

PAPER – 16: Tax Management and Practice

MTP_Final_Syllabus 2012_Dec2015_Set 1

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

	Learning objectives	Verbs used	Definition
LEVEL C	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
	APPLICATION How you are expected to apply your knowledge	Illustrate	Use an example to describe or explain something
		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
	ANALYSIS How you are expected to analyse the detail of what you have learned	Tabulate	Arrange in a table
		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
	SYNTHESIS How you are expected to utilize the information gathered to reach an optimum conclusion by a process of reasoning	Produce	Create or bring into existence
		Discuss	Examine in detail by argument
		Interpret	Translate into intelligible or familiar terms
EVALUATION How you are expected to use your learning to evaluate, make decisions or recommendations	Decide	To solve or conclude	
	Advise	Counsel, inform or notify	
	Evaluate	Appraise or asses the value of	
		Recommend	Propose a course of action

Paper 16 – Tax Management and Practice

Time Allowed: 3 hours

Full Marks: 100

This paper contains 9 questions, divided in two sections Section A and Section B. In total 7 questions are to be answered. Answer any five questions from Section A (out of six questions - Questions Nos. 1 to 6).

In Section B, Question No. 9 is compulsory and answer any one question from the remaining two questions of the section (i.e. out of Question nos. 7 & 8).

Students are requested to read the instructions against each individual question also. All workings must form part of your answer. Assumptions, if any, must be clearly indicated.

All the questions relate to the assessment year 2015-16, unless stated otherwise.

Section A

Answer any five Questions

1. (a) (i) X & Co. Diagnostic Centre P Ltd. has claimed Referral Fee paid to doctors as Revenue Expenditure for the Assessment Year 2015-16. However, TDS has been deducted u/s 194H of the Income Tax Act, 1961 for the said payments. The Assessing Officer proposes to disallow such expenditure. Examine the correctness of the action of the Assessing Officer. [2]

(ii) An amount of ₹ 5 Lakhs was paid on 17.03.2015 to the parents of Rakesh by the Government of Maharashtra as a compensation to the grieved family whose only son Rakesh lost his life in Mumbai local train serial bomb blasts. Is the amount of compensation received chargeable to tax? [2]

(iii) A Special Purpose Distinct Entity (regulated by SEBI), set up in the form of a trust to undertake securitization activities, receives ₹ 20 Lakhs from the activities of securitization, and distributes ₹ 5 Lakhs to its Investors. What would be the tax implications in the hands of:

(I) The Special Purpose Distinct Entity, in respect of its Income from the activity of Securitization, and

(II) Investors, in respect of Income distributed by the Special Purpose Distinct Entity. [2]

(iv) PQR Limited has written off certain debts as Bad Debts in the books of account and claimed deduction u/s 36(1)(vii) in the Return of Income filed for Assessment Year 2015-2016. The Assessing Officer (A.O.) made disallowance for deduction of Bad Debts on the ground that the Debts have not been established to have become irrecoverable and bad in the previous year 2014-2015. Examine the correctness of the action of A.O. [2]

(v) State the circumstances under which Profit Split Method is applicable for determination of arm's length price under International Transactions. [2]

(vi) What are the advantages while computing arm's length price Transactional Net Margin Method? [2]

(vii) X & Co. Diagnostic Centre P Ltd. has claimed Referral Fee paid to doctors as Revenue Expenditure for the Assessment Year 2015-16. However, TDS has been deducted u/s 194H of the Income Tax Act, 1961 for the said payments. The Assessing Officer proposes to disallow such expenditure. Examine the correctness of the action of the Assessing Officer. [2]

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2.(a)(i) Mr. X, a dealer located in the State of Maharashtra, dealing in machinery used in rolling mills furnishes following information for the financial year 2014 - 15.

1. Total inter-state Sales during in the financial year (CST not shown separately) – ₹2,29,50,000
 2. Trade Commission for which credit notes have been issued separately – ₹ 5,78,125
 3. Freight and Transportation charges charged separately in invoice – ₹ 4,00,000
 4. Freight charges included in value but not shown separately – ₹ 2,00,000
 5. Insurance for transport of machinery upto destination – ₹ 75,000
 6. Installation and commissioning charges levied separately in invoice – ₹ 1,00,000
 7. The buyers have issued C form in respect of machinery bought by them from Mr. X.
- Compute the tax liability under CST Act. **[4]**

(ii) State the dealers who are not eligible to opt for composition scheme under Vat regime? **[2]**

(b)(i) Koel Ltd. is engaged in the manufacture of machines. It has supplied one machine to M/s. A & Co. with the following details. Determine the total amount of central excise duty and cess payable thereon.

Price of machine excluding taxes and duties — ₹ 8,50,000

Installation and erection expenses — ₹ 30,000

Packaging charges — ₹ 12,500

Design and engineering charges — ₹ 4,000

Cost of material supplied free of charge by buyer — ₹ 10,000

Pre-delivery inspection charges — ₹ 1,000

Other necessary information is as under:

Cash Discount @ 20% on price is allowed as per terms of contract because buyer made full payment in advance.

Bought out accessories worth ₹ 8,000 supplied with Machine. Central Excise Duty is 12%, Education Cess 2% and Secondary and Higher Education Cess is 1%. **[4]**

(ii) Keen Ltd. purchased certain inputs which were directly consigned to the job worker's premises for manufacture of intermediate goods. State the conditions subject to which Keen Ltd. will be entitled to take credit of the duty paid on such inputs. **[2]**

(iii) A Ltd., a manufacturer of excisable goods, has applied for provisional assessment under Rule 7 of Central Excise Rules, 2002 and paid duty on provisional basis. The Assistant Commissioner issued a show-cause notice before finalisation of provisional assessment on the ground of misclassification of goods. With the help of decided case law discuss the validity of show-cause notice. **[2]**

3. (a)(i) FLT LLP of France and Squar Ltd of India are associated enterprises. Squar Ltd. imports 5,000 compressors for Air Conditioners from FLT at ₹ 7,800 per unit and these are sold to Bihar Cooling Solutions Ltd at a price of ₹ 11,000 per unit. Squar Ltd. had also imported similar products from Cold Ltd and sold outside at a Gross Profit of 20% on Sales.

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FLT offered a quantity discount of ₹ 1,500 per unit. Cold Ltd. could offer only ₹ 500 per unit as Quantity Discount. The freight and customs duty paid for imports from Poland had cost to Squar Ltd. ₹1,200 a piece. In respect of purchase from Cold Ltd, Squar had to pay ₹ 200 only as freight charges.

Determine the Arm's Length Price and the amount of increase in Total Income of Squar Ltd. **[4]**

(ii) Himalaya Ltd is an Indian Company engaged in the business of developing and manufacturing Industrial components. Its Canadian Subsidiary Su-power Inc. supplies technical information and offers technical support to Himalaya for manufacturing goods, for a consideration of Euro 2,00,000 per year.

Income of Himalaya Ltd is ₹ 180 Lakhs. Determine the Taxable Income of Himalaya Ltd if Su-power charges Euro 2,60,000 per year to other entities in India. What will be the answer if Su-power charges Euro 1,20,000 per year to other entities. (Rate per Euro may be taken at ₹ 60) **[3]**

(b)(i) A builder constructed 25 flats in a residential apartment, out of which 23 were booked before start of construction. The price thereof was to be received in instalments during the period of construction. The flats were priced at ₹ 45 lakhs per flat (exclusive of taxes) (the price of land apportioned as ₹ 15 lakhs per flat was included in the said sum). Construction was started and completed in the same year. After issuance but before receipt of completion certificate, the balance two flats were sold at a price of ₹ 55 lakhs per flat (exclusive of taxes). Determine taxable value under service tax law and service tax thereon assuming that builder has opted for abatement available under law. **[4]**

(ii) Mr. R provided repair and maintenance services of equipments belonging to Z Ltd., which are used in manufacture of oxygen. The repair and maintenance work was carried out at factory of Z Ltd. using electricity belonging to Z Ltd. The charges for services are fixed at ₹ 1,00,000, while value of electricity used is estimated at ₹ 10,000. The Department argued that the value of electricity is consideration in kind and is liable to service tax in hands of Mr. R. Decide.

[3]

4.(a) Alo & Company Ltd. have imported a machine from U.K. From the following particulars furnished by them, arrive at the assessable value for the purpose of customs duty payable:

(i) F.O.B. cost of the machine	10,000 U.K. Pounds
(ii) Freight (air)	3,000 U.K. Pounds
(iii) Engineering and design charges paid to a firm in U.K.	500 U.K. Pounds
(iv) License fee relating to imported goods payable by the buyer as a condition of sale	20% of F.O.B. cost
(v) Materials and components supplied by the buyer free of cost valued	₹ 20,000
(vi) Insurance paid to the insurer in India	₹ 5,000
(vii) Buying commission paid by the buyer to his agent in U.K.	100 U.K. Pounds
Other particulars:	
(i) Inter-bank exchange rate as arrived by the authorized dealer	₹ 72.50 per U.K. Pound

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(ii) CBEC had notified for purpose of Section 14 of the Customs Act, 1962, exchange rate of	₹ 70.25 per U.K. Pound
(iii) Importer paid demurrage charges for delay in clearing the machine from the Airport	₹ 5,000

(Make suitable assumptions wherever required and show workings with explanations) **[6]**

(b)(i) A manufacturer purchased certain inputs from X. The assessable value was ₹ 20,000 and the Central Excise duty was calculated at ₹ 3,296 making a total amount of invoice at ₹ 23,296. However, buyer-manufacturer paid only ₹ 20,800 to X in full settlement of this bill. How much CENVAT credit can be availed by manufacturer and why? **[2]**

(ii) Star Ltd. sold farm equipments to the agriculturists on ex-factory basis, upon payments made before dispatch of the goods. Star Ltd. at the request of their customers, arrange for payment of freight and transit insurance and for the dispatch of the goods to the destination. The Department's view is that since freight and transit insurance has been paid by Star Ltd., and since they have also arranged for the transport of goods, there is no ex-factory delivery of goods, and the cost of insurance and freight has to be included to the price for purposes of determination of value and excise duty should be payable on such basis. Discuss whether the contention of the Department is correct in law. **[3]**

(iii) State the principles of imposition of restrictions on Foreign Trade Policy by Directorate General of Foreign Trade. **[3]**

5.(a) (i) ABC & Co. is a partnership firm, consisting 3 partners A, B and C. The firm is dissolved on 31.12.14. The assets of the firm were distributed to the partners as under :

Particulars	Block of Machinery (given to A)	Stock (given to B)	Land (given to C)
Year of acquisition	1990-91	2002-03	1978-79
Cost of acquisition (₹)	27,20,000	4,00,000	10,000
Market value as on 31.12.14	17,00,000	6,00,000	27,00,000
WDV as on 31.12.14	11,40,000	—	—
Value at which given to partners as per agreement	12,00,000	4,50,000	18,00,000
Market value as on 1.4.81	—	—	2,70,000

Compute the income taxable in the hands of the firm for the Assessment Year 2015-16. What shall be the cost of acquisition of such assets to the partners of the firm? **[5]**

(ii) XY & Co., a partnership concern had established an undertaking for manufacturing computer software in Special Economic Zone. It furnishes the following particulars of its second year operations, ended on 31-03-2015:

Particulars	₹ (in lakh)
Total Sales of business	250.00
Export Sales	200.00
Profit of the business	20.00

Out of the total export sales, realisation of sale of ₹ 12.5 lakh is difficult because of the deficiency of the buyer. Realisation of rest of the sales is received in time.

The plant and machinery used in the business had been depreciated @ 15% on SLM basis of depreciation and depreciation of ₹ 6 lakh was charged to the Profit and Loss Account.

Compute the taxable income of XY & Co for the Assessment Year 2015-2016. **[4]**

(iii) The gross total income of Mr. Raju for the assessment year 2015-16 is ₹6,10,000 which includes long-term capital gain ₹80,000, short-term capital gain referred to in section 115A ₹70,000 and interest on saving bank deposit ₹12,000. Compute the tax payable by Mr. Raju assuming he deposited ₹1,00,000 in PPF and paid premium for health insurance by cheque amounting to ₹15,000. **[5]**

Section B

Question no. 9 is compulsory and Answer any one Question from 7 & 8.

7. Answer the following Questions [3x5=15]

(a) Can refund of tax due to the assessee for a particular assessment year be adjusted, against sums due from the assessee in respect of another assessment year, under section 245, without giving prior intimation to the assessee of the proposed adjustment? **[5]**

(b) Can discount given on supply of SIM cards and pre-paid cards by a telecom company to its franchisee be treated as commission to attract the TDS provisions under section 194H? **[5]**

(c) Are the provisions of section 234D levying interest on excess refund attracted in a case where the refund granted to the assessee in pursuance of the order of Commissioner (Appeals) was reversed on account of setting aside of such order by the Tribunal? **[5]**

8. Answer the following Questions [5x3=15]

(a) Whether a heading classifying goods according to their composition is preferred over a specific heading? **[5]**

(b) Whether filing of declaration of description, value etc. of input services used in providing IT enabled services (call centre/BPO services) exported outside India, after the date of export of services will disentitle an exporter from rebate of service tax paid on such input services? **[5]**

(c) Whether interest is liable to be paid on delayed refund of special CVD arising in pursuance of the exemption granted vide Notification No. 102/2007 Cus dated 14.09.2007? **[5]**

9. Answer the following Questions [8+7 =15]

(a) Whether non-disclosure of a statutory requirement under law would amount to suppression for invoking the larger period of limitation under section 11A? **[8]**

(b) In the case of an assessee, being a dealer in shares and securities, whose portfolio comprises of shares held as stock-in-trade as well as shares held as investment, is it permissible under law to convert a portion of his stock-in-trade into investment and if so, what would be the tax treatment on subsequent sale of such investment? **[7]**