

VND
CAP-III, Advanced Taxation, June 2012
Suggested Answer

Roll No.....

Maximum Marks - 100

Total No. of Questions - 8

Total No. of Printed Pages - 5

Time Allowed - 3 Hours

Marks

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

1. Compute taxable income and tax liability including all penalty and interest based on the following information.

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XYZ Pvt. Ltd.
Profit & Loss A/c
For the Year Ended 2068

	Rs.
Sales	17,500,000.00
Less : Cost of Sales	10,500,000.00
Gross Profit	7,000,000.00
Add : Other Income	180,000.00
Less : Operating & Admin. Expenses	2,170,000.00
Interest Expenses	275,000.00
Depreciation	650,000.00
Net Profit	4,085,000.00

XYZ Ltd., a special industry categorized u/s 3 of Industrial Enterprises Act, 1992 has been established in the year 2055. Additional information has been provided below:

- a) Depreciation includes Rs. 300,000/- as depreciation of delivery van which was purchased on Baisakh 14, 2068 for Rs. 1,500,000/-
- b) Operating & Admin. expenses comprises of following:
 - i) Rs. 175,000/- has been given as donation to tax exempted entity under the Income Tax Act, 2058.
 - ii) Rs. 62,999/- has been spent for Repairs & Maintenance of assets. Depreciation basis amount of the relevant group at the yearend for depreciation calculation is Rs. 900,000/-
- c) Interest expenses of Rs. 275,000/- is payable to Director on Loan & Advances.
- d) Business is established in district of Dhading which has been declared "Underdeveloped Area" by Nepal Government.

(2)

- e) No advance tax is paid for above period.
f) The Company has filed tax return on Magh 2068.

Answer No. 1

**Computation of Taxable Income & Tax Liability
Previous Year : 2067-68**

Particulars	Notes	Amount
Sales		17,500,000.00
Other Income		180,000.00
Total Income (A)		17,680,000.00
<i>Less : <u>Administrative & Other Expenses</u></i>		
Cost of Sales		10,500,000.00
Interest Expenses		275,000.00
Depreciation	1	450,000.00
Repairs u/s 16	4	62,999.00
Other General deduction u/s 1	3	1,932,001.00
Total Deduction (B)		13,220,000.00
Assessable Income (A) - (B)		4,460,000.00
Less : Donation	2	100,000.00
Taxable income		4,360,000.00
Tax @ 20%		872,000.00
Interest U/s		
Penalty u/s		

Notes

1. As per section 2(5)(Ka)(E) of Schedule 2 of IT Act 2058. If the assets are purchased between the end of Chaitra and the end of the income-year, only 1/3rd of the depreciation basis for the assets so purchased shall be included as depreciable basis of the Block. Thus, in this case the depreciation basis would be Rs. 1,500,000 X 1/3 i.e. Rs.500,000/- and the depreciation rate applicable for Vehicle (Class C) is 20%
Thus the allowable depreciation is Rs. 100,000/-. However the Company has charged Rs 300,000/- .Hence total allowable depreciation is calculated as under:

Particulars	Amount
Depreciation charged to PL	650,000.00
Less : Depreciation on asset purchased on Baisakh 2068	300,000.00
Add : Depreciation allowable	100,000.00
Total allowable depreciation	450,000.00

2. As per Section 12(2) of IT Act 2058, the maximum amount that can be claimed as donation expenses is Rs. 100,000/-or 5% of person's Adjusted Taxable Income, whichever is lower.
The allowable amount has been calculated below

(3)

Particulars	Amount
Sales	17,500,000.00
Other Income	180,000.00
Total Income (A)	17,680,000.00
Less : Interest Expenses	275,000.00
Cost of Sale	10,500,000.00
Repairs	62,999.00
Depreciation	450,000.00
Other General Deduction	1,932,001.00
Total Deduction (B)	13,220,000.00
Adjusted Taxable Income (A-B)	4,460,000.00

Donation available lower of :

5% of ATI	223,000.00
Actual Donation	175,000.00
Allowable Donation u/s 12	100,000.00

3. Calculation of General Deduction

Operating & Admin Expenses	2,170,000.00
Less : Donation claimed u/s 13	175,000.00
Repairs & Maintenance claimed u/s 16	62,999.00
Other General Deduction	1,932,001.00

4. As per Section 11(3)(Kha) of IT Act 2058, if a person has a special industry, which is established at any area declared as "Underdeveloped Area" by Nepal Government, then the tax liability of such entity is 30% of total tax liability. Since the Co. was established in year 2055 the above section is not applicable since time period of 10 years has passed.

(4)

5. Interest paid or payable to directors on their loan & advances is an allowable expenditure. It is assumed that directors include such interest income in their taxable income and tax is deducted at source.

6. Calculation of Interest & Penalty

Total Tax payable		8,72,000.00	90% of the tax	months	Interest u/s 118 @ 15%	Penalty U/s 117(1)
First Installment	40%	3,48,800.00	3,13,920.00	9.00	35,316.00	2,000.00
Second Installment						
Third Installment	30%	2,61,600.00	2,35,440.00	6.00	17,658.00	-
	30%	2,61,600.00	2,35,440.00	3.00	8,829.00	582.00
		8,72,000.00			61,803.00	2,582.00

Interest u/s119 $872000 \times 15\% \times 4/12$ 43600
Total interest=61803+2582+4600=107985

a. Rs. 2,000/- is for non filing of advance tax return.

b. For delay submission of Annual tax return penalty u/s117(2)has been calculated as below

Date of filing in Magh is not given. It is taken that it is filed on the last date of Magh.

no. of days kartik31+mansir30+poush 30+magh29=120

Higher of:i. (i) 0.1 % P.a.of Rs. 17680000/- for 120 deays =
 $17680000 \times 120/365 \times 0.1$ 581.260274 or

ii. Rs. 100 per month (Kartik toMagh) i.e.. Rs 400/-

2.

a) The civil works for Lower Tamakoshi Hydropower project is awarded to Laligurans/Eastwater JV through a global contract process. The contract value is Rs. 2,450 million. The contract shall have to be completed over the period of 5 years. After the works were awarded, there has been change in the design, to cover for the change variation order was awarded to JV for Rs. 130 million in the second year of the contract. The cumulative cost for respective year has been Rs. 400 million, 800 million, 1,290 million, 1,600 million and 2,000 million respectively. It was estimated that the cost of the construction is 90% of the value of the contract.

Calculate the taxable income on this long term contract of Laligurans/Eastwater JV for each of the five years.

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b) Mr. Ram Bahadur Sinjali has migrated to UK on 10th Poush, 2068. He has equity shares in a commercial banks purchased at Rs. 500,000 and a house which he recently purchased for Rs. 10,000,000. These properties he could not sell and therefore decided to leave in the country and went out of the country on permanent basis. He has the plans to sell the shares and house later when he will come to Nepal on visit. Explain the tax implication on the assets while he is going out of the country and the time when he will come back and sell.

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Answer No. 2

a)

Calculation of assessable income and allowed deduction of Laligurans/Eeastwater JV in a long term contract:

In Rs. Million						
Particulars	Year 1	Year 2	Year 3	Year 4	Year 5	
Initial Contract Price	2,450	2,450	2,450	2,450	2,450	
Variation Order		130	130	130	130	
Total Contract Price	2,450	2,580	2,580	2,580	2,580	$\frac{1}{2}$
Initial estimated cost amount	2,205	2,205	2,205	2,205	2,205	$\frac{1}{2}+\frac{1}{2}$
Add'l estimated cost amount		117	117	117	117	
Total estimated cost amount	2,205	2,322	2,322	2,322	2,322	$\frac{1}{2}$
Expenses incurred this year	400	400	490	310	400	$\frac{1}{2}$
Cumulative expenses	400	800	1,290	1,600	2,000	1+1
Add'l cost to complete the contract	1,805	1,522	1,032	722		
Percentage cost incurred/ completed to Total Est. Cost	18%	34%	55%	69%	100%	1
Income included for tax (percentage completed X contract price)	441	877	1,419	1,780	2,580	1
Less; income considered till last year	-	441	877	1,419	1,780	
Income for the current year	441	436	542	361	800	1
Allowed expenses for the year	400	400	490	310	400	1
Assessable income	41	36	52	51	400	1
Less; Deductions (assumed nil)	-	-			-	
Taxable income	41	36	52	51	400	$\frac{1}{2}$

b) As per the provisions of the Act, in a normal situation, when the ownership in an assets is relinquished, it is considered that the assets is sold, however there are special provision in Section 40 (3) of the Act which has prescribed the conditions on which the assets are deemed to have been sold even if the ownership is not transferred.

(6)

Provision clarifies that where if the owner of assets other than land or land & building, becomes non-resident then by the operation of Section 40(3), the assets is deemed to have been sold at the prevailing market rate. The Act clearly provides the exception for land and building. It therefore is applicable for all other assets. The asset is deemed to have been sold the day on which the person becomes non-resident.

In this case the shares in the commercial bank is deemed to have been sold on the day the person goes abroad, because from then on the person is going to be non-resident. The market price of the shares (stock exchange price) is considered the consideration for the shares sold and the cost price will be the cost he incurred while purchasing those shares. The net gain will be considered to have been realized by Mr. Sinjali and he will have to pay tax.

Subsequently, when he will come to the country to sell these assets, he will have to consider the cost of the shares to be the earlier notional income, while the income will be the market price/transaction price of the shares sold on the date of the transaction.

There will be no special treatment for the land and building sale as these are excluded from presumed sale of assets mentioned in section 40(3), therefore goes as per the normal process prevailing at the time the transaction is done.

Since the house was recently purchased and he is a non-resident, he will not be eligible for any concessional rate of tax on the sale of house and he would have to pay tax at 25% on the gains on sale of the house as well as shares, as per clause 1(8) of schedule 1 to the Income tax Act, 2058.

3.

a) Describe the provision in the Income Tax Laws for valuation of finished goods of a consumer food manufacturing industry? Which method of inventory valuation is appropriate for a edible oil processing industry? (4+3=7)

b) "Twin Tower Housing Pvt. Ltd.", a housing architectural company had received architectural consultancy, from Key Consultant Pvt. Ltd., India against the housing plan. Bill provided by Key Consultant Pvt. Ltd., India is as follows:

Particulars	Amount (IRS)
Professional charges for architectural consultancy	476,000
Service tax @ 10.30 %	49,028
Total Bill value	525,028

Accountant of "Twin Tower Housing Pvt. Ltd." is confused as regards to payment to be sent to Key Consultant Pvt. Ltd. and seeks your advice.

Advise him as regards to VAT/TDS applicable on same and net payment to be sent. Specify the provision of VAT Act, 2052 and Income Tax Act, 2058 in this regard. (Exchange rate IRS 1=NRS 1.6) (1.5+1.5+1+1=5)

Answer No. 3

a) Section 15 of the Income Tax Act 2058 has made the following provisions in regard to inventory valuation.

Trading stock includes the stock with a person; Raw materials, chemicals, work in progress, finished goods, store, etc.

(7)

The cost of sale of trading stock sold is derived as follows;

Cost of opening stock	xxx
Add: produced during the year	xxx
Less: Cost of closing stock	<u>xxx</u>
Cost of trading stock consumed or sold	<u>xxxx</u>

The cost of trading stock should be taken at cost price or selling price whichever is lower.

The person keeping accounts on accrual basis must adopt factory cost basis for valuation of trading stocks.

In case actual cost could not be derived for the particular trading stock; either of the FIFO or Weighted Average cost can be adopted. (On WACM, same classification to be grouped and on FIFO, the earlier stock will be disposed off)

The prime cost is derived as follows: [Sec. 15 (7) (5)]

Cost of raw materials consumed	xxx
Direct labour	xxx
Factory variable overhead (Exc. Repair)	<u>xxx</u>
Prime Cost	<u>xxxx</u>

The factory cost is derived as follows

Cost of raw materials consumed	xxx
Direct labour	xxx
Factory overhead(Exc. Repair)	<u>xxx</u>
Factory Cost	<u>xxxx</u>

The product of the edible oil industry is Food category on which the batch-wise and date-wise stocking is required.

To maintain the food fresh, first in first out method must be maintained so that the latest production will be stocked through the adopted system of inventory management.

Therefore, the appropriate method of valuation will be FIFO for such edible oil processing industry.

- b) As per section 8 (2) of Vat Act, 2052, "Any registered / unregistered person receiving service from unregistered person outside Nepal, need to determine and collect Vat at the time of payment on taxable Value as per provisions of this Act. In other word he has topay VAT on the same. Reverse Vat as per sec.17(5)(kh) has to be paid.

Again, as per section 88 (1) of Income Tax Act, 2058 TDS @ 15% shall be deducted on payment by resident person of interest, rent, royalty, service fee, commission or sale bonus and retirement payment having source in Nepal.

Here, Consultancy fee charged by "Key Consultant Pvt. Ltd." is IRS 476,000. TDS @ 15% need to be deducted on same.

(8)

Also bill raised by key consultant is for IRS 525028. Thus, Taxable Value for the VAT is IRS 525028.

Bill of Key Consultant:

Particulars	Amount (IRS)	Amount (in NRS)
Professional charges for architectural consultancy	476,000.00	761,600.00
Add: Service Tax @ 10.30%	49,028.00	78,444.80
Total Amount	525,028.00	840,044.80

Thus, following TDS and VAT need to be charged:

Particulars	Taxable value	Rate	Amount	Remarks
TDS	761,600.00	15%	114,240.00	As per section 88 (1) of Income Tax Act, 2058.
VAT	840,044.80	13%	109,205.82	As per Section 8 (2) of Vat Act.

Payment to be made:

Particulars	Amount
Total Bill Amount	840,044.80
Add: Vat on same	109,205.82
Less: TDS on same	(114,240.00)
Less: Vat to be deposited to tax office	(109,205.82)
Total	725,804.80

Thus, Payment of Rs. 725,804.80 needs to be paid to Key Consultant Pvt. Ltd.

But in case Key Consultant did not visit Nepal at all for his work or he did not stay in Nepal for more than 90 days in connection with his work and thus did not have a permanent establishment in Nepal, he is not taxable in Nepal as per Article 7 of DTAA with India and no income tax is deductible from his payment.

4. My Life Pvt. Ltd. has submitted Income Tax Return for Fiscal Year 2067/68 on 2068 Magh 10 in related IRO. Total taxable income for Fiscal Year 2067/68 was Rs. 20 lacs and the tax liability as per self tax assessment is Rs. 5 lacs. My Life Pvt. Ltd. has deposited advance tax of Rs. 100,000, Rs. 100,000 and Rs. 180,000 on Poush 2067, Chaitra 2067 and Ashadh 2068 respectively. Total amount deposited was Rs. 380,000. Balance of Rs. 120,000 was deposited along with Income Tax Return in the month of Magh 2068.

Calculate the interest to be paid as per section 118 (under estimating advance tax payments) and 119 (delay in payment of tax) of Income Tax Act, 2058.

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Answer No. 4

Interest as per Section 118

Time period for deposit	Installment Rate	Installment to be deposited	90% of the Installment (A)	Total Installment Deposited(B)	Amount less Deposited (A-B)
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(9)

2067 Poush End	40%	200,000	180,000	100,000	80,000
2067 Chaitra End	70%	350,000	315,000	200,000	115,000
2068 Ashad End	100%	500,000	450,000	380,000	70,000

Since, less than 90% of the installment is deposited interest @ 15% (Standard rate of interest) shall be levied on difference amount up to the date when tax return is to be submitted i.e. Ashwin end 2068. Calculation is as follows:

Time period for deposit	Installment Rate	90% of Installment to be deposited	Total Installment Deposited(B)	Amount less Deposited (A-B)	Period for which interest need to be deducted (in months)	Interest
2067 Poush End	40%	1,80,000	1,00,000	80,000	3	3000
2067 Chaitra End	70%	3,15,000	2,00,000	1,15,000	3	4312.5
2068 Ashad End	100%	4,50,000	3,80,000	70,000	3	2625

9937.5

Interest as per Section**119**

<u>Particulars</u>	<u>Amount</u>
Time limit for Submission of Income Tax Return	Ashwin End 2068.
Amount to be deposited	=500,000-380,000 =Rs. 120,000
Income Tax submitted & Amount Deposited	2068 Magh10.
Time Period for Interest	4 months (part of month to be considered as full month)
Rate of Interest	15% (Standard Interest Rate)
Interest	=120,000 X 4/12 X15% =6,000

Thus, My Life Pvt. Ltd. needs to pay Rs. 9937.85 interest under section 118 & Rs. 6,000 under Section 119.

The assessable income is not given in the question., Interest u/s 117(2) for late submisison of return at 0.1% per annum on the gross income is payable from Kartik 1 to the date of submission of return for thenumber of days delay.

5.

- a) Heat & Cool Pipe Industry Ltd. is a pipe manufacturing company. The raw material imported during various months are as follows:

Month	Raw Material
2069 Baisakh	10,000 Kg
2069 Jestha	11,000 Kg
2069 Ashadh	9,000 Kg

The sale done by company in various periods are as follows:

Month	Local Sale	Export Sale	Total Sales
2068 Baisakh -Chaitra	4,200 kg	4,800 kg	9,000 kg
2068 Baisakh	600 kg	100 kg	700 kg
2068 Jestha	150 kg	550 kg	700 kg
2068 Ashadh	300 kg	-	300 kg
2069 Baisakh	-	900 kg	900 kg
2069 Jestha	300 kg	300 kg	600 kg
2069 Ashadh	400 kg	500 kg	900 kg

The company marks up 15% to its product. The selling price is same for local and export market. Raw material required per kg of output is 2 kg.

- i) Determine whether the company can claim bank guarantee facility for VAT at the time of import of raw material. Also specify the provisions of VAT Act, 2052 in this regards. 6
- ii) The company's VAT account showed following balances. Can company claim refund immediately after closure of month? Specify the provision of the VAT Act. 2

Month	Balance	Remarks
Baisakh	40,000	Payable
Jestha	120,000	Receivable
Ashadh	140,000	Receivable

- b) Lumbini District Development Committee has called up an auction to sell its fixed assets (Computer, Furniture & Fixtures) as it is shifting to new office with modern infrastructures. Detail of amount collected from auction is as follows:

Fixed Assets	Amount
Computer	50,000
Table	30,000
Chairs	40,000
Furniture	140,000
Miscellaneous Assets	70,000
Total Amount Received	330,000

The officer of Lumbini District Development Committee did not collect VAT on this sale. Is he correct? Answer in the light of VAT Act, 2052.

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c) Answer the following in the light of VAT Act, 2052:

(2×2=4)

i) Sweet zone industry Pvt. Ltd. manufacturers Sugar and Spirit. For Fiscal Year 2068/69, it had following VAT transactions:

	Spirit	Sugar
A.VAT collected on Sales		
i. From VAT registered party	1,200,000	1,200,000
ii. From Non-VAT registered party	700,000	700,000
B.VAT paid on purchase	1,000,000	1,000,000

What amount of VAT refund is Sweet Zone Industry Pvt. Ltd. entitled?

ii) Fashion House Ltd. is a textile Industry manufacturing clothes and also trading in it. The VAT accounts of Fashion House Ltd. showed the following data for Fiscal Year 2068/69.

Particulars	Trading of clothes (local purchase & Sales)	Manufacturing of Clothes
A.VAT collected on Sales	Rs.	Rs.
i. From VAT registered party	1,500,000	1,600,000
ii. From Non-VAT registered party	200,000	160,000
B.VAT paid on purchase	1,400,000	1,300,000

Calculate the VAT amount which Fashion House Ltd. is entitled to get refund from Inland Revenue Department.

Answer No. 5

a)

i) As per section 8(ka) of VAT Act, 2052, Bank Guarantee Facility is provided on import of raw materials only and that is available for the quantity of the raw materials required for export of the finished goods. Condition to be satisfied for Bank Guarantee Facility is as follows:

- The facility is available to those industries who have exported equal to or more than 60% of total sales of its products during latest 12 month.

The industry has to export the goods for the price which is at least 10% value addition above the consumed value of the raw material.

The amount of the Bank guarantee shall be equal to the VAT payable on the raw material.

Here, Heat & Cool Pipe Industry Ltd. has fulfilled condition of value addition as it marks up 15% to its product. Now, condition of 60% export in latest 12 months need to be checked.

Export Sale as percentage of sale for Baisakh, Jestha and Ashadh:

Month	latest 12 month	Export sales in latest 12 months	Total sales in latest 12 months	%	Remarks
For Baisakh 2069	Baisakh-Chaitra 2068	4800	9000	53.33%	Less than 60%
For Jestha 2069	Jestha 2068 Baisakh 2069	+4800-100+900 =5600	+9000-700+900 =9200	60.86%	more than 60%
For Ashad 2069	Ashad 2068 Jestha 2069	+4800-100-550+900+300 =5350	+9000-700-700+900+600 =9100	58.79%	less than 60%

Since, both conditions are satisfied in the month of Jestha 2069, Bank guarantee facility shall be provided only for the month of Jestha 2069.

- ii) As per section 24(4) in case the person has an export equal to or more than 40% of the sale during the month, it may apply for the refund immediately after the close of the month. But as per section 8 ka (5), person with the facility of Bank guarantee as per section 8 ka will not get facility of section 24(4).

Thus, though the company has more than 40% of export sale, it cannot enjoy facility under section 24(4) for Jestha. **Only if Vat is receivable for more than 6 months, refund can be claimed.**

- b) As per section 15(3), VAT need to be collected while selling taxable goods or services, though it has been sold by local entity or international organizations situated in Nepal or mission or Nepal Government or Public Institutions dealing in Vat exempted goods.

Thus, though Lumbini District Development Committee falls under Schedule 2 of VAT Act i.e. Goods and services levied zero rate of VAT, but VAT need to be collected on sale of fixed assets as it is a taxable goods.

c)

- i) As per Schedule 1 of VAT Act 2052, 70% of VAT collected on Sale of **sugar** shall be refunded as prescribed by IRD **against** sugar sold to VAT Register Party.

Thus, Sweet Zone Industry Pvt. Ltd shall have following VAT refund:

VAT collected From Sales to VAT registered party(Of manufactured Sugar)=12,00,000.
VAT Refund (70% of it) = 840,000.

Thus, Sweet Zone canl claim **Rs. 840,000** VAT Refund.

- ii) As per Schedule 1 of VAT Act 2052, VAT refund to Textile, matches (wooden stick only, tyre tube Industries):
Equal amount of balance of VAT Amount after deducting VAT paid on Purchase/Import from VAT collected on Sales shall be refunded as prescribed by IRD.

Thus, Fashion House being a textile Industry shall have following Vat refund:

- No Vat refund shall be given on trading of clothes.
- Vat refund on manufacturing of clothes:

Particulars	VAT Amount
Vat collected on Sales	
From VAT Registered Party	16,00,000
From VAT Unregistered Party	1,60,000
Total VAT Collected	17,60,000
Less:	
VAT Paid on Purchase	13,00,000
Amount of VAT refund	4,60,000

Thus, Fashion House Ltd. shall claim Rs. 460,000 for VAT refund.

6.

- a) State the provisions of the Act for set off VAT for losses of goods due to fire. 5
- b) M/s Makalu Food and Beverages had following VAT attractive transactions in the month of Poush 2068. From these details and notes below, calculate the VAT payable/receivable for the month of Poush. 5

Details	Amount in Rs.
Purchase of raw material – local	4,500,000
Purchase of raw material – import	5,500,000
Purchase of packing material	500,000
Purchase of motorcycle	150,000
Purchase of bus for staff	1,000,000
Purchase of delivery van	800,000
Purchase of diesel for staff bus	50,000
Purchase of petrol for van/motorbike	25,000
Payment of consultancy services to a party in India	90,000
Telephone expenses	15,000
Dealers' meet expenses	45,000
Miscellaneous expenses	85,000
Opening VAT receivable	9,000

- Above items are excluding VAT.
 - Miscellaneous expenses includes Coke and Fanta purchased for dealers' meet for Rs. 10,000 and gift items purchased through abbreviated tax invoice of Rs. 25,000.
- c) A car manufactured in 2001 was imported in Nepal on 2005 by Mr. Ramesh Chandra for his personal use with partial exemption of custom duty for IRS 25 lacs. On 15.05.2012, Mr. Ramesh Chandra wants to transfer its ownership to his nephew Mr. Balram.

- i) Calculate the transaction value of the car for Custom Duty purpose. 2.5
- ii) What would be the transaction value if the car was manufactured and imported in year 2005? 2.5

Answer No. 6 (a)

- (i) Sec. 39 ka of the VAT Act prescribes the conditions for set off of VAT in case of loss of goods due to fire, theft, accident, breakage, disturbance or expiry of date
- (ii) Where there is loss because of above reason and the goods are to be written off or to be sold at the lower prices, then within 30 days of such situation application is to be made to the Inland Revenue Office with the evidence (Subsection 1).
- (iii) When after the necessary enquiry by the committee established by the Department determines such loss then, for upto 1 lakh of tax set off the Office can decide, beyond which the Office should recommend to the Department. (Subsection 2)
- (iv) The Department may decide to allow for the set off of excess tax paid after considering the tax paid on the purchase and collection of tax while selling the goods at the lower prices. (Subsection 3)
- (v) Irrespective of what is provided in above Subsections, in case of loss of goods which are insured, the relevant office itself can decide to allow the set off of tax to the extent of compensation received. (Subsection 4)

b) Calculation of VAT payable

Payment of VAT	Amount	VAT	Remarks
Raw materials – local	4,500,000	585,000	full
Raw materials – import	5,500,000	715,000	full
Packing material	500,000	65,000	full
Motorcycle	150,000	19,500	full
Bus	1,000,000	52,000	allowed only 40% (Rule 41)
Delivery Van	800,000	104,000	full
Diesel for bus	50,000	6,500	full
Petrol	25,000	-	not allowed (Rule 41)
Consultancy services	90,000	11,700	Reverse VAT (Sec 17(5)(kha))
Telephone expenses	15,000	1,950	full
Dealers meet expenses	45,000	-	not allowed (Rule 41)
Coke/Fanta for meet	10,000	-	Not allowed (Rule 41)

Gift items purchased through

Abbreviated bill	25,000		Not allowed (Rule 18(3))
Miscellaneous expenses	50,000	6,500	full
Total Input tax credit		1,567,150	

Calculation of VAT Payable/Receivable for Poush

Opening Receivable	9,000
Add, Input VAT	1,567,150
Net VAT Receivable	1,576,150

VAT claimable from department per the provisions of Annex 1 Group 11(21) of the Act 1576150.

c)

i)

Particulars	Amount	Amount in	Remarks
Value of car at the time of import	2,500,000	IRS	
Depreciation allowed:			
60% of value at the time of import.	1,500,000	IRS	Note-1
=60% X 2,500,000			
=1,500,000			
Value for Custom Duty	1,000,000	IRS	
Value for Custom Duty in Nepali Currency	1,601,500		Exchange rate=1IRS=1.6015 NRS.

Thus, Value for Custom shall be 1,601,500.

Note-1s per section 9(2) of Schedule 1 of Custom Act, in case the vehicle under consideration is sold after 10 years of its production, the value for custom purpose shall be transaction value at the time of import minus 60% of the value as depreciation.

Here, car was manufactured in 2001 & sold off in 2012 i.e. more than 10 years. Thus, 60% of value shall be deducted as custom.

ii) If manufactured and imported in 2005:

Particulars	Amount in	Amount	Remarks
Value of car at time of import	IRS	2,500,000	
Depreciation allowed			
Depreciation for Year 1 (2,500,000 @ 10%).	IRS	250,000	Note- 2
Depreciation for Year 2 (2,500,000-250,000) X 10%	IRS	225,000	
Depreciation for Year 3 (2,500,000-250,000-225,000)X10%.	IRS	202,500	

Depreciation for Year 4 (2,500,000-250,000-225,000-202,500)X10%	IRS	182,250	
Depreciation for Year 5 (2,500,000-250,000-225,000-202,500-182,250)X10%	IRS	164,025	
Total Depreciation		1,023,775	
Transaction Value for Custom Purpose	IRS	1,476,225	
Transaction Value for Custom Purpose	NRS	2,364,174.33	Exchange rate, 1 IRS=1.6015

Note-2

As per section 9 (2) of Schedule 1 of Custom Act, transaction value determined presently at the time of sale or transfer determined by deducting the depreciation allowed. The depreciation allowed is 10% each year on written down value for a maximum 5 years. Since, car is manufactured in year 2005, Depreciation shall be allowed for maximum 5 years at 10% on written down value.

7.

- a) Madhusala Liquors Pvt. Ltd., a liquor Industry has sold liquor to following parties during the Fiscal Year 2068/69.

Party	VAT Registration Status	Taxable Amount	Cash Discount
Friendly Liquor House	Not registered	400,000	2,000
Family Department Store Pvt. Ltd.	Registered	2,500,000	50,000
Aladin Liquor Mat Pvt. Ltd.	Registered	1,400,000	28,000

Madhusala Liquors received a letter from excise office stating that above sale is not in compliance to the clause mentioned in license.

Is the excise office correct? Answer stating the provision of Excise Act in this regard.

(2+3=5)

- b) Answer the following in light of Customs Act, 2064.

- i) Mr. Alexander Shah, a Nepali citizen has brought a 40" LED television while returning from America after his stay of 2 years for completing his studies. The value of LED TV was \$ 750. What amount of duties need to be paid at custom point. (Assume Exchange rate \$ 1=Rs. 70, Custom Rate=5%) 3
- ii) Which Industries can be declared as sick Industries by Government of Nepal? What are the rebates provided to sick industries? Answer in the light of Custom Act 2064. 2

Answer No. 7

- a) As per section 4 (F) of excise act, manufacturers and traders of liquor, Beer and cigarette Industry are not allowed to conduct any type of gift programme or provide discount on sale of production to persons unregistered in VAT.
- b) On observation of commitment of such activities, the clause of license will be deemed to have been violated.

Since, Friendly Liquor house is not registered in VAT, Madhusala Liquors Pvt. Ltd. cannot give cash discount on sale of its production to it.

Thus, Madhusala Liquors has violated the clause of license. Hence, excise officer is correct.

c)

- i) As per section 19(15) of Schedule 1 of Custom Act, LCD, Plasma or LED Television accompanied by Nepali passengers shall be charged a single amount as custom, and no VAT, excise or custom shall be charged separately.

As per the section Rs. 550 per inch shall be charged on LCD, plasma or LED TV brought by passenger who have stayed above 6 months abroad.

The following custom will be charged.

Custom per inch	=550.
Total Inch	=40
Total Custom	=22,000.

Thus, custom of 22,000 need to be paid.

- ii) As per section 15(2) of Schedule 1 of Custom Act, 2064, Whatever mentioned in Section 25(Ka) of Industrial Enterprises Act, 2049, those Industries which are in huge loss due to not in operation by the internal and external factors of the country, Government of Nepal may, for promotion and development of those industries, declare them as sick industries, Government of Nepal shall frame certain standards for declaring an industry as sick industry and the fact shall be published in Nepal Gazette.

On recommendation of a nominated government office, such sick industry shall import industrial machineries and spare parts for its rehabilitation program by paying only 1% custom duty.

Question No.8.

Write short notes on:

(4×2.5=10)

- a) Demurrage
- b) Under Invoicing
- c) Zero Rated
- d) Physical Control System and Self Removal System

Answer No. 8

- a) As defined in the Section 2 (sha) of the Custom Act, Demurrage is a fee levied by the government as penalty for not releasing the goods **from the customs warehouse** in time by

the importer or exporter. There is certain time allowed to the importer/exporter to clear the goods from the custom godowns, if till such time the goods are not cleared then the demurrage is charged

However if the delay is on the part of custom officer due to issue in valuation, classification **or** any other reason then in such situation demurrage is not charged.

In some other special situation, the demurrage can be waived also by the authorized officer.

- b) As per the WTO's General Agreement on Trade and Tariff agreement, the value of imported goods is determined on transaction value basis. This means that the duty is paid based on the invoice value of the goods. But there can be cases where the value declared by the importer for the custom valuation purpose is lower than the value estimated by the custom officer. Such situation is referred as under invoicing. This means that the valuation shown by the invoice is suppressed so that the goods could be imported paying lesser duty. This is a major issue in the developing economy, and this will have far reaching implication of illegal trade etc.

Rule 29 of the Custom Rule has prescribed the process to control such practice by empowering the Department to have the right to purchase the goods by paying 5% excess on the declared value of the goods through a special fund created for the purpose. Ministry of Finance may provide the budget for this fund which does not get freeze once the fiscal year is closed. The department should notify the importer or his agent of its decision to buy the goods from the fund. Goods purchased through the fund may be auctioned or can be used for the government purposes. There have been cases in the past where the government decided to buy the goods through this provision.

- c) Value Added Tax (VAT) is a single tax rate system in Nepal. Section 7 of the VAT Act further defines that for goods and services mentioned in the Annexure 2 of the Act zero percent tax is levied. These goods attract the duty however the rate prescribed is zero percent¹ These are other than the VAT exempt goods where the duty is exempt altogether set off or refund of which cannot be claimed later.

Where an entity is doing transaction on zero rate VAT items, then it can take the set off the input tax, fulfilling certain condition it can claim for the refund of the tax also.

- d) Section 2 of the Excise Act defines the terms Physical Control System and Self Removal System. As per the definition, Physical Removal System is a system where the excisable good's production, removal, export or **import take place under** the control of Excise Officer or the staff nominated by Excise Officer. **This is adopted in the case of cigarettes and tobacco products and liquor.**

Without payment of excise duty in advance, the goods are not allowed to be transported outside the factory premises.

Self Removal system on the other hand is the system where the production, removal, export or import of excisable goods and services takes place not under the direct control of the

excise officer but the production, removal, export or import of excisable goods and services takes place with freedom to the manufacturer but he has to keep proper records so that the excise officials can at any time visit the place of manufacture and check the records for its correctness.

Under this system the manufacturer can pay the excise duty as per his records within 25 days from the end of each month