

The Institute of Chartered Accountants of Nepal
Suggested Answers of Advanced Taxation

CAP III Examination- December 2012

1. M/s Solar Power Pvt. Ltd. is engaging in solar power system production for sale in which 60% share capital is subscribed by DFID which is a tax exemption organization under Income Tax Act of Nepal. The following information is available from accounts of the Company for FY 2068/069:

| Expenses | Rs. | Income | Rs. |
|--------------------------------|-------------------|------------------------------|-------------------|
| Raw Material Consumption | 4,000,000 | Sales | 12,300,000 |
| Salary and wages | 1,800,000 | Dividend Received net of tax | 190,000 |
| Finished Goods stock decreased | 510,000 | Scrap Sales | 140,000 |
| Administrative overheads | 600,000 | Consulting income | 450,000 |
| Donation | 310,000 | | |
| Pollution Control exp. | 690,000 | | |
| R & D Exp. | 1,300,000 | | |
| Interest paid to JICA | 2,950,000 | | |
| Interest to Bank/FI | 70,000 | | |
| Repair of plants | 230,000 | | |
| Depreciation per tax Act | 432,000 | | |
| Profit of the year | 188,000 | | |
| | 13,080,000 | | 13,080,000 |

Notes:

Donation to Tax Exempted Organization is only Rs. 220,000

Required to calculate under Income Tax Act, 2058.

| | |
|--|----------|
| a) allowable pollution control expenses | 3 |
| b) allowable research & development expenses | 3 |
| c) allowable interest expenses | 3 |
| d) corporate tax liability | 6 |

Answer:

| | |
|---|------------------|
| 1. Adjusted total income from donation | Rs. |
| Net profit as per P&L account | 188,000 |
| Less: Dividend Exempt income. | <u>-190,000</u> |
| Net Assessable income | -2,000 |
| Add: Donations | <u>310,000</u> |
| Adjusted total income for donation | <u>308,000</u> |
| 5% | =15,400 |
| Donation not allowable 310,000 – 15,400 | = <u>294,600</u> |
| 2. Adjusted total income for pollution control expenses | Rs. |
| Net assessable income before tax | -2,000 |
| Pollution control expenses | <u>690,000</u> |
| Adjusted total income | 688,000 |
| 50% of ATI | 344,000 |
| Pollution control expenses not allowable = 6,90,000 – 3,44,000 | = 346,000 |
| 3. Adjusted total income for Research & Development Expenses | Rs. |
| Net assessable income as per P&L a/c | -2,000 |
| Research & Development Expenses | <u>1,300,000</u> |
| Adjusted total income for research & development | 1,298,000 |
| 50% of ATI | 649,000 |
| Research & development expenses not allowable 1,300,000 – 649,000 | = 651,000 |
| 4. Adjusted total income for <u>Interest expenses</u> | Rs. |
| Net Assessable income as per P&L a/c | -2,000 |
| Interest paid to JICA- exempt organization | <u>2,950,000</u> |
| <u>(considering JICA as an associate of DFID)</u> | |
| ATI for Interest | 2,948,000 |
| 50% of ATI for Interest | 1,474,000 |

Interest expenses not allowable = 2,950,000 – 1,474,000 = 1,476,000

Assuming JICA is an associate of DFID.

| | | |
|---------------------------------------|------------------|------------------|
| <u>Total taxable income</u> | Rs | |
| Net profit as per as per P&L a/c | 188,000 | |
| Less: Dividend income exempt from tax | <u>190,000</u> | |
| | (2,000) | |
| Add: Interest not allowable | 1,476,000 | |
| Pollution control not allowable | 346,000 | |
| Research & development | 651,000 | |
| Donation not allowable | <u>294,600</u> | |
| | <u>2,767,600</u> | |
| Taxable income | | <u>2,765,600</u> |
| Tax liabilities at 20% | | <u>553,120</u> |

If JICA is not an associate of DFID, then there is no case for disallowance of Interest paid to JICA. 1.

2.

- a) Following are the excerpts of the transaction of fixed assets in the books of Times Commercial Bank Limited. Calculate the depreciation and repairs and maintenance as per tax and the closing value of the pool of assets. **5**

| | |
|--------------------|-------------|
| Opening pool value | Rs. |
| Pool A | 120,000,000 |
| Pool B | 5,550,000 |
| Pool C | 12,000,000 |
| Pool D | 13,500,000 |
| Pool E | 1,236,000 |

| Addition of assets | First half (Rs.) | Quarter 3 (Rs.) | Quarter 4 (Rs.) |
|-----------------------|---------------------|--------------------|--------------------|
| Furniture | 500,000 | 1,200,000 | 2,000,000 |
| ATM Machine | 1,500,000 | 1,400,000 | 1,400,000 |
| Generator Set | 500,000 | 600,000 | 1,200,000 |
| Leasehold improvement | - | 9,600,000 | - |

| | |
|----------------|-----------|
| Sale of Assets | (Rs.) |
| Furniture | 200,000 |
| Building | 3,500,000 |

| | |
|-----------------------------|---------|
| Repairs and Maintenance | |
| Repairs of Furniture | 100,000 |
| Repairs of Vehicles | 550,000 |
| Repairs of Generators | 200,000 |
| Repairs of Computers | 400,000 |
| Repairs of ATM machine | 400,000 |
| Repairs of leased buildings | 500,000 |

Additional information:

- Opening WDV of leasehold assets are to be amortised for last installment this year.
- Rs. 3,600,000 of leasehold addition has life of 60 months and addition of Rs. 6,000,000 has life of 120 months, these were put to use from 1st Magh of the year.

- b) What is “Transfer Pricing” under Income Tax Laws? **4**

- c) ABC Ltd. is holding company with 100% investment in XYZ Ltd. XYZ Ltd. has accumulated loss and ABC Ltd. is in profit in tax account.

Sales and costs of ABC Ltd. as below:

Sales Rs. 22450 thousand
Direct cost Rs. 24450 thousand
Adm. cost Rs. 200 thousand
General markup is 10% on the direct cost.

How Tax Department treats this transaction of ABC Ltd.'s sale to XYZ Ltd. on tax loop.

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Answer:

a)

Calculation of allowable depreciation, repairs and closing WDV of Times Commercial Bank

| Pool | Opening WDV | Additions | Allowed addition | Sold | Depreciation base | Rate | Depreciation | Repairs | 7% Limit | Allowed Repairs | Closing WDV |
|-------|-------------|------------|------------------|-----------|-------------------|---------|--------------|-----------|------------|-----------------|-------------|
| A | 120,000,000 | | | 3,500,000 | 116,500,000 | 5% | 5,825,000 | | 8,155,000 | - | 110,675,000 |
| B | 5,550,000 | 3,700,000 | 1,966,667 | 200,000 | 7,316,667 | 25% | 1,829,167 | 500,000 | 512,167 | 500,000 | 7,220,833 |
| C | 12,000,000 | | | | 12,000,000 | 20% | 2,400,000 | 550,000 | 840,000 | 550,000 | 9,600,000 |
| D | 13,500,000 | 6,600,000 | 4,200,000 | | 17,700,000 | 15% | 2,655,000 | 600,000 | 1,239,000 | 600,000 | 17,445,000 |
| E | 1,236,000 | 9,600,000 | 9,600,000 | | 10,836,000 | prorate | 1,896,000 | | | | 8,940,000 |
| Total | 152,286,000 | 19,900,000 | 15,766,667 | 3,700,000 | 164,352,667 | 1 | 14,605,167 | 1,650,000 | 10,746,167 | 1,650,000 | 153,880,833 |

Repairs allowed on depreciable assets 1,650,000
Repairs allowed on leasehold u/s 13 500,000
Total Repairs allowed 2,150,000

Allowed Depreciation 14,605,167

b)

Transfer Pricing

Section 33 of the Income Tax Act 2058 has arranged the legal provision on "Transfer Pricing" under the situation of business activities

(1) in any arrangement between persons who are associates, the Department may, by notice in writing, distribute, apportion, or allocate amounts to be included or deducted in calculating income between the persons as is necessary to reflect the taxable income or tax payable that would have arisen for them if the arrangement had been conducted at arm's length.

(2) in making any adjustment under subsection (1) above, the Department may-

(a) re-characterise the source and type of any income, loss, amount or payment; or

(b) allocate costs, including head office expenses, incurred by one person in conducting a business that benefit an associate or associates in conducting a business to the associates based on the comparative turnovers of the businesses.

Transfer pricing happens generally between related parties.

The purpose of this provision is to avoid the profit transfer with the objective of tax reduction or evasion within group.

Example of transfer pricing between holding and subsidiary companies.

Within the Group of business may be between Holding and Subsidiary companies, the profit making unit may sell the product at the price on gross loss to another unit (associate or subsidiary or related party organization) which is loss making so as to manipulate tax liability. Such transaction is especially taken care of while assessing the income of selling company as well as buying company to manage tax.

c)

When ABC sells to its related company at loss means there is profit transfer. Tax Department may split the income as below shown as tax loop and assess the tax liability.

Income Splitting is possible under current tax practice. Within the market price environment, XYZ can sell at high profit and adjust the accumulated loss as set off with the profit of the year. (2 mark)

So profit portion of the ABC now is set off with accumulated loss of XYZ thereby nullifying the tax liability.

In normal situation, there is profit of Rs. 2465 but shown as loss of 2245 by ABC.

| | Business Profit/(loss) | Tax loop |
|------------------------|------------------------|----------|
| Sales | 22450 | 26895 |
| Less: Direct cost | -24450 | -24450 |
| Adm cost | -200 | -200 |
| Business profit/(loss) | -2200 | 2245 |

3.

- a) Safeguard Life Insurance Company Limited is an entity involved in Investment insurance business (insurer). The company had following transactions for Fiscal Year 2068/69.

| Particulars | (Rs.) |
|---|-------------|
| i. Insurance Premium Receipts (Gross) | 2,000,000 |
| ii. Sum insured of Insurance policy. | 100,000,000 |
| iii. Commission paid against reinsurance taken. | 20,000 |
| iv. Commission received against reinsurance done. | 30,000 |
| v. Interest Income on Investments. | 3,000,000 |
| vi. Other Miscellaneous Income. | 60,000 |
| vii. Amount paid against policy surrendered by a policy holder who had paid Rs. 5 lacs Premium against it. | 400,000 |
| viii. Amount paid to dependent of a policy holder on his death, against which premium Rs. 70,000 was received. | 700,000 |
| ix. Amount including bonus paid on maturity of a policy, against which a total premium of Rs. 300,000 was received. | 550,000 |
| x. Commission Expenses. | 200,000 |
| xi. Management Expenses. | 1,000,000 |
| xii. Medical Fee. | 50,000 |
| xiii. Allowable Depreciation Expenses. | 200,000 |

Calculate the taxable income of Safeguard Life Insurance Company for fiscal year 2068/69.

5

- b) Sundar's wife owns gold jewellery worth Rs. 1.50 crores. Sundar starts his jewellery business from the 1st Shrawan, 2068 taking over the jewellery his wife was having. In the course of his business he sells the jewellery for Rs. 3.75 crore during the year 2068/69. Consider the taxability of Sundar and his wife, if

- i) Jewellery wholly belonging to his wife was received as a part of her marriage gift from her parents.
ii) Out of jewellery of Rs. 1.50 crores, if Rs. 50 lacs worth of jewellery was purchased by Sundar out of his own resources and given to his wife at the time of marriage.

Note: Market Value of jewellery, as on 1st Shrawan 2068 was 3 crores

5

Answer:

a)

Taxable Income of Safeguard Life Insurance Co. for Fiscal Year 2068/69.

| Particulars | Rs. |
|---|------------------|
| Amount to be included in Income. | |
| i. Insurance Premium Receipts (Gross) (Working Note-1) | - |
| ii. Interest Income. | 30,00,000 |
| iii. Other Miscellaneous Income. | 60,000 |
| iv. Commission received against reinsurance done. | 30,000 |
| TOTAL (A) | 30,90,000 |
| Allowable Expenses | |
| i. Commission Paid against Reinsurance taken. | 20,000 |
| ii. Commission Expenses. | 200,000 |
| iii. Management Expenses. | 10,00,000 |
| iv. Medical Fee. | 50,000 |
| v. Depreciation Expenses. | 200,000 |
| Gross Loss on Disposal of Liability (Working Note-2) | 780,000 |
| TOTAL (B) | 22,50,000 |
| TAXABLE INCOME (A-B) | 840,000 |

Working note:

1. Insurance Premium Receipts (Gross)

The Insurance Premium receipts of Rs. 20,00,000 is liability for the insurer and not his income. So, it is not taken for calculation of Taxable Income. As per Section 61, In computing the income from investment insurance, all the amounts, which are required to be included as per the other provisions of the Act, should be included in computing the income for the year except the following amounts.

- Amounts derived in respect of insurance as a premium and a re-insurance premium.
- Amount derived by it during the year under any contract of re-insurance, guarantee, security, or indemnity in respect of the payment to be made by it as an insurer.

2. Profit/(loss) on disposal of liability:

| Particulars | Incomings | Outgoings | Gain/(loss) |
|-------------------------|-----------|-----------|-------------|
| I. Matured Policy | 300,000 | 550,000 | (250,000) |
| II. Death Claim Policy | 70,000 | 700,000 | (630,000) |
| III. Policy Surrendered | 500,000 | 400,000 | 100,000 |
| Net Gain/(loss) | | | (780,000) |

3. Gross Sum Insured of Insurance Policy is neither income nor expenses of insurer.

b)

Jewelry is not covered under definition of Non-business chargeable assets. Since, it is not covered under any definition of any assets covered under Income Tax Act, so profit from the disposal of Jewelry by Sundar's wife to Sundar is not taxable.

When Sundar has put the jewelry to business, the jewelry now becomes trading stock and it is to be valued at the market price as on that date, and the market price is the cost for Sundar i.e. 3 crores.

The situations given in the question do not affect the taxability in any way. In both the conditions the jewelry is treated as belonging to Sundar's wife. Thus, there shall be no change in tax computation in either case.

Calculation of Business Income of Sundar.

| | | |
|--|---|------------------|
| Receipt from sale of Jewelry | = | Rs. 3.75 crores. |
| Cost of Jewelry to Sundar (Market Value as on 1 st Shrawan 2068) | = | Rs. 3.00 crores. |
| Profit from Jewelry | = | Rs. 75 lacs |

Thus, Sundar is obliged to show 75 lacs as profit from Jewelry and after deducting expenses of the business the net profit will be treated as a taxable profit in hand of Sundar.

Sundar has a choice to be selected as a single assesses.

4. Answer the following questions giving reference to the provisions of the Act wherever required: **(2.5×4=10)**
- Mr. Pradip Sharma runs a store in Birgunj Sub-metro which had a turnover of Rs. 20 lakhs and net margin of Rs. 2 lakhs. What will be your suggestion to him for tax compliance and what will be his tax liability for the year?
 - Mr. Sumendra Pradhan, an employee at Progressive Bank Ltd. Has donated Rs. 20,000 to a tax exempt NGO towards reconstruction of a temple in Kathmandu. Can he claim that as tax deduction in his tax calculation?
 - Dinesh Man Singh Trust, a public charitable trust has an income of Rs. 500,000 in the financial year 2067-68. What will be the tax liability of the trust for the year?
 - Gulmi Coffee Pvt. Ltd. Has turnover of Rs. 25 lakhs in the year 2067/68. During the year it paid Rs. 60,000 to the farmers to buy the semi processed grains in cash. Mention the allowability of this expense.

Answer:

a)

Mr. Pradip Sharma can be suggested for paying the presumptive tax as per the provisions of Section 4 of Act. Following are the conditions of the said Section which he seems to have complied.

- That the person has income which has source in Nepal only,
- The person has not claimed the medical tax credit and TDS,
- The income and the turnover from the business are not more than 2 lakhs and 20 lakhs respectively.
- The person has applied for the applicability of the said Section to the tax office.

With his income of Rs. 2 lakhs and the turnover of Rs. 20 lakhs he can simplify his tax process by applying for the presumptive tax payment. By doing so he will not be able to claim the medical tax credit, the interest income for the individual is anyway final withholding payment. He therefore has to apply for payment of presumptive tax with the tax office.

On the selection of such option, since Mr. Sharma is operating the business in the Birgunj Sub-metro, he will have to pay Rs. 3500 as tax for the financial year. The tax amounts are different for person doing business in different locations and have been defined in Section 1(7) of Annexure 1 of the Act.

b)

As per Section 4(3) of the Act, a resident natural person;

- having only Nepal source employment income,
 - all the employers are resident tax payers and the employment was with the single employer,
 - the deduction claim is only the medical tax credit in respect to treatment cost paid by the employer, and retirement contribution paid by the employer,
- the tax deducted by the employer will be the total tax payable by such person. Such individual need not file the return. In other words, if the condition is different from what is mentioned above, then such person shall have to file the tax return to get the credit for any other deduction allowed in the Act.

Mr. Pradhan has donated Rs. 20,000 towards reconstruction of temple in Kathmandu, such donation may be allowed as deduction, but for that he will have to file the return claiming the deduction. The employer, Progressive Bank can not consider the donation and reduce the tax to be deducted from the employee. In this situation the employer will deduct the tax without considering the donation, while Mr. Pradhan will have to claim for the credit, along with the details of donations made and claim the excess tax deducted by the employer as refund.

c)

As the trust is a public charitable trust, if it had registered with IRD and the income is from donations, then no tax will be payable.

If it is from rent, then 10% withholding tax shall be deducted by the payer of the rent and the trust is not liable to **any further** tax on the rental income, provided renting out is carried out as part of its objective and the trust is a charitable one. If while executing the charitable work, any incidental income earned is also exempt from tax.

If it is not registered, the whole income after allowable expenses will be taxable as an entity.

d)

Section 21 of the Income Tax mentions the expenses which are not allowed to be deducted while arriving at the taxable income from business, employment and investment. ½

Sub section 2 provides that a person having turnover of more than 20 lakhs in a year, if makes the cash payment of more than Rs. 50,000, then such expense will not be allowed for tax purpose. ½

There are exceptions provided in the Act, fulfilling these exceptions, cash payment more than Rs. 50,000 can still be made.

The exceptions provided include the payments to the farmers to buy raw or semi processed basic agricultural products.

In this case, the payment was made to the farmers for the semi processed agricultural products, therefore such cash payment will be allowed to be deducted as expenses in tax calculation.

5. Answer the following questions:

(10+5= 15)

- a) Supreme Garment Pvt Ltd had the following transaction in the month of Ashwin 2069. Calculate the VAT payable/receivable from the information below.

| Particulars | (Rs.) |
|--|-----------|
| Purchase of clothes | 3,500,000 |
| Material for stitching | 200,000 |
| Packing materials | 300,000 |
| Special packing for export | 200,000 |
| Loose tools for machineries | 50,000 |
| Payment of consultancy charges abroad | 250,000 |
| Purchase of bus for staff transportation | 1,000,000 |
| Purchase of motorcycle of hire purchase | 200,000 |
| Telephone expenses | 38,000 |
| Purchase of diesel for generator | 40,000 |
| Purchase of diesel for bus | 12,000 |
| Purchase of petrol for motorcycle | 15,000 |
| Purchase of computers | 45,000 |
| Purchase of soft drinks | 6,000 |
| Purchase of Stationery | 14,000 |
| Local Sale | 2,500,000 |
| Export Sale | 5,000,000 |

Additional information:

Opening VAT receivable for the month was Rs. 45,780

Diesel for bus for Rs. 8,000 and soft drinks for Rs. 3,000 was purchased through abbreviated tax invoice. Stationery was purchased from non-registered vendor. Items above are exclusive of VAT.

b) Shree Airlines had taken following items to Israel for repairs on 5th Shrawan, 2068.

| | |
|--------------------------|----------------|
| Helicopter engine priced | USD 10 million |
| Audi Car engine priced | USD 1 million |

It had taken the items back in Nepal on 15th Bhadra, 2068 and for the period the helicopter engine was on repairs it brought an identical engine for the helicopter from Israel on the same day.

The airlines found that the engine of helicopter was not repaired correctly and therefore again on 20th Ashwin, 2068 sent the engine back for repairing to Israel. It took another 2 months for the repairs to complete and finally the engine was back in Nepal after repair.

Cost of repair was USD 1 million. Assuming the custom rate to be 10%, calculate the deposit/bank guarantees that the airline had to provide and the custom duty to be paid. Consider only custom duty in your calculation.

Exchange rates were as follows:

| | |
|-----------------------------------|--------|
| On 5 th Shrawan, 2068 | Rs. 78 |
| On 15 th Bhadra, 2068 | Rs. 80 |
| On 20 th Ashwin, 2068 | Rs. 81 |
| On 20 th Mangsir, 2068 | Rs. 83 |

Answer:

a)

Calculation of VAT payable for the month of Ashwin 2069 for Supreme Garment Pvt. Ltd.

| Collection of VAT | | VAT | Remarks |
|--|------------------|----------------|---------------------|
| Local Sale | 2,500,000 | 325,000 | full |
| Export Sale | 5,000,000 | - | 0% for export |
| Total output VAT | 7,500,000 | 325,000 | |
| Payment of VAT | | | |
| Purchase of clothes | 3,500,000 | 455,000 | full |
| Material for stitching | 200,000 | 26,000 | full |
| Packing materials | 300,000 | 39,000 | full |
| Special packing for export | 200,000 | 26,000 | full |
| Loose tools for machineries | 50,000 | 6,500 | full |
| Payment of consultancy charges abroad | 250,000 | 32,500 | reverse charging |
| Purchase of bus for staff transportation | 1,000,000 | 52,000 | only 40% allowed |
| Purchase of motorcycle of hire purchase | 200,000 | 26,000 | full |
| Telephone expenses | 38,000 | 4,940 | full |
| Purchase of diesel for generator | 40,000 | 5,200 | full |
| Purchase of diesel for bus | 12,000 | 520 | abb. TI not allowed |
| Purchase of petrol for motorcycle | 15,000 | - | not allowed Rule 41 |
| Purchase of computers | 45,000 | 5,850 | full |
| Purchase of soft drinks | 6,000 | - | not allowed Rule 41 |
| Purchase of Stationery | 14,000 | - | non-VAT bills |
| Total Input tax credit | | 679,510 | |

Calculation of VAT Payable/Receivable for the Month of Ashwin 2069

| | |
|------------------------|----------------|
| Opening VAT Receivable | 45,780 |
| Add; input VAT | 679,510 |
| Less; output VAT | 325,000 |
| Net Receivable | 400,290 |

Since more than 40% is exported, as per provisions of Sec 24(4) of the Act, the company can claim the entire amount as refund.

b)

Rule 7 of the Customs Rule provides the method and rates of deposits and applicability of the bank guarantees for import and export of the goods to/from Nepal. Similarly Rule 8 provides for the re-export and re-import of the goods. According to the provisions thereon following are the calculation for deposits and bank guarantees.

On 5th Shrawan, 2068 – Calculation of deposits for engines

For helicopter engine Rs. 3,900,000

(10,000,000 X 0.5% X 78)

For Audi car engine Rs. 3,900,000

(1,000,000 X 5% X 78)

Total Deposits Rs. 7,800,000

On 5th Shrawan, 2068 – Calculation of bank guarantee for replacement engine

Import value of identical helicopter engine Rs. 780,000,000

(10,000,000 X 78)

Custom duty @ 10% Rs. 78,000,000

Bank guarantee for above custom duty should be provided to Custom Office.

On 15th Bhadra, 2068 – Calculation of Customs Duty for repairs

Cost of repairs Rs. 80,000,000

Custom duty @ 10% Rs. 8,000,000

Less; deposit paid earlier Rs. 7,800,000

Balance to be paid Rs. 200,000

On 20th Ashwin, 2068 – Return of engine for further repairing

No duty or guarantee is required as per Rule 8(1)

Bank guarantee provided for the replacement engine will be returned by the Custom Office once the engine is sent back within 6 month of bringing the engine. Since the final repair was completed within 6 months, the engine was returned on time, therefore no further duty is payable.

6.

a) What is the time limit for Goods, Machinery or Spares parts to be brought back which are sent to a foreign country from Nepal for the purpose of repair under Custom Act, 2064? **3**

b) Explain the Post Clearance Audit with reference to current Custom Act provisions. **3**

c) A car manufactured in 2002 was imported in Nepal in 2005 by a project under custom duty privilege paying 2% custom duty. The value determined at the time of import was \$ 20,000 and rate of exchange was Rs 78 for \$ 1.

On July 14, 2007 the project has allowed the General Manager in Nepal to get the ownership of the car in his own name free of cost, but the Manager has to pay duty in cases payable. The exchange rate on that day was Rs 80 for \$ 1.

Calculate the transaction value of the car for custom duty purpose. **5**

d) Nepal Red Cross imports plastic bags for US \$ 2,000 for preserving blood.

What would be the rate of custom duty payable on such import of plastic bags? **2**

e) M/s Tempo, a registered party under VAT, is a producer of generators. It imports generating parts for Indian Rupee 500,000 Determine its Custom duty. **2**

Answer:

a. Time limit for Goods, Machinery or Spares parts to be brought back which are sent to a foreign country from Nepal for the purpose of repair under Custom Act, 2064.

As per Rule 6 of Custom Rule, such goods, machinery or spares shall have to be brought back within 3 months from the date of export.

In case the time limit prescribed above for bringing back such items after repair is inadequate, an application accompanied with documentary evidence of such inadequacy shall be submitted to the Customs officer. The customs officer may, if he so deems appropriate, extend the time limit by a period not exceeding four months.

b. As per section 34, Customs department is empowered to order for post clearance audit of the goods which are already taken delivery by the importer after payment of the customs duty. Customs department may select certain importer, certain goods or any specified goods for which certain information is received for post clearance audit.

The audit shall be conducted by any officer or custom officer nominated by DG.

The basis of such selections for post clearance audit shall be as prescribed by DG.

In case as a result of the post clearance audit, the value of the goods declared is less than the assessed value and thereby it is determined that the revenue is collected less than the actual, a fine of 150% of the custom duty chargeable on the difference shall be charged.

The customs officer may impose any other penalty on the importer as per this Act.

The audit shall be conducted normally within 4 years of the customs clearance of the goods.

The customs can examine the bank statement, sale bills, expenses voucher etc to ascertain the actual cost to arrive at the undervaluation or classification.

c. Calculation of the transaction value of the car for custom duty purpose.

| Particulars | US Dollar |
|--|-----------|
| Value of the car at the time of import | 20,000 |
| Depreciation allowed- Before import, the car was in foreign for 3 years The maximum period for depreciation allowed is 5 years minus 3 years= 2 years only. Depreciation for 1st year | 2,000 |
| Depreciation for 2nd year | 1,800 |
| Value for the custom duty | 16,200 |
| Value for custom duty in Nepali Currency= 16200*80 | 1,296,000 |

d. Nepal Red Cross does not have to pay custom duty on blood bags as it is fully exempted under Schedule 1 (14) (1)(m) of Custom Tariff of Nepal and is exempted by Ministry of finance.

e. Custom duty will be charged @ 1 % on generators of 10KW and above and for generator parts used to manufacture electric tempos/cars or for solar generator. For generator parts , applicable custom duty will be 5%. So the custom duty will be 5% on Rs.800750= Rs.40037.5 as per Finance Act 2068.

7.

(a) Describe about “Reverse VAT” under prevailing VAT laws of Nepal 3

(b) Calculate the net VAT payable after deducting available concession based on the information of Kathmandu Maida Mill for the month Baisakh 2069. 7

| | | |
|-------------------------------------|----------|----------------------------|
| Purchase of wheat grain | 1000 Qtl | Rs. 2,500,000 |
| Plant consumables | | Rs. 250,000 plus VAT |
| Bus for staff transportation | | Rs 1,130,000 including VAT |
| Production | | |
| Wheat Floor production | 850 Qtl | |
| By-product (bhus) | 140 Qtl | |
| Sales of Wheat floor(excluding VAT) | | |
| Local sale | 600 Qtl | Rs. 2,100,000 |
| Export to Tibet | 200 Qtl | Rs. 800,000 |

Answer:

7(a) Reverse VAT

Section 8 (2) of the VAT Act 2052 as amended has made provision relating to reverse VAT.

Person residing in Nepal registered or not registered in VAT receiving service from a person residing outside Nepal has to pay VAT on such remittance. The person providing service must not have business representation in Nepal.

The person in Nepal who pays VAT on such payment can claim as input tax credit is technically called Reverse VAT.

Computation of net VAT Payable of Kathmandu Maida Mill

| | | | |
|---------------------------------|---------------|-----------|---------|
| a. Collection of VAT | | | |
| Local sales taxable | 2,100,000 | 273,000 | note 1 |
| b. Input tax | | | |
| Items | Purchase amt. | VAT claim | Remarks |
| Plant Consumable | 250,000 | 32500 | |
| Purchase of staff Bus | 1,000,000 | 52,000 | note 2 |
| total input tax of the month | | 84,500 | |
| c. Net VAT payable/(eceivable) | | | |
| VAT collection on sales | | 273,000 | |
| total VAT credit | | 84,500 | |
| NET VAT Payable before rebate | | 188,500 | |

| | | | |
|-------------------------------|--|---------|--|
| 25% rebate under Schedule 1 | | 47,125 | |
| NET VAT Payable to tax office | | 141,375 | |

Note

1. On export sale there is zero collection of VAT U/S 2 of VAT Act 2052 as "0" rate cases.
2. VAT on Purchase of staff bus is claimable for 40% only

8

(a) Describe the following with reference to the Excise Duty Laws of Nepal.

3

(i) Person

(ii) Price

(b) What is the general penalty if a business sells and stores excisable goods without license under Excise Laws of Nepal. 2

(c) What is the rate of export duty for the following goods as per Finance Act, 2068? Explain the unit also. 5

| S. No | Code | Particulars |
|-------|------------|-----------------------|
| 1 | 2202.90.00 | Alcohol free beverage |
| 2 | 1404.90.90 | Kattha |
| 3 | 2206.00.10 | Country Beer |
| 4 | 8529.90.10 | Spare parts of TV |
| 5 | 2523.30.00 | Aluminium cement |

Answer:

8(a)(i)

“person” under Excise laws:

As per section 2 (jha) of Excise Act 2058, person means individual, academy, organization, association, partnership firm, cooperative society, joint venture, managers of religious trust or fund, proprietor or the main representative or agent, institutions or branch or sub-branch of the above that undertake with or without profit motive

(i) the production

(ii) import of excisable goods

(iii) sell or distribute them in wholesale or retail

(iv) provide excisable services

So whoever may involve in business or transaction of excise chargeable goods or service is under the tax liable definition of person irrespective of natural or artificial body. (1.5 mark)

8(a)(ii) “price” under Excise laws

As per section 2 (ta) of Excise Act 2058, “Price” means

- i. The factory price in the context of goods produced
- ii. The price as per the invoice in the context of service provided
- iii. The price fixed as per Section 7 in context of imported goods
- iv. The price decided under sec.10D(1)(e) of the Act

The above definition indicates that where excise is levied on price basis, the price as defined above is considered for calculation of excise duty purpose. Determination of factory price is based on prevailing accounting practice and convention method. In case of service, the charging price is the base where minimum rate cannot be identified. In case of import, the price as calculated by Custom department for custom purpose is taken as the price. (1.5 mark)

8(b) General penalty operating business without license

Section 16 of the Excise Act 2058 as amended and Rules 2059, a fine upto Rs 5000 to Rs 15000 according to the nature of the offense is applicable in addition to a one year imprisonment.

ON Tax assessment of excise duty, additional penalty may be leviable.

8(c) Export duty rate and unit as per Finance Act, 2068 is applicable only to the items mentioned in the Schedule 2 and no export duty on items not mentioned in Schedule 2

| S.No | Code | Particulars | Unit | Duty rate |
|------|------------|-----------------------|-----------|-------------|
| 1 | 2202.90.00 | Alcohol free beverage | Per Litre | NIL |
| 2. | 1404.90.90 | Kattha | Per Kg | Rs 5 per Kg |
| 3 | 2206.00.10 | Country Beer | Per Litre | NIL |
| 4 | 8529.90.10 | Spare parts of TV | Value | NIL |
| 5 | 2523.30.00 | Aluminiums cement | Per Mt | NIL. |

NOTE: Except for katha 1401.90.90, other items are not found in the schedule II of the Finance Act both in 2010-11 and 2011-12.