

The Institute of Chartered Accountants of Nepal
Suggested Answers of Income Tax and VAT

CAP II Examination- December 2012

1. Answer the following with reference to the Indian Income Tax Act, 1961:

a) Is there any income not chargeable to tax in case of Electoral Trust? Are there any conditions to be satisfied? Explain. **2**

b) Mr. Phil comes to India for the first time on September 1, 2011. On September 15, 2011, he joins a company on monthly salary of Rs. 90,000, as a part-time consultant (duty hours: 6.30 pm to 9.30 pm). Prior to September 15, 2011, Mr. Phil does not have any source of income. On October 9, 2011, he starts a trading business in computer hardware after obtaining approval of his employer. For the previous year March 31, 2012, he has the following income:

Salary from the part-time employment: Rs. 585,000; income from the business of trading in computer hardware in India: Rs. 1 million; and foreign income from the same business: \$ 50,000. Find out the residential status of Mr. Phil for the assessment year 2012-13. **6**

c) Mr. Jury, a foreign citizen, is residing in India since 2004. While completing his assessment for the assessment year 2010-11, on February 14, 2011, the Assessing Officer comes to know that Mr. Jury will leave India on April 12, 2012 with no intention of returning. Is there any provision wherein Assessing Officer can make assessment in assessment year 2010-11? **2**

Answer:

a) Voluntary contribution received by an electoral trust is treated as income under section 2(24)(ia). By virtue of section 13B, donation received by an electoral trust will not be chargeable to tax if the following conditions are satisfied;

i. The electoral trust is approved by the Central Board of Direct Taxes in accordance with the scheme made by the Central Government.

ii. The electoral trust will have to distribute to political parties 95 percent of the aggregate donations received by it during the previous year along with the surplus, if any, brought forward from any earlier years. For this purpose, a political party means a political party registered under section 29A of the Representation of the People Act, 1951.

iii. The electoral trust functions in accordance with the rules made in this regard by the Central Government.

b) As per section 6(1), an individual is said to be resident in India in any previous year, if he satisfies at least one of the following conditions (basic conditions)-

i. He is in India in the previous year for a period of 182 days or more.

ii. He is in India for a period of 60 days or more during the previous year and 365 days or more during 4 years immediately preceeding previous year.

Further, as per section 6 (6), a resident individual is treated as “resident and ordinarily resident” in India if he satisfies the following two conditions (additional conditions)-

i. He has been resident in India in at least 2 out of 10 previous years immediately preceeding the relevant previous year

ii. He has been in India for a period of 730 days or more during 7 years immediately preceeding the relevant previous year.

For the assessment year 2012-13, Mr. Phil has the following sources of income in India:

Income	Year	Number of days when Mr. Phil was in India
Salary Income	September 15, 2011 to March 31, 2012	199 days
Business Income	October 9, 2012 to March 31, 2012	175 days

For the first source on income, Mr. Phil becomes resident in India by satisfying one of the basic conditions. As he comes to India for the first time in 2011, he is unable to satisfy any of the additional conditions. Thus, he is a resident but not ordinary resident in India for the first previous year.

For the second source of income, Mr. Phil is a non-resident, as he satisfies none of the basic conditions.

It may be noted that he is non-resident in India for the business income and resident but not ordinarily resident for the salary income. In view of section 6(5), if a person is resident in India for one of the sources of income, he will be deemed to be resident in India for all other sources of income in the same assessment year. In respect of the assessment year 2012-13, Mr. Phil will, therefore, be regarded as resident but not ordinarily resident for all sources of income.

c) Section 174 prescribes that if it appears to the Assessing Officer that an individual may leave India during the current assessment year or shortly thereafter with no intention of returning to India, the total income of such individual up to the probable date of his departure from India shall be chargeable to tax in that assessment year.

Mr. Jury has intention of leaving India only on April 12, 2012 which is not shortly after then the current assessment year as prescribed by section 174. Hence, in assessment year 2010-11, the assessing officer can make assessment of previous year 2009-10. The assessing officer can assess the income of assessment year 2011-12/2012-13 (For the period April 01, 2012-April 12, 2012) in assessment year 2011-12 as per section 174.

2.

a) Anubhav & Co. has taken on rent the premises from Buddhi Shree & Co for the operation of its business which pays monthly rent of Rs. 100,000. Anubhav & Co. is deducting withholding tax at the rate of 10% amounting to Rs. 10,000 per month and making payment amounting to Rs. 90,000 per month to Buddhi Shree & Co. While submitting Income Tax Return, tax liability of Buddhi Shree & Co, to be payable during Income Year 2068/69 came to Rs. 200,000. Answer the following question mentioning the relevant provision of Income Tax Act, 2058.

i) What is the amount of tax to be deposited?

ii) Will your answer be different if tax liability of Buddhi Shree & Co comes to Rs. 100,000 instead of Rs. 200,000?

iii) What is the implication if Buddhi Shree & Co had not adjusted the amount of withholding tax paid through Anubhav & Co. while submitting income tax return? **8**

b) Mr. 'Z' a Canadian citizen is deputed by the Canadian government to work on a Canadian aided project and he stays in Nepal for 94 days. He receives his salary in Canada and he is provided a free accommodation and a daily allowance of Rs. 2,000 to meet his boarding and other expenses.

i) Examine the liability to tax under Income Tax Act, 2058.

ii) Will your answer be different if Mr. 'Z' comes to Nepal under the services of a private contractor instead of the Canadian government in the above case? **4**

c) The status of property, plant and equipments and repair and improvement Expenditure XYZ & Co. during Income Year 2068/69 is as follows;

Block of Assets	Repair and Improvement Expenditure (Rs.)	Depreciation basis (Rs.)
Building Block	2,000,000	100,000,000
Computer Block	100,000	800,000
Automobile Block	1,600,000	16,000,000
Total	3,700,000	116,800,000

Answer the followings mentioning the relevant provisions of Income Tax Act, 2058;

i) Can repair and improvement expenditure of Rs. 37, 00,000 be claimed under Income Tax Act, 2058. If not, compute the amount of repair and improvement expenditure that can be claimed by XYZ & Co. during Income Year 2068/69.

ii) What is the implication of the amount of repair and improvement expenditure, if any, which cannot be claimed during Income Year 2068/69? **8**

Answer:

a) Section 93 (2) and (3) of Income Tax Act, 2058 prescribes the followings;

1) In case tax has been deducted from payments other than those not subject to final tax deduction, the person whose tax has been deducted shall be deemed to have paid tax as follows:

(a) The tax amount deducted from payments under Section 87, 88 or 89.

b) The tax amount under Sub-Section (3) of Section 90, or the tax amount which is to be deemed to have been deducted from payments, deposited, if any, at the Department by the advance tax deducting person or the person whose tax is deducted.

2) The person whose tax is deducted under Sub-Section (2) may make a claim for its adjustment only with the amount of tax payable by him in the income year in which the payment has been made.

Accordingly,

i. The amount of tax liability to be deposited by Buddhi Shree & Co, while submitting income tax return is Rs.80,000 after adjusting the withholding tax deducted and paid through Anubhav & Co (Rs. 10,000*12 as TDS on rent).

ii. In this case, Buddhi Shree & Co can make a claim for the carry forward in next year or claim for the refund under section 113 of the Act, for the amount which is in excess of amount paid as withholding tax (i.e. Rs. 20,000).

iii. If Buddhi Shree & Co had not adjusted the amount of withholding tax paid through Anubhav & Co. during Income Year 2068/69 it cannot claim for the adjustment in forthcoming year. It can claim for the excess tax paid as refund under section 113 of the Act.

b)

i. The income derived by a natural person from the employment of public service of foreign country is exempted under section 10 of Income Tax Act, 2058. Following conditions shall have to be satisfied in order to get the exemption;

a. Such natural person is resident or non-resident of Nepal because of employment only; and

b. Such payments shall be made from the public fund of foreign country.

Hence Mr. 'Z' satisfies the above conditions, his salary and allowances are exempt from income tax in Nepal.

The place of receiving the salary of allowances is immaterial for the tax purpose.

ii. If Mr. 'Z' comes to Nepal under the services of a private contractor instead of the Canadian government, the salary received in Canada and the allowances received in Nepal combined together shall be taxable in Nepal.

The private contractor (employer) has to deduct withholding taxes from his salary as per section 87. In case the contractor does not withhold the tax at source and does not deposit the same to revenue department, the contractor and Mr. 'Z' are responsible to pay the tax jointly or severally. As his total stay in Nepal is of 94 days only, he is non-resident in Nepal for the Income Year and he has to pay tax at the rate of 25% on the taxable salary without allowing for initial deductions.

c) Section 16 of Income Tax Act, 2058 prescribes the following provisions;

1) Expenses incurred during and Income Year on repair and improvement of an asset owned and used depreciable asset in order to generate income, is allowed to be deducted from taxable income.

2) Expenses on repair and improvement regarding a block of owned and used assets during an Income Year in excess of 7% of the depreciable basis of the respective block at the end of Income Year, cannot be deducted during the Income Year.

3) The portion of the expenses disallowed during the year is allowed to be capitalized to the carrying amount of the respective block of the assets,

Accordingly,

i. The entire amount of repair and improvement of Rs. 37,00,000 cannot be claimed. The amount of repair and improvement that can be claimed under section 16 of Income Tax Act, 2058 can be computed as below;

Block of Assets	Dep basis (Rs.)	7% of Dep basis (Rs.)	Actual Repair and Improv Exp (Rs.)	Claimable Expenses (Rs.)
Building Block	100,000,000	7,000,000	2,000,000	2,000,000
Computer Block	800,000	56,000	100,000	56,000
Automobile Block	16,000,000	1,120,000	1,600,000	1,120,000
Total	116,800,000	8,176,000	3,700,000	3,176,000

ii. The following is the implication of the amount which is in excess of the limit prescribed under section 16(2).

Block of Assets	Claimable Expenses (Rs.)	Amount in excess of limit (Rs.)	Implications of the amount in excess of the limit
Building Block	20,00,000	-	As the entire expense is claimable, no implication
Computer Block	56,000	44,000	The excess amount shall be included in the opening depreciation basis of the following IY.
Automobile Block	11,20,00,0	4,80,000	The excess amount shall be included in the opening depreciation basis of the following IY.
Total	31,76,00,000	524,000	

3.

a) Mr. Ram had purchased a Land on 2063.10.01 for Rs.1 Crore. On 2066.05.06, he divorced his wife Mrs. Seeta. As part of his divorce settlement, he transferred the land to his ex- wife Seeta on 2066.05.10. At the time of transfer, the market value of the land was Rs. 1 Crore 40 Lacs. During the transfer, Mrs. Seeta incurred Rs. 10,000 towards registration and other legal charges. Mr. Ram had informed the details of the transfer of land to ex-wife and elected the application of section 43 in writing to Inland Revenue Office. Mrs. Seeta has sold the land on 2066.10.05 for Rs. 1 Crore 50 Lacs. By mentioning the relevant provision of section 43, calculate the gain or loss on disposal of the land in the hands of both Mr. Ram and Mrs. Seeta. If they do not elect the application of this section, how the incomings and outgoings are calculated? 7

b) Mr. Z, retired person from Nepal Government on Ist Sharwan, 2068 after 30 years of Service. After retirement, he joined Kathmandu Bank at Kathmandu on the same day, i.e. Sharwan, 2068 and remained in service till Ashad end 2069. Information about his income are as follows:

S.N.	Particulars	Nepal government	Kathmandu bank
1.	Salary		Rs. 3,00,000 Per month
2.	House rent allowance		Rs. 20,000 Per month
3.	Other allowance		Rs. 10,000 Per month

4.	PF contribution		Additional 10 % of basic salary & grade
5.	Pension received	Rs. 144,000 during the year	-----

Other information:

- He has been provided a vehicle for personal as well as official use by the Kathmandu bank.
- Both employers have deducted 10 % of salary for provident fund and deposited 20 % to the approved retirement fund.
- He had received all retirement payment in Ashad 2068.
- He has not been provided Dashai allowances during the period.
- His wife does not have any income in this Income year and they declared they are couple.

Calculate the assessable income, taxable income and tax amount of Mr.Z for the income year.

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c) Mr. Ram had purchased a Land situated at Bhaktapur on 2062.05.01 for Rs. 50 lacs. During the extension of Arniko Highway, Nepal Government took possession of the land with a notice of compulsory acquisition on 2066.05.07. As compensation, Nepal Government has given a sum of Rs. 80 Lacs to Mr. Ram. Mr. Ram purchased another land approximately 2 Kms. away on 2067.04.05 for Rs. 60 Lacs. Mr. Ram has requested in writing to Inland Revenue Office for the application of section 46 of the act. Compute the gain or loss on disposal of land in the hands of Mr. Ram by mentioning the relevant provisions of the Act. Will the amount of gain or loss differ if he has not elected for application of this section? **7**

Answer:

a) As per section 43 of the Act, in case a property is transferred due to a divorce settlement or to one's husband, wife, ex-husband or ex-wife and election has been done for the application of this section, then:

- The net outgoings incurred by the transferor will be treated as if they have been received from the transfer and
- The same amount will be treated as net outgoings for the transferee.

Since election has been done for the application of section 43, gain or loss is calculated as follows:

In the hands of Mr. Ram

Incomings Rs. 1 Crore.

Less: Outgoings Rs. 1 Crore

Gain or Loss Nil

The transferor experiences neither a gain nor loss from the disposal of the property.

In the hands of Mrs. Seeta

Incomings Rs.1,50,00,000

Less:

Outgoings:

Cost of the transferred asset 1,00,00,000

Registration and legal charge 10,000 Rs.1,00,10,000

Gain from disposal of land Rs. 49,90,000

If they do not elect the application of this section, then the market value of the property or the actual outgoings, whichever is higher are treated as incomings for the transferor and outgoings for the transferee.

Thus, if they do not elect sec 43 to be applicable in this case the gain shall be calculated as under:

In the hands of Mr. Ram

Incomings Rs. 14,000,000

Less: Outgoings Rs. 10,000,000

Gain or Loss Rs. 4,000,000

The transferor experiences Rs. 40 lakhs as gain from the disposal of the property.

In the hands of Mrs. Seeta

Incomings Rs.15,000,000

Less:

Outgoings:

Deemed Cost of the transferred asset 14,000,000

Registration and legal charge 10,000 Rs.14,010,000

Gain from disposal of land Rs. 990,000

b) Calculation of Assessable Income, taxable income and tax

<u>Particulars</u>	<u>Rs.</u>
Salary	3,600,000

House rent Allowance	240,000
Other allowance	120,000
Addition on Provident fund	360,000
Vehicle facilities (0.5 % of Salary)	18,000
Pension	<u>144,000</u>
Assessable Income	4,482,000
Less: Contribution to Provident fund	300,000
Whichever is lower	
Actual contribution Rs. 720,000	
One third of Assessable income Rs. 1,494,000	
Upper limit as per section 63	Rs. 300,000

Taxable Income 4,182,000

Less Exemption on pension (25% of basic exemption limit) 50,000

Taxable Income after exemption 4,132,000

Tax calculation

Slab	Tax Rate	Tax Rs.
200,000	1%	2,000
100,000	15%	15,000
38,32,000	25%	9,580,000
Additional tax (see note)		168,200
Total annual tax for Mr. Z		1,143,200

Note:

Taxable income	4,182,000
Less: <u>2,500,000</u>	
Taxable income over	
than Rs. 2,500,000	1,682,000
40% of tax @25%	168,200

c) Section 46 of the Act envisages the circumstances when a person has to dispose of an asset or liability due to orders issued by government or due to changes in legal decisions or when a person has to dispose of an asset or a liability due to forceful conditions. The conditions applicable for availing this section are as under:

- There must be a case of involuntary disposal of an asset or a liability.
- The asset or liability is exchanged for another same kind of asset or liability within one year of the disposal.
- The person requests in writing for application of this section for the disposal with replacement.

Section 46 further states that the total incomings for the transferred assets shall be the sum of the following amounts:

- The net outgoings for the assets up to the disposal of the asset and
- In case the amount received from involuntary acquisition exceeds the amount paid or payable for the replaced asset, the excess of the amount.

In the given case,

1. Compensation received from Government	Rs.8,000,000
2. Cost of the Replaced asset	Rs. 6,000,000
3. Excess of 1-2	Rs. 2,000,000
4. Net Outgoings for the asset before disposal	Rs. 5,000,000
5. Total Incomings (3+4)	Rs. 7,000,000
6. Total Outgoings	Rs. 5,000,000
7. Gain from Disposal	Rs. 2,000,000

If he has not selected for application of this section, then the gain is calculated as under:

Incomings	Rs. 8,000,000
Less:	
Outgoings	Rs. 5,000,000
Gain from disposal	Rs. 3,000,000

4. ABC Ltd. has entered into a construction contract with PQR Ltd. with a term of 3 years. The contract price and the total estimated cost are Rs.60 Billion and Rs. 40 Billion respectively in Year1 of the contract, cost amounting to Rs. 10 Billion was incurred and up to year 2 Rs.25 Billion has been expensed. Calculate the income of ABC Ltd. to be included in the concerned head of income with respect to long term contract in Year 1 and Year 2 by also showing the calculation of Cumulative Inclusions and Cumulative Deductions.

Briefly explain on Long Term Contract, Excluded Contract and Deferred Return.

(5+5=10)

Answer:

Year 1

Percentage of completion of the contract = $10 \text{ Billion} / 40 \text{ Billion} = 25\%$.

Cumulative inclusion is derived by multiplying total estimative cumulative inclusions up to the completion by percentage of contract completed.

Rs. 60 Billion * 25% = Rs. 15 Billion.

Cumulative Deductions is derived by multiplying total estimated deductions up to completion by percentage of contract completed.

Rs. 40 Billion * 25% = Rs. 10 Billion.

Amount to be included as income in Year 1 = Rs. 15 Billion – Rs. 10 Billion
= Rs. 5 Billion.

Year 2

Percentage of completion of contract = $25 / 40 = 62.5\%$.

Cumulative inclusions = Rs.60 Billion * 62.5% = Rs. 37.5 Billion

Cumulative Deductions = Rs. 40 Billion * 62.5% = Rs. 25 Billion

Amount to be included in year 2 as income = Rs. 37.5 – Rs.25-Rs.5 = Rs. 7.5 Billion.

Long Term Contract – As per section 26(1) of the act, a long term contract is a contract for production, installation, construction or the services related to them, which runs for more than twelve months. To establish a long term contract under this section, there should be a deferred return as a condition of the contract and the contract should not be an excluded contract.

Excluded Contract – As per Rule 11 of the Income Tax Rules, Excluded contract is any contract created by reason of an interest in an entity or by obtaining a membership in a retirement fund or any contract of investment insurance. Excluded contract is not taken as a long term contract.

Deferred Return - As per Rule 10 of the Income Tax Rules, a contract shall be called as deferred return contract if any party to a contract does not declare the information related to the estimated profit and estimated loss for the period of every six months starting from the commencement of the contract as required by IRD.

5.

a) EFG Ltd. has given a contract to Garibdas construction, a party not registered in VAT, for construction of a Shopping Complex built exclusively for commercial purposes. The cost of the shopping complex is Rs.55 lacs. By mentioning the relevant provision of the act and rules, comment on the taxability of the transaction.

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b) Moonlight Traders is engaged in the business of selling Television sets on installment basis. As per the policy and contract agreement, forty percent of the Price of the Television Rs. 20,000, i.e. Rs. 8,000 has to be paid as upfront payment in cash and thereafter monthly installment of Rs.1000 along with interest 1% per month has to be paid at the end of the month. Mr. Ram Binod has purchased a television set by paying Rs. 8000 in cash on 2066.09.07. Installment of Magh and Falgun has been paid on Falgun 05, 2066. By mentioning the relevant provision, determine the time of supply for Magh and Falgun Month installments.

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c) M/s Kiran Distributors is engaged in the wholesale business of various types of noodles. The firm is registered in VAT. The firm has taken a loan of Rs. 10 lacs from M/s Saraswati Bank for purchasing a delivery van. Bank has paid the total amount for the purchase of Van but has kept the ownership of van in the name of the bank till the loan is fully repaid by Kiran Distributors. Kiran has to pay Rs. 25,000 per month towards the principal and interest to the Bank as part of their loan agreement. Rs. 130,000 was paid as VAT during the purchase of van. By mentioning the relevant provision of the Act, can Kiran Distributors claim the input tax credit?

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d) ABC Ltd, a foreign party got a contract from an organization in Nepal. Before the start of the work, they have registered themselves with VAT. As a tax professional, they enquire you on the provision for payment of VAT as per the VAT Act. Advice ABC Ltd.

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e) What is Debit / Credit Note?

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Answer:

a) As per section 8(3) of the act, any person registered or not in Nepal engaged in constructing commercial buildings, apartments, shopping malls or similar having value more than Rs.5 Million need to pay VAT on construction cost, if not paid to registered person.

Further, Rule 6(kha) of the VAT Rules states that any person who, for commercial purposes, is constructing Building, Apartment, Shopping Complex or similar as directed by the IRD amounting more than Rs.5 Million has to get it constructed only from VAT registered person

In the referred case, since EFG Ltd. got the construction of a shopping complex for commercial purposes from non VAT registered party, hence as per section 8(3) of the act, EFG Ltd. has to deposit the VAT on transaction value i.e. 13% of Rs.55 Lacs = Rs. 7.15 Lacs to the Inland Revenue. With regard to taxability of Garibdas Construction, since the amount of transaction has exceeded minimum slab, it has to get registered itself in VAT.

b) As per section 6(3)(kha) of the VAT Act, in the case of contractual provision for paying the value of goods or services partially in more than one day on an installment basis, earliest of due date as per the contract or actual payment date shall be considered as Time of Supply.

In the month of Magh 2066, due date is Magh end but actual payment date is Falgun 05, hence in this case, time of supply is Magh End.

For the month of Falgun 2066, due date is Falgun end but actual payment date is Falgun 05, hence in this case, time of supply is Falgun 05.

c) As per section 17(5ka) of the act, if a tax payer has purchased or imported capital goods under a loan agreement within a financial lease, then input tax paid can be claimed by the concerned tax payer.

In finance lease, all the benefits and risks are to be borne by the lessee, only legal passing of the title happens after the stipulated date mentioned in the agreement. In this case, although the legal title still vests with the bank, but the firm can take the input tax credit as per section 17(5ka).

d) Section 19 of the VAT Act states about the payment of value added tax as following:

- 1) A taxpayer shall have to pay the tax for each month within twenty five days of the close of the month.
- 2) If a taxpayer does not pay the tax within the time limit specified under (1), an extra charge of ten percent per annum shall be imposed on the tax due.
- 3) If a taxpayer applies to the Director General for the exemption of the additional charges provided by (2) stating the reason that the failure to make a timely payment was caused by extraordinary circumstances beyond the taxpayer's control, the Director General may, if he finds the reason reasonable, exempt such charges.
- 4) The charges pursuant to (2) and the interest pursuant to Section 26, shall be charged from the date on which the tax first became due.
- 5) If a tax officer makes tax assessment under section 20 and finds that the amount of tax to be collected from the tax payer in a tax period is less than the amount he is entitled for refund, then extra charge and interest shall not be collected in that tax period.
- 6) Tax can be paid through the Good for Payment Cheque issued by the Bank. In such a case, the day tax office receives the good for payment cheque, it is deemed that the tax is collected.
- 7) Interest shall not be collected on Interest, Extra charge and penalties.

e) As per Rule 20 of the VAT Rules, a debit note/credit note is a document issued by a registered person owing to a change in the value of the goods or services supplied by him previously.

The debit or credit note must include the following contents:

- (a) Serial Number,
- (b) Date of issue,
- (c) Name, address and registration number of the supplier,
- (d) Recipient's name, address, and registration number if he is a registered person,
- (e) Number and date of the tax invoice connected with the transaction,
- (f) Particulars of the goods or services and reason of credit or debit,
- (g) Amount credited or debited,
- (h) Tax amount credited or debited.

A registered taxpayer shall maintain a monthly record of credit or debit notes referred to in sub-rule (1)

6. Write on the following:

a) A lawyer practicing in Nepal has provided consultancy services to the Legal Firm situated in United Kingdom. The legal firm situated in United Kingdom has used such services for the release of persons in USA. Where is place of supply of services as per Value Added Tax Act/Rules? **5**

b) There are some cases where Value Added Tax (VAT) paid on purchase is not allowed- no credit, even if output of registered person is VAT attractive. Mention those cases as prescribed under Value Added Tax/Rules. **5**

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|---|----------|
| c) State the provisions on Value Added Tax (VAT) refund under Value Added Tax Act, 2052. | 5 |
| d) What are the records that are to be maintained by the tax payer as per rule 23 of VAT rules, 2053? | 5 |

Answer:

- a) Section 6 of Value Added Tax Act, 2052 deals with time and place of supply of goods or services.
1. For the purpose of assessment and collection of tax under this Act, the determination of the fact whether the supply of any goods or services has taken place within or outside Nepal shall be as prescribed.
- Further, as per rule 16 of Value Added Rules, 2053, the place of supply of a service shall be the place where the benefit of that service is received.
- In the case given in question, the lawyer in Nepal has provided service to Legal Firm in United Kingdom, the Legal Firm of United Kingdom in turn has used such services and the payment of such services has been made from United Kingdom to Nepal, and hence the place of supply is United Kingdom.
- b) For the purpose of section 17 of Value Added Tax Act, 2052 following are the goods or services wherein VAT paid on purchase is not allowed-no credit, as per rule 41 of Value Added Rules, 2053.
- i. Consumption of drinkable items (soft drinks, water juice or similar)
 - ii. Liquor items (beer, wine, whiskey or similar)
 - iii. Petrol for vehicles used for human transport
 - iv. Expenses on Entertainment
- c) Following are the provisions related to Value Added Tax (VAT) refund under Value Added Tax Act, 2052;
1. According to Section 24(3), if a registered person has continues credit of VAT for six months, credit is eligible for VAT refund. In case any registered person has export during the month at least 40% of total sales in that month, the credit is eligible for VAT refund as per section 24(4).
2. According to section 25, VAT paid by following person or paid for following event may be refunded, upon request for refund within 3 years from the date of transaction on which the claim for refund is based;
- i. Diplomat, privileged on a reciprocal basis from Ministry of Foreign Affairs, person engaged in Regional or International Organization or missions having diplomatic privileges. This refund shall not be allowed for diplomats for purchase of goods or services at a time for less than Rs. 1,500 as per section 15 (1ka).
 - ii. Institution or VAT paid such institution on which Ministry of Finance, has granted the privileges of tax exemption
 - iii. Tax exemption project by Ministry of Finance under bilateral and multilateral agreement
 - iv. Any tax collected by mistake.
3. Foreign tourist visiting in Nepal, if purchase and take away from Nepal via air transport shall get refund VAT on those assets, if the cost paid is higher than Rs. 15,000. A service charge of 3% of refund is charged on refund (section 25 ka).
- d) As per rule 23 of VAT rules, a registered person shall for the purpose of the Act and these Rules maintain records of the following information, documents and details:-
- Information as per Schedule -7.
 - Records relating to trade, accounts, cash receipts and payments.
 - Tax invoices and abbreviated tax invoices issued.
 - Tax invoices and abbreviated tax invoices received.
 - All documents relating to his imports and exports,
 - All debit and credit notes.
 - Books of purchases and sales as per Schedules 8 and 9.