INTERMEDIATE EXAMINATION
GROUP II
(SYLLABUS 2012)

SUGGESTED ANSWERS TO QUESTIONS
DECEMBER 2017

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 five questions.
Wherever necessary, you may make suitable assumptions and
State them clearly in your answer.
Working Notes should form part of the answer.

1×10=10

1. (A) Choose the best answer:

(a) Central Excise Revenue Audit (CERA) is conducted by

(i) Cost Accountant

(ii) Chartered Accountant

(iii) Office of CAG

(iv) Excise Department

(b) Period of limitation for claiming customs duty refund is ______________.

(i) 6 months from the date of import/export

(ii) 6 months from the date of payment of duty and interest

(iii) One year from the date of import/export

(iv) One year from the date of payment of duty and interest

(c) The portal used for filing Central Excise Returns is

(i) ACES

(ii) CBEC

(iii) OLTAS

(iv) None of the above

(d) Periodicity of filing Service Tax return (ST- 3) by a partnership firm is

(i) Monthly

(ii) Quarterly

(iii) Half- yearly

(iv) Annual

(e) Small service providers exemption threshold for service tax purposes is

(i) ₹5 lakhs

(ii) ₹15 lakhs

(iii) ₹10 lakhs

(iv) ₹50 lakhs

(f) CAS 9 deals with

(i) Material Cost

(ii) Repairs & Maintenance

(iii) Packing Material Cost

(iv) Pollution Control Cost

(g) Under Foreign Trade Policy, the term "STPI" stands for

(i) Software Traders Place in India

(ii) Software Technology Part of India

(iii) Small Traders & Practitioners in India

(iv) None of the above

(h) CST is not chargeable on the following as it is not sale of goods:

(i) Business
(ii) Copyright
(iii) Trade mark
(iv) Advance license

(i) Definition of service includes ___________.
(i) An activity
(ii) For consideration
(iii) Both
(iv) None of (i) and (ii)

(j) Goods returned are not liable to sales tax if they are returned

(i) By the buyer at any time in the financial year in which sale takes place.
(ii) Within six months of the end of the financial year in which sale takes place.
(iii) Within six months of sale.
(iv) within six months of sale but not-later than three months from end of the relevant financial year in which sale took place

(B) Match the following: 1×5=5

	Column A		Column B
1.	ACES	A	Jammu & Kashmir
2.	White Colour BOE	B	Penultimate sale
3.	IEC	C	Home consumption
4.	Form H	D	Import Export Code
5.	Excise Duty extends to whole of India including	E	Automation of Central Excise and S.T

(C) Fill up the blanks: 1×5=5

(a) Recovery of tax from buyer_________(is/is not) and essential condition for levy of indirect taxes.

(b) For claiming CENVAT credit relating to capital goods, an eligible capital asset________ (should/need not) be in the name of the assessee.

(c) Duty drawback rate shall not exceed ________per cent of market price of export goods.

(d) For service tax, an establishment of a person located in taxable territory and another establishment of such person located in non-taxable territory are treated as establishments of____________(same/distinct) person(s).

(e) Where goods purchased within the State are used for personal consumption, input tax credit_________(can/cannot) be claimed in respect of such goods.

(D) State whether each of the following statement is correct or incorrect: 1×5=5

(a) Plant & Machinery assembled and erected at site and embedded to earth shall be treated as goods and chargeable to excise duty.

(b) A person aggrieved by the order of CESTAT in the matters of classification or valuation of goods can make an appeal before High Court.

(c) Manufacturer of capital goods can avail 50% of the total duty relating to inputs directly delivered by a supplier to a job worker on the direction of the said manufacturer.

(d) Buying commission is always includible in customs valuation.

(e) Unbranded software is goods.

Answer: 1 (A)

(a) (iii) Office of CAG
(b) (iv) One year from the date of payment of duty and interest
(c) (i) ACES
(d) (iii) Half-yearly
(e) (iii) ₹10 lakhs
(f) (iii) Packing Material Cost
(g) (iv) None of the above
(h) (i) Business
(i) (iii) Both
(j) (iv) Within six months of sale

Answer: 1 (B)

	Column A		Column B
1.	ACES	E	Automation of Central Excise and S.T
2.	White Colour BOE	C	Home consumption
3.	IEC	D	Import Export Code
4.	Form H	B	Penultimate sale
5.	Excise Duty extends to whole of India including	A	Jammu & Kashmir

Answer: 1 (C)

(a) Is not
(b) Should
(c) 33
(d) Distinct

(e) Cannot

Answer: 1 (D)

(a) Incorrect

(b) Incorrect

(c) Correct

(d) Incorrect

(e) Incorrect

2. (a) (i) How do indirect taxes differ from direct taxes from the angle of nature of tax? 2

(ii) In the context of psychology of taxpayer as regards manner of collection and payment, state the advantage of indirect taxes. Highlight the psychology of manufacturers in this context. 2

(iii) State the types of entries contained in List III of the Seventh Schedule to the constitution of India. 2

(b) State the procedure followed for collection of excise duty. 2

(c) Madusudhan Wires Ltd. sells a product to the buyers at ₹363.94 per unit. This price includes excise duty at 12.5% and State VAT at 5%.

Additionally, as a routine practice, sales commission of 5% on cost tubes is given to the stockists.

Compute the assessable value (AV) of the product under excise law. 4

(d) In central excise levy, when does the taxable event take place? Explain with an example. 3

Answer: 2 (a)

(i) Direct taxes are progressive in nature.
Indirect taxes regressive in nature.

(ii) Since the price of commodity or service is already inclusive of indirect taxes, the customer i.e. the Ultimate taxpayer does not feel a direct pinch while paying indirect taxes and hence, resistance to indirect taxes is lesser as compared to resistance to direct taxes.

Manufacturer's/ Dealer's Psychology favours indirect taxes- The manufacturer/ trader who collects the indirect taxes in his invoice and pays it to Government, has a psychological feeling that he is only collecting the taxes and is not paying out of his own pocket (though this feeling be always may not correct).

(iii) List III (Concurrent List) contains entries where both Union and State Governments can exercise power. [In case of Union Territories, Union Government can make laws in respect of all the entries in all three lists]

Answer: 2 (b)

For collection of Central Excise Duty, the following two procedures are followed by the Central Excise Department:

(i) Physical Control Procedure: Applicable to cigarettes only. In this case, the assessment precedes clearance, which takes place under the supervision of Central Excise officers;

(ii) Self-Removal Procedure: Applicable to all other goods produced or manufactured within the country. Under this system, the assessee himself determines the duty liability on the goods and clears the goods.

Answer: 2 (c)

Assume that, assessable value = x.

No Deduction is available in respect of commission paid to third parties from Assessable value.

Since Excise duty is 12.5%, State Vat rate is 5% price including excise will be 1.125x.

State Vat @ 5% of 1.125x is 0.05625x. Hence, Price inclusive of sales tax and excise duty will be 1.18125x

Now, 1.18125x = 363.94

Hence, x = 308.10

Answer: 2 (d)

Taxable event under central excise

Manufacture or production of excisable goods in India is taxable event. Central excise duty is charge on manufactured goods & not on sale of goods that means even if goods are not sold, excise duty should be payable on it. Captive consumption, free sample, intermediary goods etc. are also liable to central excise duty even from these goods no revenue is generated.

An ownership criterion is irrelevant in paying excise duty of great significance in levy of any tax or duty. Excise duty is leviable on all excisable goods, which are produced or manufactured in India.

Thus, 'manufacture or production in India' of an excisable goods is a 'taxable event' for Central Excise. It becomes immaterial that duty is collected at a later stage i.e. at the time of removal of goods.

Example: Product X is produced on 1st February 2016 by X Ltd. On that date X is an excisable commodity with a tariff rate of 12.5%. Subsequently on 31st March, 2016 Product X was removed from the factory. Hence, the taxable event is on 1st February 2016 and not on 31st March 2016.

3. (a) Discuss with brief reason, whether Aswin Pharma Ltd., a manufacturer is entitled to CENVAT credit in respect of the following items purchased in June, 2016. 5

(i) Machinery purchased in the name of its sister concern Sriram Medico Pvt. Ltd., to whom raw materials are sent on job work basis.

(ii) An open truck used inside its factory for moving raw materials and stores.

(b) Vasudha Coils Ltd. (VCL), an Indian company was the receiver of service from an associated enterprise based in Singapore viz., Grey Inc. (GI). Taxable services were received by it on 03-07-2016. Following further details are available:

- **Invoice raised by GI for USD 12,000 on 23-07-2016.**
- **Above transaction recorded in books of VCL on 03-08-2016.**
- **Payment made to GI by VCL on 29-08-2016.**

You are required to determine the point of taxation based on above details. 4

(c) What are the methods of valuation for customs duty? Is it mandatory that they should

be applied sequentially? **6**

Answer: 3 (a)

(i) Not eligible

Cenvat Credit is available only where the eligible asset is owned by the assessee and is purchased in its name.

Since the machinery has been purchased in the name of another person, the assessee is not eligible for Cenvat credit.

(ii) Eligible.

As per the definition of capital goods, motor vehicles other than those falling under tariff headings 8702, 8703, 8704 and 8711 used in the factory of the manufacturer of the final products are eligible capital goods.

Here the vehicle is used in the factory for purposes of manufacture, hence an eligible item for claiming Cenvat credit

Answer: 3 (b)

In case of "associated enterprises", where the person providing the service is located outside India, the point of taxation shall be:-

i. the date of debit in the books of account of the person receiving the service or

ii date of making the payment

Whichever is earlier.

Hence, in the given case, the point of taxation shall be earlier of the following two dates: -

i. the date of debit in the books of account of VCL i.e. 03.08.2016

or

ii. date of making the payment i.e. 29.08.2016

Thus, the point of taxation is 03.08.2016

Answer: 3 (c)

Methods of Valuation in customs duty

The methods of valuation for customs methods are as follows -

- ❖ Transaction Value of Imported goods [Section 14(1) of the Customs Act and Rule 3(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007]
- ❖ Transaction Value of Identical Goods [Rule 4]
- ❖ Transaction Value of Similar Goods [Rule 5]
- ❖ Deductive Value which is based on identical or similar imported goods sold in India [Rule 7]
- ❖ Computed value which is based on cost of manufacture of goods plus profits [Rule 8]
- ❖ Residual method based on reasonable means and data available [Rule 9]

Methods to be applied sequentially - These methods are to be applied in sequential order, i.e. if method one cannot be applied, then method two comes into force and when method two also cannot be applied, method three should be used and so on. The only exception is that the 'computed value' method may be used before 'deductive value' method, if the importer requests and Assessing Officer permits.

4. (a) Mr. Shyam, an importer, imported certain goods CIF value was US $ 22,000 and quantity 1100 kgs. Exchange rate was 1 US $ = ₹70 on date of presentation of Bill of Entry. Customs Duty rates are:

(i) Basic Customs Duty 10%

(ii) Education Cess 2%

(iii) SAH Education Cess 1%

There is no excise duty payable on these goods if manufactured in India. As per Notification issued by the Government of India, anti-dumping duty has been imposed on these goods.

The anti-dumping duty will be equal to difference between amount calculated @ US $ 35 per kg. and "landed value" of goods. Compute Customs Duty liability and anti-dumping liability. **7**

(b) The following information is furnished by Mr. Varun on 8th June 2016, in respect of articles of Jewellery imported from USA in the month of April 2017:

FOB value	**$ 25,000**
Exchange rate	**$ 1 = ₹68**
Air freight	**$ 6,500**
Insurance Charges	**Not known**
Loading Charges	**₹1,000**
Basic customs duty	**10%**
Excise duty chargeable on similar goods in India as per tariff rate	**12.5%**
Additional duty of customs u/s 3(5) of the Customs Tariff Act, 1975	**As applicable**

Calculate the total customs duty payable by Mr. varun. **8**

Answer: 4 (a)

Part I	Amount in ₹
Total CIF Price US $ 22,000 × ₹ 70	15,40,000
Add: Landing charges @ 1% × ₹ 15,40,000	15,400
Assessable Value	15,55,400
Basic duty @ 10%	1,55,540
Sub total	**17,10,940**
Add: Education cess 2% on ₹ 1,55,540	3,111
Add: Secondary and Higher Education Cess [@1% on ₹ 1,55,540]	1,555
Value of imported goods	17,15,606
Total Customs Duty payable is ₹1,60,206.	
Part II	
Rate as per Anti-Dumping Notification is ₹26,95,000 [US $ 35 per kg x 1,100 Kgs × ₹ 70]	
Part III	
Computation of anti-dumping duty	
Rate as per Anti-Dumping Notification	26,95,000
Less: Value of imported goods as computed above	(17,15,606)
Anti-Dumping Duty payable	**9,79,394**

Answer: 4 (b)

Statement showing customs duties payable by Mr. Varun.

Particulars	USD ($)	Remarks	Workings

FOB	25,000		
Add: Air freight	5,000	Air freight should not exceed 20% on FOB	25,000$ × 20% =5,000
Add: Insurance	281.25		1.125% on FOB (25,000)
CIF value	30,281.25		
Add: 1 % loading and unloading	302.81		30,281.25 ×1%
Assessable value	30,584.06		
	Value in ₹		
Assessable value	20,79,716		USD 30,584.06 × ₹ 68
Add: Basic Customs Duty	2, 07, 972		₹ 20,79,716 × 10%
Sub-total	22,87,688	—	
Add: CVD 12.5%	2,85,961		₹ 22,87,688 × 12.5%
Sub-total	25,73,649		
Add: 2% education cess	9,879	2% calculated on BCD plus CVD	₹ 4,93,933 × 2%
Add: 1% SAH education cess	4,939	1% calculated on BCD plus CVD	₹ 4,93,933 × 1%
Sub-total	25,88,467		
Add: Spl. CVD u/s 3(5) of the Customs Tariff Act, 1975	1,03,539	Spl. CVD is equal to 4%	₹ 25,88,467 × 4%
Value of imported goods	26,92,006		
Total Customs Duty	₹ 6,12,290		

5. (a) What is meant by 'Importer Exporter Code number' (IEC)? State the procedure for obtaining IEC number. When is the quoting of IEC number not require for import/export? 4

(b) Who are the administrative authorities involved in the formulation and administration of FTP in India? 4

(c) Outline the salient features of the Post Export EPCG (Export Promotion Capital Goods) Duty Credit Scrip schemes. 4

(d) Describe the benefits in case of supply to EOUs (Export Oriented Units) from DTA (Domestic Tariff Area) units, other than deemed exports. 3

Answer: 5 (a)

Import/ Export Code Number

Every importer and exporter must obtain an Importer Exporter Code Number" (IEC) from DGFT (Director General of Foreign Trade) or officer authorised by him, by applying in prescribed Form (section 7 of FT (D&R) Act).

Procedure for obtaining the IEC Number

An application in the prescribed form has to be submitted to the office of the jurisdictional Joint Director of Foreign Trade wherein details including Bank Account Number and PAN have to be furnished. After processing the application, the office of the Joint DGFT would grant the IEC Certificate.

Quoting IEC number, when not required

Import and export without IEC number is not permitted, unless specifically exempted. Thus where an exemption is obtained, IEC number need not be quoted.

The IEC number has to be indicated in the documents filed with Customs for clearance of imported goods. This number is not required in case of import of gifts and baggage.

Answer: 5 (b)

Administrative authorities of FTP

The administrative machinery authorities of the foreign trade policy is as under -

I. Director General of Foreign Trade: Director General of Foreign Trade (DGFT), an attached office of the Ministry of Commerce & Industry, Government of India formulates, controls and supervises the Foreign Trade Policy. DGFT has several offices in various parts of the country for execution of the policy formed by the headquarters at Delhi.

II. Other Authorities involved in administration of FTP: Though the FTP is formulated by DGFT, it is administered in close coordination with other agencies, like -

    A. Central Board of Excise and Customs (CBEC): CBEC, along with its two Departments viz- Customs and Central Excise, under the Ministry of Finance, facilitate the implementation of FTP.

    B. Reserve Bank of India (RBI): RBI which is the nodal bank in the country, working under the Ministry of Finance, is entrusted with policy formulation for foreign exchange management including the payments and receipts of foreign exchange and promotion and orderly development and maintenance of foreign exchange market in India.

    C. State VAT Departments : Since VAT is payable on domestic goods but not on export goods, formalities with State VAT departments assume importance in ensuring tax free exports.

Answer: 5 (c)

Salient features of the Post Export EPCG Duty Credit Scrip schemes

The salient features of the Post Export EPCG (Export Promotion Capital Goods) Duty Credit Scrip schemes are as follows -

A. Specific EO under this scheme shall be 85% of the applicable specific EO, if the imports of such capital goods had taken benefit of duty exemption. Average EO remains unchanged.

B. Duty remission shall be in proportion to the EO fulfilled.

C. These Duty Credit Scrip(s) can be used for payment of applicable custom duties for imports and applicable excise duties for domestic procurement.

D. All provisions of the existing EPCG Scheme shall apply insofar as they are not inconsistent with this scheme.

Answer: 5 (d)

Benefits in case of supply to EOUs from DTA units

EOU/ EHTP/ STP/ BTP units shall be entitled to following:

(i) Reimbursement of Central Sales Tax (CST) on goods manufactured in India. Interest at 6% will be payable on delay refund of CST, if the case is not settled within 30 days of receipt of complete application.

(ii) Exemption from payment of Central Excise Duty on goods procured from DTA on goods manufactured in India.

(iii) Reimbursement of duty paid on fuel procured from Domestic Oil Companies/ Depots of Domestic Oil Public Sector Undertakings as per Drawback Rate notified by DGFT from time to time. Reimbursement of Additional Duty of Excise levied on fuel under the Finance Acts would also be admissible.

(iv) CENVAT Credit on Service Tax paid.

6. (a) ABT transport providing goods transport services. 'A Ltd.' sold goods from Mumbai to 'B Ltd.' of Chennai. Freight charged by ABT transport for transporting said goods is ₹ 1,00,000 (exclusive of ST) as per consignment note, dated 1st July 2015. Freight paid by A Ltd. on 15th September 2016.
You are required to answer:

(i) Name of provider of service and recipients of service.
(ii) Who is liable to pay service tax and why?
(iii) Due date of payment of service tax.
(iv) Service Tax liability. 6

(b) X Ltd. filed the ST-3 return on 30th November 2016 for the period from 1st April, 2016 to 30th September, 2016. Subsequently on 1st February, 2017, some mistakes were found in the ST-3 return which was originally submitted on 30th November, 2016. Service tax authorities rejected the revised return filed by the X Ltd. on 5th February, 2017, since the revised return was filed by the assessee after 90 days from the due date of filing the return (i.e. 25th October, 2016). Is the action of the department correct? 4

(c) Answer the following with reference to the Finance Act, 1994 as amended relating to applicability of service tax:

Service provided by educational institutions like IIMs by charging a fee from prospective employers like corporate houses regarding recruiting candidates through campus interviews. 5

Answer: 6 (a)

(i) Service Provider → ABT transport services.
Service Recipients → Both 'A Ltd.' & 'B Ltd.'

(ii) Either 'A Ltd' (or) 'B Ltd.' being the recipients of the services. However, in the given case A Ltd. is liable to pay service tax, since, freight paid by A Ltd.

(iii) 6th October, 2016. In any other case 5th October, 2016.

(iv)

Service tax liability	Amount (₹)
Total amount of freight paid	1,00,000
Less: Abatement of 70% on the value of freight (₹ 1, 00,000 × 70%)	(70,000)
Taxable Services	30,000
Service tax = ₹ 4,500 (i.e. ₹ 30,000 × 15/100)	

Answer: 6 (b)

No, the department action is not sustainable in the eyes of law. As per Rule 78 of the Service Tax Rules, 1994, the time limit of 90 days for filing of revised return counts only from the date of filing of the original return and not from the due date for filing of original return as contained in the Explanatory Notes. Therefore, X Ltd. can file revised return by 5th February, 2017.

Answer: 6 (c)

Manpower recruitment or supply agency is defined as 'any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise, to a client. Educational institutes like IITs, IIMs etc. fall within the above definition. Thus, service tax is liable to be paid on services provided by such institutes in relation to campus recruitment.

7. (a) (i) M/s Raj Builders, a works contractor, has furnished the following details to you:

(A) Total contract price (excluding VAT) — ₹50 lakhs

(B) Labour charges paid for the execution of the contract — ₹20 lakhs

(C) Cost of consumables used not involving transfer of property in goods — ₹2 lakhs

(D) Material purchased and used for the contract taxable @ 14.5% Vat (VAT included) — ₹25 lakhs

The contractor also purchased a plant for use in the contract for ₹9.50 lakhs. In the VAT invoice relating to the same VAT was charged @ 5% separately and the said amount of ₹9.50 lakhs includes VAT. Assume 50% input credit on capital goods. Determine the taxable turnover, input tax credit and net VAT payable by Raj Builders. Assume output VAT at 14.5%. 5

(ii) Explain the distinction between "Zero rated sales" and "Exempt sales". 3

(b) Vasudha & Co., is a dealer in consumer durables, chargeable to CST @ 2% for the year ended 31.03.2017, the dealer has shown total turnover (excluding CST) at ₹25.00 lakhs. In the above, the dealer has added the following amounts:

(i) Dharmada collected from buyers, shown separately in invoice ₹15,000;

(ii) Weighment charges incidental to sales ₹5,000;

(iii) Indemnity/Guarantee charges collected from buyer to cover loss during transit ₹15,000;

(iv) Cash discount allowed to buyer ₹10,000.

The dealer has made the following transactions which were not added in the total turnover. 7

Answer: 7 (a)(i)

Total Contract Price (excluding VAT)	₹50 Lakhs
Less: labour Charges paid for the execution of the contract	₹20 lakhs
Less: Cost of consumables	₹2 Lakhs
Taxable Turnover	₹28 lakhs
VAT @ 14.5% on ₹28 Lakhs	₹4.06 Lakhs
Less: ITC ₹25 Lakhs × 14.5/114.5	₹3.17 Lakhs
Less: ITC ₹9.50 Lakhs × 5/105 × 50%	₹0.23 Lakhs
Net VAT payable	₹0.66 Lakhs

(ii) In case of Zero rated sales credit is available on tax paid on inputs, while in case of exempt goods, credit of tax paid on inputs is not available.

As per VAT Laws in all the States of our country, export sales are zero rated i.e., though sales tax is not payable export sales, credit will be available of tax paid on inputs. "Exempt sales" means sale of goods which are notified as exempt or "Nil" rated by the respective State Governments.

As mentioned earlier, if a product is exempt by virtue of notification, any tax paid on the inputs used in the manufacture of that product shall not be available as input credit.

Answer: 7 (b)

Determination of Turnover as per CST Act:

The correct determination of turnover as per CST Act:

Turnover (excluding CST)	₹ 25,00,000
Less: Indemnity charges	₹ 15,000
Less: Cash discount	₹ 10,000
Total turnover	₹ 24,75,000
Add: CST @2% on ₹ 24,75,000	₹ 49,500
Total turnover as per CST Act	₹ 25,24,500

A. The following items are to be added in the sales, which has been already included in the sale value:
   (i) Dharmada collected from buyers, shown separately in invoice ₹ 15000;
   (ii) Weighment charges incidental to sales ₹5000;

B. The following items are to be deducted from the sales:
   (i) Cash Discount allowed to buyer ₹10000.
   (ii) Indemnity /Guarantee charges collected-from buyer to cover loss during transit ₹ 15000;

8. (a) Outline the issues related to intangible in the context of transfer pricing. 6

(b) State whether the following are associated enterprises, in the context of transfer pricing provisions: 4

(i) A Finance (non-corporate) guarantees loan taken from Sun Finance by Moon & Co. (P) Ltd. for a term loan of ₹12 crores taken from a bank. A & Co. (P) Ltd. has a total borrowing of ₹ 90 crores.

(ii) LMN Investments has advanced loan of ₹30 crores to PQR Ltd. The book value of total assets of PQR Ltd. is ₹80 crores, but the market value is ₹ 55 crores.

(c) From the details of independent transactions given below, determine the point of taxation for each case for the purposes of service Tax: 5

Sl. No.	Date of completion of service	Date of issue of invoice	Date of receipt of payment
(i)	11-01-2017	25-02-2017	20-02-2017
(ii)	11-01-2017	05-02-2017	50% on 03-02-2017 and balance on 28-02-2017

Answer: 8 (a)

Issues related to intangibles in the context of transfer pricing:

Transfer pricing of intangibles is well known as a difficult area of taxation practice. However, the pace of growth of the intangible economy has opened new challenges to the arm's length principles.

Seventy five percent of all provide R&D expenditure worldwide is accounted for by MNEs.

The transactions involving intangible assets are difficult to evaluate because, of the following reasons:

Intangibles are seldom traded in the external market and it is very difficult to find comparables in the public domain.

Intangibles are often transferred bundled along with tangible assets.

They are difficult to be detected.

A number of difficulties arise while dealing with intangibles. Some of the key issued revolve around determination of arm's length price is rate of royalties, allocation of cost of development of market and brand in a new country, remuneration for development of marketing, Research and Development intangibles and their use, transfer pricing of co-branding etc.

Answer: 8 (b)

(i) When an entity guarantees at least 10% of the total borrowings of another entity, the relationship of associated enterprise is established.

Since the guarantee for the loan exceeds 10% of the total borrowings Sun Finance and Moon & Co. (P) Ltd. are associated enterprises,

(ii) A loan advanced by "one entity to another entity to at least 51% of book value of total assets would result in associated enterprise relationship,

In this case, the loan advanced forms part of only 37.5% of book value of total assets of borrower PQR Ltd, Hence they are not associated enterprises. Market value of the assets is not relevant in this context.

Answer: 8 (c)

As per rule 3 of the POTR, in case the invoice is issued within the prescribed period of 30 days from the date of completion of provision of service, point of taxation is:-

(i) date of invoice

or

(ii) Date of payment

Whichever is earlier.

However, in case the invoice is not issued within 30 days of the completion of the provision of the service, point of taxation is:-

(i) Date of completion of service

Or

(ii) Date of payment

Whichever is earlier.

Further, advances received are taxable at the time when such advances are received.

Accordingly, the point of taxation in each of the given cases is as follows:

(i) Here, the invoice is not issued within 30 days of completion of service. In the given situation POT is the date of completion of service, i.e. 11-01-2017.

(ii) Here, the invoice is issued within 30 days of completion of service.

So, for the first part, the date of payment is earlier, so POT is 03-02-2017.

For the second part the date of invoice is earlier so POT is 5-2- 2017