

**FINAL EXAMINATION**

December 2016

**P-16(TMP)**  
**Syllabus 2012**

**Tax Management and Practice**

Time Allowed: 3 Hours

Full Marks: 100

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

*Wherever required, the candidate may make suitable assumptions and state them clearly in the answers.*

*Working notes should form part of the relevant answer.*

*All sub-divisions of a question should be answered continuously.*

*All questions in Income Tax relate to the Assessment Year 2016-17, unless stated otherwise.*

*Answer Question No.1 which is compulsory and answer any five from the rest.*

1. (a) Fill up the blanks:

1×10=10

- (i) For a foreign company, surcharge on income-tax is applicable, where the total income exceeds ₹ \_\_\_\_\_.
- (ii) For transfer pricing provisions to apply, the monetary limit for specified domestic transactions is ₹ \_\_\_\_\_.
- (iii) A manufacturing company has acquired new machinery for ₹ 200 lakhs on 12-03-2015 and put the same to use. In respect of this machinery, the additional depreciation allowable for the assessment year 2016-17 is ₹ \_\_\_\_\_.
- (iv) Where donation of ₹ 30,000 is given in cash to a charitable trust recognised for section 80G purposes and the adjusted total income before grant of deduction u/s 80G is ₹ 6,00,000, the deduction allowable u/s 80G is ₹ \_\_\_\_\_.
- (v) Where a non-compete fee of ₹ 10 lakhs is paid to a resident Indian, the rate at which tax has to be deducted at source is \_\_\_\_\_.

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- (vi) Where a person renders a service to a SEZ developer on 12-03-2016, the rate of service tax chargeable is \_\_\_\_\_.
- (vii) Where three types of taxable services are rendered by an individual, \_\_\_\_\_ service tax return(s) has / have to be filed.
- (viii) Cenvat credit to be claimed on diesel purchased for generators used in factory is at \_\_\_\_\_ rate.
- (ix) The rate of service tax applicable in respect of a charitable institution conducting yoga classes would be \_\_\_\_\_.
- (x) Normally, the purchasing dealer has to issue C Form to the selling dealer, once in \_\_\_\_\_ months under the CST Act.

(b) Choose the most appropriate alternative for the following:

1×10=10

- (i) For an Indian citizen being a member of a ship bound for foreign trip leaving India, for prescribing the manner of computation of stay for determining the residential status under Income-tax Act, \_\_\_\_\_ has been authorised.
  - (A) Central Government
  - (B) Parliament
  - (C) CBDT
  - (D) None of the above
- (ii) For the assessment year 2016-17, the following has been included in the definition of "Charitable purpose" under the Income-tax Act, 1961 :
  - (A) Meditation
  - (B) Yoga
  - (C) Transcendental meditation
  - (D) None of the above

- (iii) For manufacturing industries set up in notified backward areas, the benefit of deduction available u/s 32AC of the Income-tax Act, 1961, calculated at a percentage of the actual cost of eligible assets is
- (A) 15%
  - (B) 20%
  - (C) 10%
  - (D) 5%
- (iv) A block of buildings, all acquired on 01-01-2013 by ABC Ltd., was transferred in a scheme of demerger to R Ltd., effective from 01-04-2015, vide order of High Court pronounced on 12-06-2015. These buildings were sold by R Ltd., on 12-03-2016. For reckoning the period of holding of the asset, the starting date to be taken is
- (A) 01-01-2013
  - (B) 01-04-2015
  - (C) 12-06-2015
  - (D) None of the above
- (v) An Individual aged 58 has paid medical insurance premium of ₹ 22,000 by way of account payee cheque and has incurred ₹ 5,000 by way of expenditure on preventive health check up. Deduction available u/s 80D of the Income-tax Act is ₹
- (A) 15,000
  - (B) 22,000
  - (C) 27,000
  - (D) 25,000
- (vi) Rate of service tax on fees payable to Court or Tribunal is:



- (A) 14.5%
  - (B) 15.5%
  - (C) Nil
  - (D) None of the above
- (vii) Taxable event in the case of exportation of goods from India is when
- (A) Vessel leaves the Indian port.
  - (B) Vessel crosses Indian Territorial waters.
  - (C) Vessel crosses Indian customs station.
  - (D) None of the above
- (viii) DEF Ltd., a company incorporated in USA holds 39% shares in L Ltd., an Indian Company. It also holds 35% shares of M Ltd., a company incorporated in Singapore. For the transfer pricing provisions, L Ltd. and M Ltd. are
- (A) Not Associated enterprises because the shareholding of DEF Ltd., in each of these is less than 40%.
  - (B) Not Associated enterprises because the shareholding of DEF Ltd., in each of these is less than 45%.
  - (C) Associated enterprises because the shareholding of DEF Ltd., in each of these is more than 30%.
  - (D) Associated enterprises because the shareholding of DEF Ltd., in each of these is more than 26%.
- (ix) VAT credit is refundable
- (A) when such credit exceeds ₹ 5 lacs.

- (B) when the State Government passes an order to this effect.
- (C) when goods are exported.
- (D) in none of the above circumstances.
- (x) In the context of customs, APTA means
- (A) Asia Pacific Trade Agreement
- (B) Africa Pennsylvania Trade Agreement
- (C) Asia Pan-American Trade Agreement
- (D) None of the above
2. (a) Padmaja Granular Ltd., engaged in manufacture of generators, sold generators to Gautam Cotton Mills Ltd. for ₹ 45 lakhs. The following amounts were not included /adjusted in the above said amount:
- (i) Transit insurance from depot to buyer's premises ₹ 70,000
  - (ii) Optional bought out accessories ₹ 50,000
  - (iii) Delayed payment charges collected from the buyer ₹ 1,00,000
  - (iv) Consultancy charges relating to design, layout of final product upto the place of removal ₹ 1,50,000
  - (v) Special packing expenses for protecting the generator ₹ 3,00,000
  - (vi) Notional interest on deposit taken from the buyer ₹ 1,25,000 which is reduced from sale price
  - (vii) Trade discount ₹ 2,75,000
- Compute the transaction value under the Excise Act, 1944, *adducing brief note for the treatment of each item above.*
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- (b) BG Wires Ltd. engaged in manufacturing activity has furnished to you the following details regarding inputs received in the factory and input services used for manufacturing excisable products:



Particulars	Excise Duty/Service Tax ₹
Raw materials (invoice dated 15-09-2014)	32,000
Grease and Oil (invoice dated 10-04-2015)	7,000
Input service (invoice dated 20-12-2014)	20,000
Office equipment (invoice dated 28-11-2014)	8,000
Motor spirit (invoice dated 03-04-2015)	21,000
Paints (invoice not traceable)	3,500

Compute the amount of total CENVAT credit that can be availed by BG Wires Ltd. during November, 2015. The company is not entitled to SSI exemption under Notification No. 8/2003CE dated 01-03-2013. For none of the items, CENVAT credit has not been claimed earlier.

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3. (a) Sanvitha Medicos Pvt. Ltd., proposes to manufacture a skin ointment, which will be available in all stores and super markets, across the counter, without a prescription of a doctor or medical practitioner.

The company wishes to know whether the product will be classified as a cosmetic or medicament, for central excise purposes, merely on this ground. Advise the company suitably.

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- (b) (i) VKS Constro P Ltd., the assessee, is engaged in preparation of ready mix concrete (RMC). While carrying out such dominant objects, other ancillary and incidental activities like pouring, pumping and laying of concrete were also carried out.

The Department contends that the whole activity carried out by the assessee was not a sale transaction, as it also included element of service in it and that therefore, the assessee was liable to pay service tax. The Department was of the view that the



activities like pouring, pumping and laying of concrete is a significant part of the transaction and not incidental to transaction of sale.

Advise the suitably to rebut the contentions of the Department.

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- (ii) Alpha Ltd. has awarded a turnkey contract to Beta Ltd. for erection, installation and commissioning of a Central Air Conditioning Plant. The Central Excise Department raises a demand for excise duty on Beta Ltd. in respect of the aforesaid installed plant.

Discuss whether such demand is justified in law.

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4. (a) (i) Eastern Union is a money changer. It wants to pay service tax availing abatement instead of the regular rate. Advise them suitably.

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- (ii) Vimala Oils Ltd. of Mumbai imported some taxable services from XYZ Inc. of Singapore on 10.01.2016. The invoice for 1,00,000 Singapore dollars was raised by XYZ Inc. on 20.01.2016.

Determine who is liable to pay service tax and the point of taxation if Vimala Oils Ltd. made full payment on the dates given below:

(A) On 25.03.2016;

(B) On 26.05.2016.

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- (b) Mr. Mitra imported certain goods from China. CIF value of the goods is US \$ 30,000. Basic customs duty is chargeable at 10% and education cess as applicable. No excise duty is payable on these goods, if manufactured in India. Moreover, additional duty under section 3(5) of the Customs Tariff Act is not payable.

As per the relevant notification of the Government of India, anti-dumping duty has been levied on the goods so imported. As per the said notification anti-dumping duty is equal to the difference between the amount calculated @ US \$ 60 per kg and landed value of the goods.



Compute customs duty and anti-dumping duty payable by Mr. Mitra. Exchange rate on the date of presentation of bill of entry is 1 US \$ = ₹ 50. 8

5. Peacock Ltd. is engaged in manufacturing of steel and cement. Its Statement of Profit & Loss shows a Net Profit of ₹ 45 lakhs for the year ended 31.03.2016. The following information is provided to you:

- (a) A provision was made to meet the loss suffered by subsidiary company by debiting Profit & Loss A/c ₹ 15 lakhs.
- (b) Provision for bad and doubtful debts debited to Profit & Loss A/c is ₹ 10 lakhs.
- (c) Deferred tax reversed and credited to Profit & Loss A/c ₹ 7 lakhs.
- (d) Agriculture income credited to Profit & Loss A/c ₹ 2 lakhs.
- (e) Dividend from Indian companies credited to Profit & Loss A/c ₹ 1 lakh.
- (f) Long term capital loss from off market sale of shares of listed companies ₹ 50,000. This is debited to Profit & Loss A/c.
- (g) A liability of ₹ 5 lakhs relating to earlier year omitted to be recorded in the books of account is now recorded by debiting Profit & Loss A/c.
- (h) Proposed dividend debited to Profit & Loss A/c ₹ 6 lakhs.
- (i) Amount of depreciation debited to Profit & Loss A/c ₹ 12 lakhs which includes depreciation on account of revaluation of assets of ₹ 3 lakhs.
- (j) The company has brought forward business loss of ₹ 4 lakhs and unabsorbed depreciation of ₹ 10 lakhs as per the books of account.
- (k) The company made one contract payment of ₹ 8 lakhs without deduction of tax at source.
- (l) Provision for income tax debited to Profit & Loss A/c ₹ 20 lakhs.



Compute the minimum alternate tax under section 115JB payable by the company for the assessment year 2016-17. **Ignore regular computation provisions.** 16

6. (a) India Green LLP is carrying on two businesses viz. (i) wind power generation; and (ii) solar panels trade and erection. The firm has maintained two separate books of account. The wind power generation was commenced in the financial year 2010-11 and the solar panels trade and erection business in the financial year 2014-15. The following details are furnished:

- (i) Net Profit from wind generation before deduction under section 80-IA ₹ 55 lakhs.
- (ii) Net Profit from solar panels trade and erection ₹ 30 lakhs before debiting interest on capital and working partners' salary.
- (iii) The LLP agreement provides for interest on capital and working partner salary payable only in respect of solar panels trade and erection. No such payment is permissible out of the income of wind power generation. The amount of capital of the partners as per partnership agreement in solar panels trade and erection which is eligible for interest is ₹ 100 lakhs and the LLP agreement authorizes working partner salary of ₹ 18 lakhs.
- (iv) The LLP has not claimed deduction under section 80-IA so far. There is no unabsorbed depreciation or business loss brought forward by the LLP from either of the businesses.
- (v) The depreciation on wind mill meant for generation of power claimed so far amounts to ₹ 300 lakhs. The WDV of the wind mill as on 01.04.2015 is to be taken as 'nil'.

Compute the total income of the LLP for the assessment year 2016-17. **Computation should be made in the manner, most beneficial to the assessee.** 6

- (b) H. Ltd. is engaged in manufacturing of steel. It set up a manufacturing unit in a notified backward area in the State of West Bengal. It acquired new plant and machineries at a cost of ₹ 20 crores for such unit on 01.07.2015. It further invested ₹ 25 crores in plant and machinery



on 31.12.2015. Investment on 31.12.2015 includes machinery worth ₹ 10 crores previously used by another manufacturer.

- (i) Compute depreciation under section 32 and other deductions, if any admissible under the Income-tax Act for assessment year 2016-17. Also compute written down value as on 01.04.2016.
- (ii) Will your answer be different, if the manufacturing unit is set up by H. LLP, a limited liability partnership, instead of as a limited company? 10

7. (a) State with reason, whether tax is required to be deducted at source with reference to relevant provision of the Income-tax Act, 1961, and the quantum of tax, if any for the following: 8

- (i) Premature withdrawal from recognized provident fund ₹ 55,000 on 01.10.2015 by Mr. H, who furnished declaration in Form No. 15G.
- (ii) Interest on fixed deposit to Mr. J paid by one branch of State Bank of India ₹ 7,000 and another branch of the same bank ₹ 4,000. The bank uses Core Banking Solutions (CBS).
- (iii) Salary paid to Mr. K, aged 58, by a software company located in Hyderabad ₹ 15 lakhs. Mr. K was employed throughout the year at New Jersey, United States and the payment was made by branch office at New Jersey.
- (iv) Payment of ₹ 2 lacs made by LS Company Ltd. for internet services to ABC Communications (P) Ltd.

(b) Mr. Murali, aged 50, resident of India, earned ₹ 20 lakhs during the financial year 2015-16 by playing promotional cricket matches in countries with which there is no DTAA. Income-tax was charged on such income at 20% by those countries.

He also went to United States for playing charity matches and earned ₹ 5,00,000 which was chargeable to income-tax at United States. As per the DTAA between India and United States,



such income is chargeable to tax as per source rule and not based on residential status. It was taxed at 30%.

His gross income earned in India, other than those mentioned above, during the financial year 2015-16 was ₹ 30 lakhs (computed). He deposited ₹ 2,00,000 in Tax Saver Deposit in a scheduled bank in India and paid by account payee cheque ₹ 40,000 towards health insurance premium for his mother (aged 72).

Compute his income-tax liability for the assessment year 2016-17.

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8. (a) State the differences between Advance Authorisation and Duty Free Import Authorisation. 5
- (b) The appeal of Mr. Kumar, a non-resident pertaining to the assessment year 2014-15 is pending before Income Tax Appellate Tribunal. The issue involved in the appeal is taxability of certain income in India. The same issue persists for the assessment year 2015-16. Mr. Kumar's friend, Mr. Rangachari, who is also a non-resident, has obtained an advance ruling under Chapter XIX-B of the Income-tax Act on identical issue. Mr. Kumar proposes to use the said ruling for his assessment pertaining to assessment year 2015-16.

Advise Mr. Kumar whether his proposal is tenable.

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- (c) EF Ltd. incorporated in Japan and JK Ltd., an Indian company are associated enterprises. JK Ltd. manufactures refrigerators and sells them to EF Ltd. and also MN Ltd., Malaysia. During financial year 2015-16 JK Ltd. sold 5000 refrigerators to EF Ltd. at ₹ 25,000 per refrigerator and 2000 refrigerators to MN Ltd. at ₹ 32,000 per refrigerator. The transactions with EF Ltd. and MN Ltd. are comparable subject to the following differences:

- (i) Sales to EF Ltd. are on FOB basis, but sales to MN Ltd. are on CIF basis. Freight and Insurance paid by EF Ltd. per refrigerator is ₹ 500.
- (ii) Sales to EF Ltd. are without warranty. Sales to MN Ltd. are under a free warranty for one year and estimated cost of executing such warranty is ₹ 600 per refrigerator.
- (iii) Because of large order JK Ltd. offered quantity discount of ₹ 125 per refrigerator to EF Ltd.

In the light of above,

- (A) State, with reasons, the method to be adopted for determining arm's length price in above case.
- (B) Compute arm's length price and the amount by which total income will be increased in the above case.