

CAP-II, Income Tax & VAT, June 2012

Roll No.....

Maximum Marks - 100

Total No. of Questions - 6

Total No. of Printed Pages -5

Time Allowed - 3 Hours

Marks

Attempt all questions. Working note should form part of the answer.

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

a) What do you mean by "Previous Year"? When income of previous year is not taxable in the immediately following assessment year?

(3+2=5)

b) Mr. Ravichandran, an Indian citizen, who is appointed as senior taxation officer by the Government of Uganda, leaves India, for the first time, on September 26, 2010 for joining his duties in Uganda. During the previous year 2011-2012, he comes to India for 176 days. Determine residential status of Mr. Ravichandran for the assessment years 2011-2012 and 2012-2013.

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c) Whether a trust/institution claiming exemption under section 11 can carry out business activities or not? Explain in brief.

2

2.

a) Rolls Airways is conducting the airplane services between Kathmandu and Saudi Arabia. Rolls Airways has a branch office at Kathmandu for the purpose of operation of its services. The income of Rolls Airways for the month of Shrawan, 2067 while conducting the airplane services and other operations are as below:

SN	Particulars	Amount (Rs.)
1	Amount received from the passengers departed from Kathmandu	10,000,000
2	Amount received from the transportation of the goods having first point entry at Kathmandu	5,000,000
3	Income from the travels from Bhutan and Lhasa having transit point at Kathmandu	5,000,000
4	Amount received from the rentals of the goods carried from Kathmandu which were transported from Bhutan	5,000,000
5	Amount received from the services of restaurant operated for the facility of passengers at Kathmandu Airport	2,500,000
6	Amount received from the services of Ground Handling for other airlines' operation	2,500,000
	Total Income	30,000,000

(2)

The followings are the details of expenditures of Rolls Airways:

SN	Particulars	Amount (Rs)
7	Expenditures from Air tickets	5,000,000
8	Expenditures against the accommodation and fooding for crew members	5,000,000
9	Expenditures against ground handling services	3,000,000
10	Expenditure for the operation of restaurant	2,000,000
11	Expenditure for the transportation of passengers from Bhutan, Lhasa	5,000,000
12	Expenditure for the re-transportation of the goods transported from Bhutan	5,000,000
	Total Expenditure	25,000,000

Note: Rolls Airways has managed the ground handling against 100 flights of its own and 100 flights of other airlines during Fiscal Year 2067/68.

Explain about the inclusion of above incomes and allowances of expenditures of a non-resident person, for the purpose of section 70 of Income Tax Act, 2058 stating the relevant provisions.

10

- b) Mr. Anil has held 500 shares, at the rate of Rs. 100 per share (par value), of Standard Chartered Bank Nepal Ltd (listed on Nepal Stock Exchange Ltd). He has requested to the stock broker to sell those shares held by him. Mr. Anil has purchased those shares at the rate of Rs. 1,000 per share. He has paid Rs. 4,000 as brokerage commission at the time of purchase of shares. He sold those shares at the rate of Rs. 7,000 per share and paid the brokerage commission of Rs. 17,500 to the broker on sale.

- Compute the gain on shares disposal.
- Is there any implication of withholding taxes? If yes, calculate the payment to be made to Mr. Anil stating relevant provisions of the Income Tax Act, 2058.
- What will be the implication if the above mentioned shares were held and sold by an entity instead of Mr. Anil?

6

- c) N estimated Rs. 1,000,000 for the Fiscal Year 2067/68 as estimated tax and paid Rs. 400,000, Rs. 300,000 and Rs. 300,000 at Poush, Chaitra and Ashadh respectively. Actual tax assessed under section 99 found Rs. 1,300,000 settled on Kartik end with filing income tax return. Compute interest under section 118 and 119.

4

(3)

a)

Ram and Krishna had contributed Rs. 20 lakhs & Rs 30 lakhs respectively and deposited the amount into a common bank account to be used to purchase a plot of land to resale the same later on. After 6 months of depositing the money into the bank account, they purchased a plot of land for Rs. 45 lakhs and got the land registered in their joint name (i.e. in the name of both Ram & Krishna jointly). Expenses on registration and commission at the time of purchase of land amounted to Rs. 500,000. They later on sold that plot of land at Rs. 86 lakhs and they have paid Rs. 6 lakhs as sales commission and other incidental expenses related with sales. The bank has given interest @18% PA on such bank deposit.

Calculate the amount to be incorporated as “income” in the hand of Ram and Krishna respectively from above mentioned transaction. How much would be the interest income and how it is treated in the hand of Ram & Krishna?

5

b) What are the entities considered as tax exempted entities? Whether Sections 87, 88, 88ka and 89 of Income Tax Act with regard to TDS are attracted to such entities? Explain.

5

c) Mention, with reasons, the amount of tax that need to be deducted at source/accounted for in the books in following cases:

(5×2=10)

i) M Ltd. has entered into an agreement with PC Pvt. Ltd. to conduct an awareness program on maternal health in 5 districts. The total amount paid by M Ltd. against such agreement was Rs. 40,000. In addition to such amount, M Ltd. also reimbursed Rs. 20,000 as expenses on air –ticket, lodging and fooding, daily expenses etc of staffs of PC Pvt. Ltd. to PC Pvt. Ltd. as per the terms of the agreement. PC Pvt. Ltd. did not give VAT invoice.

ii) M/S ABC Company Limited has 60 shareholders. The company has distributed iPhone worth Rs. 38,000 to each shareholder free of cost in FY 2068/69.

iii) Mahesh is constructing a building for his personal residence. He has appointed Ramesh, an engineer, to take care of the overall construction activities at monthly remuneration of Rs. 30,000.

iv) MNO Company Pvt. Ltd. has taken loan Rs. 10 lakhs from Hamro Bank Limited @ 12% PA. MNO Company Pvt. Ltd. has paid loan service charge of Rs. 25,000 and interest Rs. 90,000 during the year to the Hamro Bank Limited.

v) Mr. Ram is invited to deliver lecture on corporate finance by KBC College. KBC College has paid Rs. 10,000 to Mr. Ram for delivering lectures, Rs. 3,000 for setting up model questions and Rs. 5,000 for checking the answer-sheets.

- a) Calculate the applicable tax rate on ABC & Co. based on following information; 5
- ABC & Co. is registered as a special industry as provided in section 11 of Income Tax Act, 2058.
 - The industry is situated in an underdeveloped area with an employment of 350 people.
 - Mr. Z has a source of income in Nepal and also in more than one foreign country. During the Fiscal Year 2067/68, income and tax paid in each foreign country is given below;

Name of the Country	Income (Rs.)	Tax Paid (Rs.)
USA	200,000	60,000
Australia	150,000	30,000
UAE	100,000	5,000
Nepal	250,000	-

He is a resident natural person and selected for the couple as tax payers during the year. Calculate his tax liability during the Fiscal Year 2067/68. 5

5.

- a) Satellite Telecom Pvt. Ltd., a telecom operator company in Nepal, seeks your advice whether it can take credit of the VAT paid in the following transactions. 5
- i) VAT paid Rs. 18,000 for the purchase of petrol to be used for vehicle operation.
 - ii) VAT paid at Birgunj Customs Office Rs. 1,000,000 while importing the telecom equipments from China.
 - iii) The company deposited VAT amount Rs. 175,000 in Inland Revenue Office on the service charges payable to satellite bandwidth provider and want to take VAT credit of this whole amount.
 - iv) The company purchases beverage in the occasion of annual day and paid VAT Rs. 10,000 on this bill.
 - v) VAT paid Rs. 13,000 for the purchase of petrol to be used for the operation of generators as BTS sites.
- b) Mercantile Limited is providing service in the field of information technology and its sales in the month of Chaitra 2067 was Rs. 5 million. Out of total sales Rs. 3 million was export. The company has got some service from Star Inc. registered and working in USA. Cost paid for the services was Rs. 2 million and the company paid Rs. 260,000 in IRO as reverse charging payment. Total purchases for the month of Chaitra were Rs. 1 million and it has also incurred the following expenditures:
- Telephone charges Rs. 10,000
 - Petrol for vehicle Rs. 5,000
 - Printing and stationery Rs. 5,000

The company has taken VAT bill for all the above purchases. You are required to calculate the actual amount of VAT payable by Mercantile Limited for the month of Chaitra 2067. 5

- c) In the course of VAT refund audit of M/S Wipro Ltd., an export-oriented undertaking, the tax officer issued notice under section 20 of the Value Added Tax Act, 2052 and Rule 29 of the Value Added Tax Regulation, 2053 disallowing certain input tax credit on the ground that it is unrelated to the business. What are the remedies available to the company? Advice. 5
- d) Cosmos Pvt. Ltd. having registered office in Jawalakhel, Lalitpur transferred some goods costing Rs. 1,000,000 to its branch in Bangladesh. In the same month, branch in Bangladesh transferred some goods costing Rs. 500,000 to its head office in Nepal. Gross Profit margin of head office is 20% and branch is 25%. The profit of branch is consolidated at the end of each financial year. Find the VAT impact on the above transactions. 5
- 6.
- a) State the place of supply as per Value Added Tax Act, 2052/Value Added Rules, 2053, in case of: 5
- i) Sale of movable goods
 - ii) Immovable goods
 - iii) Imported goods
 - iv) Self-consumption
 - v) Service
- b) Explain the term “Abbreviated Tax Invoice” as per Value Added Tax Act, 2052. 5
- c) Mention the penalties prescribed under Value Added Tax Act, 2052 on the following infringements: 5
- i) Failure to issue a tax invoice and in case of transportation of goods out of the area specified by Inland Revenue Department, worth more than Rs. 10,000 without accompanied with a tax invoice.
 - ii) Registration as mentioned in section 10(1) and (2) related infringement.
 - iii) Failure to display the tax board as per VAT Act/Rules.
 - iv) An unregistered person issuing an invoice or documents showing collection of tax.
 - v) Tax officer finding that a taxpayer has reduced tax liability by making infringement of any provisions of this act or rules there-under.
- d) Mr. Cristiano Messi, a foreign tourist, visited Nepal for a month and is now returning to his home country Japan. He has purchased many goods in Nepal and paid VAT on such purchase. He seeks your advice on refund of VAT on paid by him on purchase and expenses/costs associated with such refund. 5

Suggested Answer**Answer No.1**

- a) Income earned in a year is taxable in the next year. The year in which income is earned is known as previous year. From the assessment year 1989-1990 onwards, all assesses are required to follow financial year (i.e. April 1 to March 31) as the previous year. This uniform previous year has to be followed for all sources of income. In case of a newly set up business/profession, the first previous year commences on the date of setting up of the business/profession and ends on the immediately following March 31.

The rule that the income of the previous year is assessable as the income of the immediately following assessment year has certain exceptions. These are:

- i. Income of non-resident from shipping.
- ii. Income of persons leaving India either permanently or for a long period of time.
- iii. Income of bodies formed for short duration.
- iv. Income of a person trying to alienate his assets with a view to avoiding payment of tax;
- v. Income of a discontinued business.

In these cases, income of a previous year may be taxed as the income of the assessment year immediately preceding the normal assessment year.

- b) During the previous year 2010-11, Mr. Ravichandran is in India for 179 days and during four previous years preceding the previous year 2010-11, he was in India for more than 365 days. He will be non-resident for the assessment year 2011-12. An Indian citizen, leaving India for the purpose of employment will be treated as resident in India only if he has been in India in that year for at least 182 days.

During the previous year 2011-12 (for the assessment year 2012-13), Mr. Ravichandran comes to India for 176 days. He will be treated as non-resident in India for the assessment year 2012-13. An Indian citizen who comes to on a visit to India during the previous year, will be treated as resident only if he has been in India in the year for at least 182 days.

- c) The trust and institution can carry out business activities if the business activities are incidental to the attainment of its objective and separate books are maintained without losing complete exemption from income-tax.

Answer No.2

- a) Section 70 of Income Tax Act, 2058 prescribes the following provisions regarding taxation on the income of a non-resident person in Nepal from transport or transmission business.

The gross receipts from the following activities of a non-resident person are treated as the taxable income of the person from the activities.

A person engaged in Nepal in any road, air, water or a chartered transport services, other than transmission in Nepal, for any of the following services;

- i. The carriage of passengers who embark from within a territory of Nepal.
- ii. The services of mail, livestock, or other movable tangible assets that are embarked from the territory of Nepal.

Expenditure incurred in conducting such activities are neither allowed to be deducted from the taxable income from the above sources nor allowed to be deducted from any other sources of income of the person.

The tax rate applicable shall be as prescribed under section 2(7) of annexure 1 of Income Tax Act (which is 5% of gross receipts during the year).

No tax credits shall be allowed to the person to reduce the tax payable by the person under this section.

Accordingly, following treatment shall be done for the purpose of section 70 in case of Rolls Airways.

1. For the purpose of section 70, the income of Rolls Airways for the month of Shrawan, 2067 as mentioned in point no. 1 and 2 of question shall be Rs. 15,000,000. Tax shall be 5% of Rs. 15,000,000=Rs. 750,000 as per section 2(7) of annexure 1 of Income Tax Act.
2. The amount mentioned in point no. 3 and 4 in the question shall not be taxed as per Income Tax Act, 2058 being sources of payment not in Nepal.
3. The amount mentioned in point no. 5 and 6 in the question are not the incomes to be included for the purpose of section 70. These incomes shall be taxed like the entity having general business income.
4. The expenditures incurred in connection with generation of income as mentioned in point no 5 and 6 in the question are eligible for deduction.
5. The expenditures as mentioned in point no 7, 8 and 9 in the question are not eligible for deduction for the purpose of computation of income as per section 70 even though they are incurred in connection with the generation of income from ground handling services by its own.
6. The expenditures as mentioned in point no 11 and 12 in the question are not eligible for deduction for the purpose of computation of income under section 70 as these are incurred in connection with generation of income, the taxation of which are not required to be paid under Income Tax Act, 2058.

7. Half of the ground handling expenditures amounting to Rs. 1,500,000 and expenditure against restaurant operation amounting to Rs. 2,000,000 (total Rs. 3,500,000) are allowable expenditure for deduction as these are incurred in connection with generation of income.
8. Corporate tax at the rate of 25 percent shall be paid on the amount as mentioned in point no 5 and 6 in the question amounting to Rs 5,000,000 less expenditure of Rs. 3,500,000 (assuming no other eligible expenditure to be claimed).

- b) Section 95 ka of Income Tax Act deals with the gain on disposal of interest on resident entity.

If case any person disposes its interest in a company listed with SEBON for publicly trading of its securities, NEPSE has to deduct advance tax from the amount payable to it, at the prescribed rate on the gain on disposal of the security as computed under section 37 of the Act.

The prescribed rate is 5% for a natural person and 10% for others.

Accordingly,

i.

Computation of gain on disposal of shares:

Particulars		Amount (Rs)
Sale value (500* Rs. 7,000)		3,500,000
Outgoings:		
Share value (500*Rs. 1,000)	500,000	
Add: Share Brokerage Commission		
On Purchase	4,000	
On Disposal	17,500	(521,500)
Gain on disposal of shares		2,978,500

ii.

As per section 95ka, NEPSE has to withhold advance tax at the rate of 5% of the gain which is Rs 148,925 through respective broker and make the net payment Rs. 3,333,575 to Mr. Anil as computed below;

Particulars	Amount (Rs)
Sale value (500* Rs. 7,000)	3,500,000
Less:	

(9)

Brokerage Commission on Disposal of shares	(17,500)
Withholding Taxes	(148,925)
Net Payment	3,333,575

iii. In case shares were held and sold by an entity instead of Mr. Anil, withholding tax shall be deducted at the rate of 10% on the amount of gain as calculated above.

c) Computation of Interest under Section 118 for the Fiscal Year 2067/68

						Amount (Rs)
						1,300,000
						1,170,000
Due on	Installment due	Installment		Shortfall/Excess	Cumulative	Interest @ 15%
		Amount due	Amount Paid			
Push-I	40%	468,000	400,000	68,000	68,000	2,550
Chaitra-II	30%	351,000	300,000	51,000	119,000	4,463
Ashadh-III	30%	351,000	300,000	51,000	170,000	6,375
Total		1,170,000	1,000,000	170,000		13,388
Interest under section 118						13,388

Computation of Interest under Section 119 for the Fiscal Year 2067/68

Interest to be paid for deficit since Kartik for all due amounts at the rate of 15% according to section 119. So the interest under section 119 is Rs. 3,750 $[(1,300,000-1,000,000) \times 1/12 \times 15\%]$.

Answer No.3

a)

Particulars		Amount		Remarks
		Ram	Krishna	
Expenses				
Cost of plot of Land	4,500,000			

NSO

P.T.O.

Other expenses	500,000			
Total Cost of Land	5,000,000	2,000,000	3,000,000	Apportioned on the basis of 2:3
Sales Income				
Sales Price	8,600,000			
less: Expenses	600,000			
Net Sales Income	8,000,000	3,200,000	4,800,000	Apportioned on the basis of 2:3
Income		1,200,000	1,800,000	in the ratio of 2:3

Apart from abovementioned income, Ram & Krishna have received interest income of Rs. 500,000 from the bank as interest for 6 months. This interest income shall also be shared between Ram & Krishna in the ratio of 2:3 as follows:

Ram : Rs. 180,000 Krishna : Rs. 270,000

However, the bank will deducted TDS from such interest payment and such withholding shall be final withholding. Hence, Ram & Krishna need not incorporate the interest income in their annual income return.

- b) The definition of Tax Exempted Organization is given in section 2 (dh) of the Income Tax Act, 2058 as follows:
- An organization registered in Inland Revenue Department as tax exempted organization and established with either of these two objectives:
 - Established without having a profit motive, and have social, religious, educational, or charitable objectives.
 - An amateur sporting association formed for the purpose of promoting social or sporting amenities without having an aim to distribute the income among its members.
 - A political party registered with the election commission.
 - A village development committee, a municipality, and a district development committee.

But, these organizations can get exemption only those donation amounts and donated assets received as per the objective of the organization.

Applicability of Section 87, 88, 88Ka, 89 :

All these sections are fully applicable to the Tax Exempted Organizations and therefore these organizations have to deduct and deposit Tax on payments.

As per the Circular of IRD (Chh No. 235) dated 2064/1/20, these organizations must take PAN and shall deduct TDS on all the payments in which TDS is applicable.

c) TDS

- i. 15% on Rs. 60,000 (Rs. 40,000 + Rs. 20,000) = Rs. 9,000
- ii. U/S 53, the cost of iPhone Rs. 38,000 shall be considered as deemed dividend and TDS @5% need to be calculated. Further Rs. 38,000 (cost of iPhone) shall be considered as net of tax i.e. 95%. Hence the total TDS that need to be accounted for shall be :

No of Shareholders	60
Cost of iPhone	40,000
Total deemed dividend	2,400,000
TDS @5%	120,000

- iii. TDS deduction is not required. U/S 88 (4) (Ka), being the payer is a natural person. (2)
- iv. Interest payable to the bank is not subject to TDS U/s 88(4)(kha), but the bank charge is subject to TDS, but in practice TDS is not being deducted.
- v. KBC College needs to deduct tax @15% on Rs. 10,000. On 3000 & on 5000 TDS deduction is not required.

Answer No.4

- a) As the company is a special industry, the applicable tax rate is 20% as mentioned under section 2 of annexure 1 of Income Tax Act, 2058.

Section 11(3) deals with provisions on special industry and the industry situated in underdeveloped area.

As per the information given in the question, the industry has 350 employees during the year. It is supposed that all the employees or more than 300 employees were Nepali citizens and the company has engaged these 300 Nepali citizens throughout the year. Under the circumstances the tax rate applicable will be $20\% \times 90\% = 18\%$.

The industry is situated in an under-developed area, and it is supposed that the industry have not completed its tenth year of commencement of its business during the year. Under the circumstances the tax rate applicable will be $20\% \times 30\% = 6\%$.

The company has a choice to select any one of the two concessions given and naturally the company selects the rate of 6%.

b) Calculation of the tax liability of Mr. Z for the Fiscal Year 2067/68

Total assessable income from all the sources

Particulars	Amount (Rs)
Net Income from Nepal	250,000
Net Income from USA	200,000

Net Income from Australia	150,000
Net Income from UAE	<u>100,000</u>
Total Income	<u>700,000</u>
Tax Calculation	
First Rs. 200,000	0
Next Rs. 100,000	15,000
Remaining Rs. 400,000	100,000
Total Tax	115,000
Average Tax Rate $(115,000/700,000 \times 100)$	$= 16.43\%$
Tax credit for the year shall be available for	

Country	Income (Rs)	Tax Paid (Rs)	Tax calculated at average rate (Rs)	Tax credit available for the year (Rs)	Unabsorbed tax credit to be carried forward (Rs)
USA	200,000	60,000	32,860	32,860	27,140
Australia	150,000	30,000	24,645	24,645	5,355
UAE	100,000	5,000	16,430	5,000	0
Total				62,505	32,495

Tax payable during the year comes to Rs. 115,000 – 62,505 = Rs. 52,495.

Note: It is supposed that all the incomes are from business and he has opted to be a couple.

Answer No.5

a)

- The Company cannot claim any VAT credit on the purchase of petrol as per Rule 41.
- The company can claim Rs. 10,00,000 as VAT credit which was paid at Birgunj Customs Office.
- It is the case of reverse charging payment and the company can claim VAT Credit of Rs. 1,75,000 in this case.
- As per Rule 41, VAT credit cannot be claimed on the purchases of beverages. Therefore, VAT credit is not allowed in this case.
- The Company can claim VAT Credit of Rs. 13,000 in this case as the petrol was used for the operation of generator at BTS sites.

b) Calculation of local sales:

Total Sales	50,00,000
Less: Export sale	<u>30,00,000</u>
Local sales	20,00,000

Calculation of VAT payable for the month of Chaitra, 2067

<u>Particulars</u>	<u>Amount (Rs.)</u>
VAT payable on local sales	2,60,000
VAT credit on purchases:	
VAT deposited in IRO	2,60,000
Local purchases	1,30,000
Telephone charges	1,300
Printing and stationery	<u>650</u>
	<u>3,91,950</u>
Net VAT Credit for the month of Chaitra 2067	1,31,950

Note:

1. No VAT is applicable on export sale.
2. Mercantile Limited can take a VAT credit on the reverse charging payment of VAT.
3. As per rule 41 of VAT Regulation, VAT credit cannot be taken on the purchase of petrol used for vehicles.

c) Notice issued under Section 20 and Rule 29

Ms. Wipro Ltd., has to collect the grounds taken by the Tax officer for disallowing the expenses, and think over it whether these are acceptable to it or not. In the case of tax payer thinks that the grounds taken by the tax officer are not valid and the decision is not acceptable to it, it can file an application to IRD for administrative review over the decision under section 31ka of the Act.

The application should be submitted within 30 days of the final assessment order received by it. In case the company is unable to file the application within the period, it can apply for extension of the time for further 30 days. But the application should be submitted within 7 days of the expiry of the time.

Before submitting the application for administrative review, it has to deposit a sum of 100% of the undisputed amount and one third of the disputed amount.

The burden of proof that any expenditure is unrelated to business is on to the tax officer under section 20(3) of Value Added Tax Act, 2052.

In case the decision of the IRD is also not in favor of the company, it can appeal against the decision in Revenue Tribunal adopting a procedure and within the time limit as prescribed by Revenue Tribunal Act.

- d) For the purpose of VAT, the transactions of head office and branches within Nepal are settled by way of stock transfer, therefore there will not be any VAT impact.

In the case of stock transferred to foreign branch or vice versa, it is taken as VAT attractive transaction and valuation is to be done at market price as per section 12 of Value Added Tax Act, 2052.

In the given case, the following will be the VAT impact:

- a. Stock transferred to Bangladesh branch is VAT attractive and VAT has to be collected at 0% (being export) on the market price of Rs. 12,00,000. So, output will be Rs. 12,00,000 and output tax will be nil.
- b. Stock transferred from Bangladesh branch is import for head office. VAT needs to be paid at customs office at 13% on market price of Rs. 6,25,000 plus customs duties, if any. VAT paid at customs office will be allowed as input tax credit.

Answer No.6

- a) Following are the place of supply for any goods under rule 15 or services under rule 16 of Value Added Rules, 2053 for any transaction:
 - i. **Sale of Movable goods:** In the case of movable goods transferred by sale, the place where such goods were sold or transferred.
 - ii. **Immovable goods:** In the case of any immovable goods whose location cannot be transferred even if their ownership is changed, the place where such goods are located.
 - iii. **Imported goods:** In the case of imported goods, the custom point in Nepal through which such goods are imported.
 - iv. **Self-consumption:** In case any producer or vendor supplies the goods to itself for self consumption, the place where the producer or vendor of such goods resides.
 - v. **Service:** The place of supply of a service shall be the place where the benefit of that service is received.
- b) Rule 18 of Value Added Tax Rules, 2053 prescribes for the provision of “Abbreviated Tax Invoice”.

A retailer, with prior permission from the tax office, can issue an abbreviated tax invoice, the format of which is given in Annexure 6 of the rules. An abbreviated tax invoice shall not be issued for more than NPR 5,000.

A registered person, in case it is a retailer, it may apply to the respective Inland Revenue Office for permission to issue abbreviated tax invoice. Any registered person cannot issue abbreviated tax invoice without such permission.

Abbreviated tax invoice is issued including the amount of VAT. Means the amount of VAT is not shown separately. Moreover, the seller is not required to give details about the sold goods as these are necessarily to be mentioned in the tax invoice issued as per annexure 5.

The selling price mentioned in an abbreviated tax invoice is including of VAT and so the selling price and the amount of VAT shall be calculated by using the following formula:

$$\begin{aligned} \text{Sales Amount} &= \frac{\text{Selling Price including VAT}}{100 + \text{rate of Tax}} \times 100 \\ \text{VAT Amount} &= \frac{\text{Selling Price including VAT} \times \text{Rate of VAT}}{100 + \text{rate of Tax}} \end{aligned}$$

As per the rule, in case the buyer requires tax invoice as per Annexure 5, the supplier has to issue the tax invoice as required by the buyer, instead of issuing abbreviated tax invoice to him.

- c) The detailed provisions related to penalties are mentioned in section 29 of Value Added Tax Act, 2062.
- i. In case a taxpayer fails to issue the tax invoice and in case of transportation of goods out of the area specified by Inland Revenue Department, worth more than Rs. 10,000 without accompanied with a tax invoice, tax payer is liable for penalty of Rs. 5,000 for each time as per section 29(1)(ga)
 - ii. In case a taxpayer fails to make the registration as prescribed under section 10(1) and (2), he shall be liable for penalty of Rs. 10,000 for each tax period as per section 29(1)(ka)
 - iii. In case a taxpayer fails to display the tax board as per VAT act/rules, he shall be liable for penalty of Rs. 2,000 per week and Rs. 1,000 for displayed at another place than prescribed as per section 29(10)(kha1)
 - iv. In case an unregistered person issuing an invoice or documents showing collection of tax, he shall be liable for penalty of 100% of tax payable as per section 29(1)(gha)
As per section 15(2), the tax officer should assess the tax and collect the amount from the taxpayer in addition to the fine as mentioned above.
 - v. In case a tax officer finds that a taxpayer has reduced tax liability by making infringement of any provisions of this act or rules there-under, the tax officer may charge, following a procedure set by Inland Revenue Department, a penalty up to 25% of the tax payable [section 29(ka1)]

Section 29(2) is also applicable in this case and the tax officer may charge a fine of 100% of the tax evaded amount.

- d) U/S 25 ka of VAT Act 2052, a foreign tourist who has paid VAT on purchase can claim for refund of such VAT amount. However, for such refund , following conditions must have been fulfilled-
- i. He must have purchased taxable goods of more than Rs. 15,000.
 - ii. He must be returning via air. Refund facility is not available for foreign tourist returning by road.
 - iii. The purchased goods must have been taken out of country by the foreign tourist.

Mr. Cristiano Messi can claim for refund for VAT purchased by fulfilling abovementioned conditions U/s 25 Ka. Service charge at the rate of 3% on amount refunded shall be deducted by the department at the time of refund.