship demurrage charges on chartered vessels is includible in the cost of transport in case of valuation of imported goods.
- (k) Entry 92A of list I of Seventh Schedule of the Constitution of India gives the power to Central Government to impose tax on interstate sale or purchase of goods.
- (l) Live animals, live trees, electrical energy etc find mention in tariff, but rate column is blank.
- (m) Features of Service Tax Code Number:
  - (i) It is a 15 digit alpha – numeric code.
  - (ii) It is obtained by the service provider.
  - (iii) Application should be made to Jurisdictional Superintendent of Central Excise.
- (n) Small service providers in case of service tax are those whose aggregate value of taxable services rendered from one or more premises did not exceed ₹10 lakhs, during the preceeding financial year.
- (o) The service of police protection by the Department of police to the Chief Minister is covered in Negative list. It is a Primary and statutory function of the Govt. and not a support service.
- (p) Examples of deemed sale; leasing, hire purchase transaction, work contract etc.
- (q) As per sec. 2(d) of CST Act 'goods' includes all materials, articles, commodities and all other kind of movable property, but does not include newspapers, actionable claims, stocks, shares and securities.
- (r) The purpose to formulate safe harbour rules is to provide the circumstances in which the income tax authorities shall accept the transfer price declared by the assessee.
- (s) The basic object of determining Arm's Length Price is to find out whether any addition to income is warranted or not, if the following situations arise:
  - Selling Price of the Goods < Arm's Length Price
  - Purchase Price > Arm's length Price
- (t) No service tax is payable or remittance received from abroad, as it amount to a transaction in money.

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2. Answer any two: [2×2]  
(a) State the excise duty liability if goods are manufactured by 100% Export Oriented Unit (EOU) and brought to Domestic Tariff Area. [2]

**Answer:**

If goods are manufactured by 100% Export Oriented Unit (EOU) and brought to Domestic Tariff Area, Excise duty = Aggregate of customs duties which would be leviable under Customs Act, 1962, or any other law on like goods produced/manufactured outside India if imported into India.

For this purpose –

1. The value of such goods shall be determined in accordance with the provisions of the Customs Act, 1962 and the Customs Tariff Act, 1957; and
2. Where in respect of any such like goods, any duty of customs is leviable at different rates, then the highest of those rates shall be taken.

- (b) Write about the power of taxation under Constitution of India. [2]

**Answer:**

Power of taxation under constitution of India is as follows:

1. The Central Government gets tax revenue from Income tax (except on Agricultural Income). Excise (except on alcoholic drinks) and Customs.
2. The State Governments get tax revenue from sales, excise from liquor and alcoholic drinks, tax on agricultural income.
3. The Local Self Governments e.g. municipalities, etc. get tax revenue from entry tax and house property tax.

- (c) State the difference between direct tax and indirect tax regarding the nature of taxation. [2]

**Answer:**

Direct taxes are progressive in nature. But Indirect taxes are regressive in nature.

3. Answer any two: [8×2]

- (a) (i) AB Ltd. has submitted following quotation to CD Ltd. for supply of 250 Xenon Processor Computers

CPU	₹ 21,000
Monitor	₹ 11,500
Cordless Keyboard & Mouse	₹ 6,000
Other Peripherals	₹ 6,500
Labour & Overheads	₹ 8,000
Profit	₹ 7,000
<b>Total Price per unit</b>	<b>₹ 60,000</b>

**Terms: Delivery within one month from the date of receipt of the firm order.**

**CD accepts the quotation after the following alterations which are agreed to by AB Ltd. –**

1. Keyboard would be supplied free of cost by CD to AB since Eudora Ltd. is able to purchase the Keyboard for ₹3,000 per unit.
2. Profit charged by AB Ltd. is to be reduced to ₹5,500, since CD would make an advance of ₹ 30,000. However, no interest is payable on the advance.

**Determine the Assessable Value u/s 4 of the Central Excise Act, 1944, and the Excise Duty**

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@ 12% Ad Valorem. Ignore Cess.

[6]

(ii) Distinguish between Non- Excisable goods and Exempted goods.

[2]

Answer:

(i)

Particulars	₹
CPU	21,000
Monitor	11,500
Other Peripherals	6,500
Labour & Overheads	8,000
Profit	5,500
<b>Invoice Price</b>	<b>52,500</b>
Add: Value of Non-monetary Consideration under Rule 6 Cordless Keyboard & Mouse provided by Buyer (Cost to the Buyer to be included as per Rule 6)	3,000
Special Discount allowed due to receipt of advance (₹7,000 – ₹5,500)	1,500
<b>Assessable value</b>	<b>57,000</b>
<b>Excise Duty at 12%</b> (₹57,000 × 12%) <b>(Note: Cess ignored as per the question)</b>	<b>6,840</b>

(ii) Non – Excisable Goods vs. Exempted Goods:

Non- Excisable Goods	Exempted Goods
These goods are outside the purview of levy of duty. They are not included in the tariff at all.	These are Excisable Goods (i. e. included in Tariff), which are given relaxation by exempting the duty payable on them.

(b) M/s. Ram & Co. Ltd., a manufacturer of dutiable as well as exempted goods and also a provider of taxable as well as exempted services, furnishes the following information (₹ in lakhs) :

Particulars	Financial year 13-14	For month of April, 2014
(1) Value of exempted goods removed @ ₹ 650 per unit	585	65
(2) Value of dutiable goods removed	400	50
(3) Value of exempted services provided	250	30
(4) Value of taxable services provided	500	60
(5) Credit of input services, commonly used for all goods & services, taken	-	₹ 2,24,720
(6) Credit of inputs, commonly used for all goods and services, taken (80,000 units × ₹30 per unit × 12.36%)	-	₹ 2,96,640

You are required to compute the provisional amount of proportionate credit reversible under Rule 6(3A) of the Cenvat Credit Rules, 2004 for the month.

Given that for every unit of exempted goods, two units of inputs are required.

[8]

Answer:

The amount of provisional credit reversible under Rule 6 (3A) shall be as follows (amount in ₹):

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(a)	CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods (Inputs used in exempted goods = 10,000 × 2 = 20,000 units. Credit attributable to exempted goods = 20,000 × ₹ 30 per unit × 12.36%)	74,160
(b)	CENVAT credit attributable to inputs used for provision of exempted services = Value of exempted services during preceding financial year × (Cenvat credit taken on inputs – Cenvat credit attributable to inputs used in exempted goods) ÷ (Value of dutiable goods during preceding financial year + Value of taxable and exempted services during preceding financial year) = ₹250 lakh × (₹ 2,96,640 – ₹74,160) ÷ (₹400 lakh + ₹250 lakh + ₹500 lakh)	48,365
(c)	Cenvat credit attributable to input services used in or in relation to manufacture of exempted goods or provision of exempted services = Value of exempted goods and services during the preceding financial year × Cenvat credit taken on input services ÷ Total value of all goods and services (exempted or dutiable/taxable) during the preceding financial year = ₹835 lakh × ₹2,24,720 ÷ ₹ 1,735 lakh	1,08,151
<b>Provisional Cenvat Credit reversible under Rule 6(3A) for the month</b>		<b>2,30,676</b>

(c) (i) Abhi is doing only job work by charging ₹20 per product. The cost of materials supplied to him for the job work is ₹100 per product. From Abhi's factory, the principal manufacturer sells the goods at ₹200 per product to unrelated buyers. Calculate the excise duty payable @ 12.36%. [3]

(ii) Computation of assessable value in case of depot transfer - Rule7: Compute assessable value and amount of excise duty payable under the Central Excise Act, 1944 and rules made there under from the following information:

Particulars	No. of Units	Price at Factory Per Unit	Price at Depot Per Unit	Rate of Duty Ad valorem
(i) Goods transferred from factory to depot on 8th February	1,000	₹200	₹220	10%
(ii) Goods actually sold at depot on 18 <sup>th</sup> February	750	₹225	₹250	8%

[5]

**Answer:**

(i) As per Rule 10A of the Central Excise Valuation Rules, 2000, where the goods are sold by the principal manufacturer for delivery at the time of removal of goods from the factory of job worker, the value of excisable goods shall be the transaction value of the said goods sold by the principal manufacturer.

Hence, value shall be ₹200 per product. Excise duty = 12.36% of ₹200 = ₹ 24.72 per product.

[It is assumed that sale price of ₹ 200 is the transaction value (excluding all duties and taxes). If it is assumed to be price-cum-duty, then, excise duty = ₹200 × 12.36 ÷ 112.36 = ₹ 22.00 per product.]

(ii) According to Rule 7 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, in cases where the goods are not sold at factory gate, but are transferred by the assessee to his depot, the assessable value for the goods cleared from factory and sold from depot shall be normal transaction value of such goods at the depot at or about the same time at which the goods being valued are removed from

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the factory.

Assessable Value = 1,000 units × ₹220 = ₹ 2,20,000

**Calculation of central excise duty (amount in ₹)**

Basic excise duty @ 10% (₹2,20,000 × 10%)	22,000
Education cess @ 2%	440
Secondary and higher education cess @ 1%	220
<b>Total duty payable</b>	<b>22,660</b>

**Note:** It is assumed that price stated in question does not include duties of excise and cesses leviable thereon.

**4. Answer any two: [6 ×2]**

**(a) (i) Describe the types and usage of bill of entry in case of entry of goods on importation. [3]**

**(ii) After visiting USA for 10 days, Mrs. & Mr. Z brought to India a laptop computer valued at ₹38,000. Personal effects valued at ₹60,000 and a personal computer for ₹56,000. Calculate the customs Duty payable? [3]**

**Answer:**

(i) The types and usage of bill of entry in case of entry of goods on importation:

1. Bill of entry for home consumption	Used when goods are cleared on payment of full duty for home consumption under section 47 of Customs Act.
2. Bill of entry for warehousing, or Into Bond bill of Entry	Used when goods are to be deposited into warehouse without payment of duty under execution of bond u/s 59 for twice the amount of duty.
3. Bill of entry for home consumption of warehoused goods, or Ex-bound bill of entry	Used when warehoused goods are cleared for home consumption on payment of duty, etc. under section 68

(ii) Computation of customs duty payable

1. Laptop	Exempt
2. Used personal effects	Exempt
3. Personal Computer	56,000.00
Total	56,000.00
Less: General Free Allowance (GFA) under Rule 3 [As the passengers are returning from USA, hence, Rule 3 applies and GFA = ₹45,000, for stay of more than 3 days] [Age is obviously 10 years or more, as they are married] [GFA under this rule shall not be allowed to be pooled with the free allowance of any other passenger. Hence, Mr. Z and Mrs. Z cannot claim GFA for ₹45,000 each i. e., ₹90,000 in total.]	45,000.00
Dutiable value	11,000.00
Duty @ 36.05%	3,965.50

**4. (b) (i) M/s H.R.C imported a consignment of computer software and manuals valued at US \$42 lakhs and contended that the actual value was only US \$10 lakhs while the balance amount represented license fee for using the software at multiple locations and as such customs duty is payable only on the actual value of US \$10 lakhs. Is the contention, raised by M/s H.R.C, correct? Discuss. [3]**

**(ii) Assessable Value of certain goods imported from USA is ₹10,00,000. The packet contains 10,000 pieces with Maximum Retail Price ₹200 each. The Goods are**



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Assessable under Section 4A of the Central Excise Act, 1944, after allowing an Abatement of 40%. The Excise Duty rate is 8% advalorem. Calculate the amount of Additional Duty of Customs under Section 3(1) of the Customs Tariff Act, 1975; assuming Basic Customs Duty @ 10% ad valorem. [3]

**Answer:**

- (i) As per Rule 10(1)(c) of Customs Imported Goods Valuation Rules, 2007, royalties and licence fees related to the imported goods that the buyer is required to pay, directly or indirectly, AS A CONDITION OF THE SALE of the goods being valued, shall be included in the transaction value. Here, \$ 32 lakh, claimed as a license fee, was a sum charged as a condition of sale of software; hence, the same is included in the value of software.

Further, such sum is neither -

- ◆ charges for right to reproduce the software (in fact, software is used by assessee, not reproduced)
- ◆ nor, such payment is for right to distribute or resell software.

Hence, exclusion of such sum in view of Interpretative Notes cannot be claimed.

Therefore, the contention raised by M/s. HRC is incorrect.

- (ii) (1) Since product is covered under MRP provisions, Additional Duty of Customs (ACD) u/s 3(1) is payable on the basis of MRP.

(2) Computation of ACD u/s 3(1):

Particulars		₹
Assessable Value u/s 4A of CEA, 1944	(60% × 200 × 10,000)	12,00,000
Additional Duty of Customs	(8% × 12,00,000)	96,000

(c) Sonal Containers imported by air from USA certain goods at CIF Value \$ 8,400. Air Freight US \$1,600 and Insurance Charges US \$800 were also paid. Bill of Entry was presented on 28th February, but the date of arrival of the aircraft was 10th March. Other relevant information is as follows:

	As on 28th February	As on 10th March
		Rates of Exchange
As announced by CBEC US \$ 1	₹48.50	₹48.20
As announced by RBI US \$ 1	₹48.90	₹48.50
		Rates of Customs
Basic Customs Duty	14%	16%
Additional Customs Duty	10%	10%
Special Additional Duty u/s 3(5)	4%	4%

The same goods are exempt from excise duty in India, if manufactured without the aid of power.

Compute A.V. and amounts of Basic, Additional and Special Additional Duty to be adopted.

[6]

**Answer:**

### 1. Adjustment for Freight and Insurance

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Particulars	US \$	US \$
CIF Value		8,400
<b>Less:</b> Air Freight	1,600	
Insurance Charges	800	2,400
FOB value		6,000
<b>Add:</b> Air Freight at 20 % of FOB Value or actual, whichever is less.	1,200	
Insurance Charges (ascertainable, so taken at actual)	800	
<b>Revised CIF Value</b>		<b>8,000</b>
1. CIF Value in Indian Rupees (US \$ 8,000 × CBEC Notified Rate on Bill of Entry (B/E) date ₹ 48.50)		₹ 3,88,000
2. Add: Landing Charges at 1 % of CIF Value		₹ 3,880
3. Assessable Value (AV) (1+ 2)		₹ 3,91,880
4. Basic Customs Duty (BCD) @ 16% of AV		₹ 62,701
5. Additional Customs Duty u/s 3(1) at 10% of (AV + BCD)		₹ 45,458
6. Total Custom Duty = BCD + ACD u/s 3(1) + EC + SHEC (4+5)		₹ 1,08,159
7. EC @ 2% on (6)		₹ 2,163
8. SHEC @ 1% on (6)		₹ 1,082
9. Special Additional Duty at 4% of (AV+BCD+ACD+ Customs EC+ SHEC)		₹ 20,131
10. <b>Total Duty (6+7+8+9)</b>		<b>₹ 1,31,535</b>

**Note:** Duty = Rate on the date of filing B/E or date of arrival of aircraft, whichever is later, should be considered.

5. **Answer any two:** **[4×2]**  
**(a) State the administration procedures which are followed by DGFT in case of Foreign Trade Policy (FTP).** **[4]**

**Answer:** Administration of FTP by DGFT:

- (i) The FTP is formulated by the Central Government and supervised/carried out by the Director General of Foreign Trade (DGFT), an office attached to the Ministry of commerce & Industry, Government of India.
- (ii) DGFT has its headquarters at Delhi and several offices across India.
- (iii) DGFT issues authorization (earlier called as licence) for import/export.
- (iv) DGFT issues clarifications in matters of FTP, classification for purposes of export/import and scope of its authorization, which are final and binding.

- (b) State the salient features of reward schemes mentioned under duty remission scheme. [4]**

**Answer:**

Reward schemes cover those schemes which provide duty credit scrips to exporters. Such schemes are subject to various conditions. The salient features of these schemes are –

- (1) Scrips covered: VKGUY (Vishesh Krishi and Gram Udyog Yojana), SFIS (Served from India Scheme), FMS (Focus Market Scheme), FPS (Focus Product Scheme) etc.
- (2) Importable items: All items (freely importable or restricted) can be imported under these scrips. However, certain items like garlic, tea, etc. are not importable under these scrips.

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- (3) Validity: Duty credit scrip is valid only for 24 months. It can be revalidated only if it had expired when the goods were under the custody of customs.
- (4) Time-limit for making application: Application for duty credit scrips must be made within –
- (i) 12 months from date of export
  - (ii) 6 months from the date of realization, or
  - (iii) 3 months from the printing/release of shipping bill, whichever is later.
- For SFIS, last date is 12 months from the end of application frequency period.

**(c) Mention the categories of exporters who are eligible under Export promotion Capital Goods Scheme (EPCG). [4]**

**Answer:**

**Eligible Exporters:** Export promotion Capital Goods Scheme (EPCG) Scheme covers Manufacturer Exporters with or without Supporting Manufacturer(s)/ Vendor(s), Merchant Exporters tied to Supporting Manufacturer(s) and Service Providers. EPCG Scheme also covers a Service Provider who is designated/ certified as a Common Service Provider (CSP) by the DGFT, Department of Commerce or State Industrial Infrastructural Corporation in a Town of Export Excellence with the following conditions –

- (i) EPCG licence to be given to the CSP should have a clear endorsement giving the details of the users and the quantum of Export Obligation (EO) which each User would fulfill,
- (ii) Such exports will not count towards fulfillment of other specific export obligations, and
- (iii) Each one of the Users (apart from the CSP) should furnish 100% Bank Guarantee (BG) equivalent to their portion of duty foregone apportioned in terms of quantum of EO to be discharged by them and the BG will be enforced in the event of the obligation not being fulfilled.

**6. Answer any two: [10× 2]**

**(a) (i) Whether the activity of erection of Pandal / Shamiana activity involves transfer of right to use such pandal/ shamiana to the customer? Is it included in service? [3]**

**(ii) Ravi Enterprises Ltd, a Small Service Provider, provided the following serviced during the Financial Year 2014 - 2015. Determine the taxable value of services and also the tax liability thereon. (Assume that all values are exclusive of service tax)**

Particulars	Amount (₹)
Services provided to Companies	3,00,000
Services provided under its brand name	4,00,000
Services provided under the brand name of "Pi Ltd"	5,00,000
Services which are already exempt under any other Notification	3,00,000
Services rendered to Individuals	4,00,000

[7]

**Answer:**

- (i)
  1. Normally, the activity of erection of Pandal / Shamiana is coupled with other services like supply of Furniture, Sound System, Lighting, etc.

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2. Such activity prepares a place to hold a function or event. However, effective possession and control over such pandal or shamiana remains with the service provider, even if the specially made-up space for temporary use is handed over to the customer.
3. Hence, the activity of providing Pandal and Shamiana along with erection and other incidental activities, do not amount to transfer of right to use goods. So, Such activity is liable for service tax.

(ii)

1. As per the Notification No.33/2012, the Small Service Provider (SSP) can avail exemption for services provided upto an aggregate value of ₹ 10 Lakhs.
2. Determination of Taxable Value and service tax thereon is as follows:

Particulars	Service Value (₹)	Taxable Value (₹)
<b>Services which are eligible for SSP Exemption</b>		
Services provided to Companies (Eligible)	3,00,000	3,00,000
Services provided under its brand name (Eligible)	4,00,000	4,00,000
Services rendered to individuals (Eligible)	4,00,000	4,00,000
<b>Total Eligible Services</b>		<b>11,00,000</b>
<b>Less: Exemption under SSP Notification</b>		<b>(10,00,000)</b>
<b>Net Taxable Value of Services</b>		<b>1,00,000</b>
<b>Services which are excluded from SSP Exemption</b>		
Services which are already exempt under other Notification (Excluded from the Notification)	3,00,000	Nil
Services under the brand name of Pi Ltd (directly liable)	5,00,000	5,00,000
<b>Taxable Value of Services</b>		<b>5,00,000</b>
<b>Computation of Service Tax Liability</b>		
<b>Total Taxable Value of Services</b>		<b>6,00,000</b>
Service Tax Liability @ 12.36%	6,00,000 × 12.36%	<b>74,160</b>

6. (b) (i) A Ltd. have received services from a foreign company. Under the agreement, they are liable to pay know-how charges tax free. TDS @ 40% is liable to be made under Income-tax law. The sum paid tax-free : ₹588 ; rate of TDS : 41.2% and service tax: 12.36%. Compute the amount of service tax payable. [4]
- (ii) AM Ltd. of Mumbai (having diversified business) has provided the following services, whose values are listed below. Compute its service tax liability:
1. Services provided to a company located in Dubai in relation to organization of a festival celebration event in Dubai India : ₹ 4 lakh ;
  2. Services provided to a company located in Jammu in relation to fashion show in Jammu : ₹ 3 lakh;
  3. Services provided to a company located in Delhi in relation to fashion show in Jammu : ₹ 3 lakh.
  4. Services of allowing downloading of digital content from its website : ₹ 10 lakhs (out of this, ₹ 2 lakh was provided to recipients located outside India). [6]

**Answer:**

- (i) Where the price set out in the Consultancy Agreement is net of all duties, taxes and other Government charges which, where applicable, were payable in addition to the price; then, consideration inclusive of income-tax deducted at source shall be assessable value

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for the purpose of the Act in the hands of the service recipient. Since the price of contract was net of taxes, the tax payable in India was to form part of contract price. Thus, consideration charged for the service provided shall include income-tax deducted at source as per terms of contract.

In this case, —

1. **TDS is sum received:** Tax deducted at source is sum received by the person on whose behalf tax is deducted (section 198 of the Income-tax Act, 1961) and, is therefore, a part of consideration paid.
2. **Grossing up :** The consideration/sum paid shall be calculated by way of statutory grossing up specified in section 195A of the Income-tax Act, 1961 as follows :
  - (a) Grossed up sum = Sum paid (net of tax) ÷ (100 - TDS rate)
  - (b) Here, grossed up sum = ₹ 588 ÷ (100 - 41.2)% = ₹ 1,000.
3. **Value:** Therefore, the value of taxable service received is ₹ 1,000.

(b) (ii) The taxable value and service tax is computed below:

Item	Treatment	₹
1. Services provided in relation to organization of a festival celebration event outside India	As per Rule 6 of the PoP Rules, 2012, in case of services provided in relation to organization of events, the services shall be taxable at the place of location of event. Since event is held in non-taxable territory, it is not liable to service tax.	NIL
2. Services provided in relation to fashion show in Jammu	As per Rule 6 of the PoP Rules, 2012, in case of services provided in relation to organization of events, the services shall be taxable at the place of location of event. Since event is held in non-taxable territory, it is not liable to service tax.	NIL
3. Services provided to a company located in Delhi in relation to fashion show in Jammu	Since services are in relation to event held in Jammu, hence, as per Rule 6, they are not taxable. But, since the services are provided to a recipient located in taxable territory (Delhi) and both service provider and recipient are located in taxable territory, hence, as per Rule 8, these services are liable to service tax.	3,00,000
4. Services of allowing downloading of digital content from its website	These services fall under online information and database access or retrieval services. As per Rule 9, the place of provision is the place of location of service provider. Since service provider AM Ltd. is located in Mumbai (taxable territory), hence, these services will be taxable in full irrespective of location of the service recipient.	10,00,000
	<b>Total Taxable value</b>	<b>13,00,000</b>
	<b>Service tax @ 12.36%</b>	<b>1,60,680</b>

6. (c) (i) Compute value of taxable services of transport of "passengers of air from the following data relating to sums received exclusive of service tax -

- (1) Passengers embarking at Assam : ₹ 10 lakh ;
- (2) Passengers where journey terminated at Manipur : ₹4 lakh ;
- (3) Amount charged from passengers for flights starting from Dubai to Delhi: ₹400 lakh ;
- (4) Amount charged from passengers from flights starting from Delhi to Dubai: ₹540

## Answer to PTP\_Intermediate\_Syllabus2012\_Dec2015\_Set 2

lakh (including passenger taxes levied by government and shown separately on ticket: ₹140 lakh).

Compute value of taxable services and service tax thereon, assuming that airlines has opted to pay service tax on abated value. [5]

- (ii) Mr. Roy, an Output Service Provider, deposited the Service Tax amounting to ₹ 20 Lakh on 09-06-2014 for the quarter ending December 2013. Compute the amount of interest payable by Mr. Roy assuming he deposits Service Tax electronically, and his Value of Taxable Service in 2012-13 was ₹80 Lakh. Explain whether there would be any difference in the rate of interest if his Value of Taxable Services was as follows:

2012-13	₹ 59 Lakhs
2013-14	₹ 48 Lakhs
2014-15	₹ 54 Lakhs

[5]

**Answer:**

- (i) Computation of taxable value and gross service tax

1. Passengers embarking at Assam : ₹10 lakh - Exempt;
2. Passengers where journey terminated at Manipur : ₹4 lakh - Exempt;
3. Amount charged from passengers for flights starting from Dubai to Delhi: ₹400 lakh - Place of embarkation is Dubai viz. Outside India; hence, place of provision as per Rule 11 of PoP Rules is Dubai viz. Outside India, therefore, it is not chargeable to service tax in India ;
4. Amount charged from passengers from flights starting from Delhi to Dubai: ₹540; Gross amount charged = ₹540 lakh — Passenger taxes levied by government and shown separately on ticket ₹ 140 lakh = ₹400 lakhs. Taxable value = 40% of amount charged of ₹ 400 lakhs = ₹160 lakhs.  
Therefore, taxable value = ₹ 160 lakhs and service tax thereon = ₹19.78 Lakhs approx.

- (ii)

1. **Due Date:** Due Date for e-payment of Service Tax by an Individual Service Provider shall be the 6th of the month following the quarter in which the service is provided or deemed to be provided.
2. **Interest:** Any Delay in payment of the same shall attract interest u/s 75 as follows -
  - (a) Assessee's whose Value of Taxable Service is ₹ 60 Lakhs and above in the Preceding Financial year: 18% p.a
  - (b) Assessee's whose Value of Taxable Service is Less than ₹60 Lakhs in the Preceding Financial year: 15% p.a
3. **Delay given case:** Due date for payment of service tax is 06.01.2014, whereas Actual date of payment of service Tax is 09.06.2014. Hence, the number of days delay = 25+28+ 31+ 30 + 31+ 9 = **154 days**.

**4. Interest Computation in given case:**

Particulars	Situation 1	Situation 2
I. Total amount of service tax payable	₹20,00,000	₹20,00,000
II. Value of taxable service in FY 2012 – 13	₹80,00,000	₹59,00,000
III. Interest rate Applicable (Since the period of delay does not exceed 6 months)	18%	15%
IV. Interest payable	₹20,00,000 × 18% × 154/365 = ₹1,51,890	₹20,00,000 × 15% × 154/365 = ₹1,26,575

## **Answer to PTP\_Intermediate\_Syllabus2012\_Dec2015\_Set 2**

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7. Answer any two:

[6× 2]

(a) (i) From the following particulars arrive at the VAT liability for the month of January 2015 and also determine the amount of input tax credit to be carried forward for the next month: (I) Input tax rate 5% and output tax rate is 15% in the State, (II) Inputs purchased in the month from within the State – ₹48,00,000. (III) Output sold to buyers within the State during the month – ₹ 15,00,000. (IV) Output sold during the month to buyers as interstate sales – ₹ 3,00,000. (CST rate 2% against C Form) (V) Inputs purchased from other States as interstate purchases against C Form @2% - ₹ 2,00,000 (Provide suitable explanations where required with appropriate assumptions if necessary). [3]

(ii) State the essential ingredients of a sale under CST. [3]

**Answer:**

(i) Input tax credit (set off) – ₹2,40,000 (5% of ₹48 lakhs). No credit is available on inter-state purchases.

Output tax payable - (a) Sale within State – ₹2,25,000 (15% of ₹15 lakhs) (b) Inter-state sale – ₹6,000 (2% of ₹ 3 lakhs). Total output tax payable – ₹ 2,31,000.

Net Tax payable - Nil as Input tax credit (set off) available is more than output tax payable. The excess credit of ₹9,000 [₹ 2,40,000 – ₹ 2,31,000] will be carried forward for use in future month/s. If the credit cannot be utilised in the entire financial year, refund can be claimed.

(ii) The essential ingredients of a sale under CST:

- (1) There must be two parties to the contract of sale (i.e.) the buyer & the seller.
- (2) There must be valid consent of both the above parties.
- (3) There must be an actual transfer of property in goods (i.e. agreement to sell is not a sale).
- (4) There must be a consideration in cash or in deferred payment or any other valuable consideration in money or money's worth.
- (5) Sale includes deemed sales.
- (6) Sale does not include a mortgage or hypothecation of or a charge or pledge on goods.

(b) Gross Inter State sales of ZX Co. Ltd., Patna, Bihar; were ₹ 18,00,000 during 14-15 (April 14 - March 15). CST was not shown separately in Invoice. Other information is as follows :

(A) The sales are of product 'P'. If the product is sold within State of Bihar, sales tax rate is 8%.

(B) Sale of ₹8 lakhs are inclusive of erection expenses of ₹1,00,000, excise duty of ₹ 76,000 and packing charges of ₹25,000. The sale price is also inclusive of trade discount of ₹30,000, which has been later given by issuing a Credit Note. Buyers of these goods have issued form 'C' for these purchases.

(C) Balance sale of ₹ 10 lakhs are inclusive of excise duty of ₹95,000 and outward freight of ₹21,000. The freight was charged separately in Invoice. Buyers of these goods have not issued any declaration under Central Sales Tax Act. Out of these sales, goods of ₹2 lakhs were returned by customers. The goods were dispatched in February 15 and returned in June 15, i.e. after end of the accounting year.

Find the turnover and CST payable.

[6]

**Answer:**

Since rate of tax is different for sale to registered dealers and un-registered dealers, we have

## Answer to PTP\_Intermediate\_Syllabus2012\_Dec2015\_Set 2

to calculate 'aggregate sale price' separately.

1. Where C form has been issued (i.e. buyer is a registered dealer and is eligible to buy goods as per his Central Sales Tax Registration Certificate), the sales tax payable is 2%. Out of sales of ₹ 8 lakhs, deduction of erection charges of ₹ 1 lakh and trade discount of ₹ 30,000 is available. Thus, 'Aggregate Sale Price' is ₹6,70,000. Sales tax is payable on excise duty and packing charges and hence no deduction is allowed on these accounts.
2. Where no C form is received (i.e. buyer is un-registered dealer), CST rate is 8%. Out of sale of ₹10 lakhs, deduction of freight of ₹21,000 is available. Deduction of goods returned of ₹ 2 lakhs is also available as the goods were returned within 6 months, even if returned after close of financial year. Thus, 'Aggregate Sale Price' will be ₹ 7,79,000.

Thus, turnover and CST payable is as follows :

1	2	3	4	5
Product	Aggregate Sale price ₹	Sales tax Rate %	Turn over ₹	CST payable ₹
P	6,70,000	2%	6,56,862.75	13,137.25
P	7,79,000	8%	7,21,296.30	57,703.70
	<b>Total</b>		<b>13,78,159.05</b>	<b>70,840.95</b>

- (c) (i) Discuss the validity of the following statement with reference to computation of liability-under CST Act: (I) Cost of freight, separately charged in the invoice, shall be deducted from sale price (II) Subsidy given by Government to manufacturers (selling the product at controlled price) to compensate cost of production will form part of sale price, (III) Charity or dharmada collected by dealer will not form part of sale price (IV) Free of cost material supplied by the customer will be added to the sale price. [4]**
- (ii) Disadvantages of Cascading Effect of Taxes. [2]**

**Answer:**

- (i) (I) Statement is correct (II) In *Neyveli Lignite v. CTO* 124 STC 586 = (2001) 9 SCC 648 = 2001 AIR SCW 3917 (SC 3 member bench), it was held that Vat is not payable as it is not part of 'price'. Thus, the statement is incorrect (III) The statement is correct [However, there is contrary decision of Madras High Court] (IV) The statement is incorrect. In *State of Tamil Nadu v. Sri Meenakshi Plastic Industries* (2010) 4 GST 292 (Mad HC DB) \* *V S Engineering v. State of Andhra Pradesh* (2014) 68 VST 87 (AP HC DB), it was held that value of such free of cost material is not includible.
- (ii) A tax purely based on selling price of a product has cascading effect, which has the following disadvantages:
  1. Real tax content in the price of a product cannot be known, as a product passes through various stages and tax is levied at each stage.
  2. Tax burden on any commodity will vary widely depending on the number of stages through which it passes in the chain from first producer to the ultimate consumer.
  3. Ancillarisation is discouraged and manufacturer tries to manufacture all parts and do all processes in his plant itself. This increases manufacturing costs.
  4. End use based exemptions and concessions (e.g. exports or goods consumed by poor) cannot be given since it is not known what were taxes paid in earlier states.
  5. Exports cannot be made fully tax free.

**8. Answer any two:**

**[4×2]**

**(a) Write short notes on –**



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- (i) **Marketing related intangible assets and**  
(ii) **Customer related intangible assets in the context of international transfer pricing. [2+2]**

**Answer:**

- (i) **Marketing related intangible assets:** These are used primarily in the marketing or promotion of products or services.  
This includes: Trademarks; Trade name; service mark; Collective marks; Certification marks; Trade dress; Newspaper mastheads; Internet domain names; Non-competitive agreements
- (ii) **Customer-related intangible assets:** These are generated through inter-action with various parties such as customers, entities in complimentary business, suppliers, etc. these can either be purchased from outside or generated internally.
- Contractual basis: customer contracts and customer relationships; order or production backlog
  - Non-contractual basis:- customer lists; non-contractual customer relationships;
- (b) **Flip Laboratories Ltd. is 100% subsidiary of a US Company. The parent company sales its products to unrelated buyers at US dollars 150 per unit. Compute the Arms Length Price (ALP) in following two situations - (I) The product is sold to Indian subsidiary at 120 USD per piece (II) The product is sold to Indian subsidiary at USD 180 per unit. [4]**

**Answer:**

The price is accepted as with the price, profit of Indian subsidiary will be higher (b) In this case, the price taken for computing income of Indian subsidiary is US dollars 150 per unit, as accepting price of 180 US dollars means the profit of Indian subsidiary will be lower. The difference is more than 3%. Hence, transaction price of US \$ 180 cannot be accepted.

- (c) **State the applicability of domestic transactions in the case of transfer pricing. [4]**

**Answer:**

The provisions of transfer pricing has been made applicable if aggregate of the transactions is more than ₹ 5 crores - section 92BA of Income Tax Act applicable from Assessment Year 2013-14.

The provisions are applicable in following cases -

Expenditure where payment made to person referred in section 40A(2)(b) of Income Tax Act.

Transaction referred in section 80A of Income Tax Act.

Transfer of goods or services referred in section 80-IA(8) of Income Tax Act and any transaction referred in chapter VI-A or section 10AA of Income Tax Act to which section 80-IA(8) of Income Tax Act applies.

Business transaction between assessee and other person referred to in section 80-IA(10) of Income Tax Act and any transaction referred in chapter VI-A or section 10AA of Income Tax Act to which section 80-IA(10) of Income Tax Act applies,