



SUGGESTED ANSWERS

CA INTER

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**Head Office: Shraddha, 3rd Floor, Near Chinai College, Andheri E,
Mumbai – 69**

Tel: (022) 26836666

Answers

SECTION A: INCOME TAX LAW

Division A: Multiple Choice Questions

Q.1 Multiple Choice Questions

	1	2	(d)
(i)	(a)	3	(a)
(ii)	(a)	4	(c)
(iii)	(b)	5	(c)
(iv)	(c)	6	(b)
(v)	(d)		

Division B: Descriptive Questions

Q.1

Computation of total income of Mrs. Dalal for the A.Y. 2020-21:

Particulars	₹	₹
<u>Income from Salary</u>		
Basic Salary (₹ 70,000 × 12)		8,40,000
HRA (₹ 25,000 × 12)	3,00,000	
Less: Exempt u/s 10(13A) - [Note 1]	(1,56,000)	1,44,000
Education Allowance (₹ 1,500 × 12)	18,000	
Less: Exempt u/s 10(14) @ ₹ 100 p.m. per child for max.2 children	(2,400)	15,600
<u>Gross Taxable Salary</u>		9,99,600
Less: Deduction u/s 16(ia)		(50,000)
	(A)	9,49,600
<u>Profits and gains from business or profession</u>		
Income from the business of letting on hire a truck u/s 44AE - [Note 2]	(B)	88,000

<u>Income from Other Sources</u>		
Interest on Post Office Savings Bank Account	8,500	
Less: Exempt u/s 10(15)	(3,500)	5,000
Interest from company deposits	25,000	
Less: Deduction u/s 57 in respect of interest on loan paid for investing in company deposits	(5,000)	20,000
Dividend from foreign company		35,000
	(C)	60,000
Gross Total Income (A + B + C)		10,97,600
Less: Deductions under Chapter VI-A		
<u>Section 80C:</u>		
Tuition fees paid for two children [most favorable to Mrs. Dalal being ₹ 10,000 (+) ₹ 20,000]	30,000	
Deposit in 5 years FD	50,000	(80,000)
<u>Section 80D:</u>		
Medical Insurance Premium paid by cheque for insurance of self would qualify for deduction up to a maximum of ₹ 25,000 [Note 3]		(25,000)
<u>Section 80TTA:</u>		
Interest from Post Office Savings Account - [Note 4]		(5,000)
Total Income		9,87,600

Notes:

- (1) HRA is exempt to the extent of **the least of the following** u/s 10(13A):
- 50% of salary i.e. 50% of ₹ 8,40,000 = ₹ 4,20,000 (in case Mrs. Dalal resides in Delhi, Mumbai, Calcutta or Chennai)
 - Excess of rent paid over 10% of salary = (₹ 20,000 – ₹ 7,000) × 12 = **₹ 1,56,000**
 - Actual HRA received = ₹ 25,000 × 12 = ₹ 3,00,000
- Least of the above i.e. ₹ 1,56,000 is exempt u/s 10(13A).**
- (2) In the case of a person owning not more than 10 vehicles at any time during the P.Y., estimated income from each vehicle will be deemed to be ₹ 7,500 for every month or part of the month during which such vehicle is owned by the assessee in the P.Y. if its light goods vehicle or an amount claimed to have been actually earned from such vehicle, whichever is higher - [Section 44AE].

In this case, since the assessee declares a higher amount of ₹ 11,000 p.m. as the net income actually earned by her from letting on hire truck, such amount will be considered as income u/s 44AE.

Interest paid @ ₹ 1,000 p.m. is not deductible, since u/s 44AE, all deductions as per sections 30 to 38 are deemed to have been claimed & allowed. Truck was plied for the period 01.08.2019 to 31.03.2020 for 8 months.

Therefore, in this case, income u/s 44AE is ₹ 11,000 × 8 = ₹ 88,000.

- (3) Medical Insurance Premium paid in cash for husband amounting to ₹ 25,000 shall not qualify for deduction u/s 80D. Hence, the same is ignored.
- (4) Interest up to ₹ 3,500 on post office savings account is exempt u/s 10(15). The balance interest of ₹ 5,000 would be included under the head “Other Sources” and shall form part of GTI.

However, the same would qualify for deduction u/s 80TTA, since interest up to ₹ 10,000 from, inter alia, post office savings account qualifies for deduction thereunder.

(Marking for students:

2 marks for Basic & HRA, 1 for education allowance, 1 mark for standard deduction and total salary.

1.5 marks for PGBP and its note

1.5 for Post office savings bank account, 1.0 for company deposit and its interest, 1 mark for dividend from foreign company.

2.0 for 80C deduction (1 mark for each entry)

1 mark for 80D

1 mark for 80TTA

1 mark for total income)

Q.2**(a)**

As per explanation to section 6(1) of the ACT whenever an Indian citizen or person of Indian origin coming back to India for Visit purpose then instead of 2 conditions, we have to check only first basic condition of 182 days.

Here, Mr. Vijay is an Indian citizen and he is coming to India for visit purpose. He came in India on 1.5.19 and left on 28.10.19. So, total days in India is 181 days. (31+30+31+31+30+28).

As his stay in India is less than 182 days, he will be Non Resident in India for the PY 2019-20 (AY 2020-21).

Calculation of Total Income of Mr. Vijay for PY 2019-20(AY 2020-21)

Particulars	₹	₹	₹
<u>Income From Salary</u>			
Basic Salary (Note-1)		1,20,000	
Allowances(5000*12)	60,000		
Less: Exempt (Note-2)	(60,000)	-	
Gross Salary		120,000	
Less: Standard Deduction U/s 16(ia)		(50,000)	
Total Salary			70,000
<u>Profit & Gains from business or profession</u>			
Business outside India controlled outside India half amount received In India	100000*50%		50,000
<u>Capital Gains</u>			
Capital Gain on sale of Land (Note-3)			200,000
Gross Total Income			3,20,000
Less: Deduction U/s 80C (Note-4)			(1,20,000)
Total Income			200,000

Computation of tax payable for Mr. Vijay For PY 2019-20 (AY 2020-21)

Particulars	₹
Tax on LTCG U/s 112(2,00,000 *20%) (No shifting benefit to NR)	40,000
Less: Rebate U/s 87A(Not applicable to NR)	Nil
Total Tax	40,000
Add: 4% Health & Education Cess	1600
Total Tax Payable	41,600

Notes:

- As per section 9 if salary paid by government of India then it is deemed accrued in India and hence taxable in India for Non-resident. So, here entire basic salary of ₹ 1,20,000 is taxable.
- As per section 10(7) of the Act, any allowances paid by GOI to Indian citizen for working outside India is exempt from tax. Hence, allowance will be exempt.
- As per section 9 of the Act, when any capital asset sold outside India then it is not deemed accrued in India however here the amount is directly received in India and hence as per section 5 it is taxable in India. As it was acquired 5 years back, it is long term capital asset for which section 112 will be applicable.
- U/s 80C even NR can claim deduction for life insurance premium paid. However, deductions U/c VI-A cannot be claimed against special rate Income. Here Mr. Vijay has LTCG U/s 112 for ₹ 200,000 and rest general Income is ₹ 120,000. So deduction U/s 80C will also be restricted to ₹ 120,000.

(Markings for students:

- 1 mark for basic salary and its note
- 1 mark for allowance and its note
- 1 mark for PGBP
- 1 mark for LTCG and its note
- 1 mark for total of GTI
- 1.5 marks for deduction U/s 80C and its note
- 0.5 marks for total income
- 2 marks for tax payable.)

(b)

(a) As the turnover of last year of Mr. Jerry was more than 1 crore he is required to deduct TDS U/s 194C. During the year he paid ₹ 200,000 to Mr, Tom for work as per his specification and raw material was also supplied by him. As per the definition it is “Work” u/s 194C and the amount is also more than ₹ 100,000. So TDS will be applicable. As the payee is individual, the rate of TDS will be 1%.

(b) When a salaried person pays rent to any person more than ₹ 50,000 P.M.TDS U/s 194-IB applicable @5%. However is payee do not furnishes the PAN then TDS rate will be 20%. in this section TDS will never exceed last month rent and it will be deducted from last month’s rent.

Here she is paying more than 50,000 P.M. rent. So, TDS applicable but Payer don’t have PAN so rate will be 20%.

$$\begin{aligned} \text{TDS} &= 60000 * 12 \text{ months} \\ &= 720,000 * 20\% \\ &= 144,000 \\ &= \text{Restricted to last month rent ₹ 60000} \end{aligned}$$

So, TDS will be ₹ 60,000.

(c) As per section 194A whenever any person pays interest to a banking company then TDS not applicable. So, ABPL don’t have to deduct TDS.

Q.3

(a)

(i) Computation of total income and tax liability of Mr. Arjun for P.Y.2019-20 (under the regular provisions of the Income-tax Act, 1961)

Particulars	₹	₹
Profits and gains of business or profession		
Profit from Unit C in SEZ	6,00,000	
<i>Less:</i> Deduction under section 10AA [See Note (1) below]	3,60,000	
Business income of SEZ unit chargeable to tax		2,40,000
Profit from Unit A -Hospital (100+ Beds)	20,00,000	
<i>Less:</i> Deduction under section 35AD [See Note (2) below]	10,00,000	
		10,00,000
Profit from Unit B -Hospital (Non specified business)	7,00,000	
<i>Less:</i> Depreciation under section 32(10,00,000*10%)	1,00,000	6,00,000
Total Income		18,40,000
Computation of tax liability (under the normal/ regular provisions)		
Tax on ₹ 18,40,000		3,64,500
<i>Add:</i> Health and Education cess @4%		14,580
Total tax liability		3,79,080

Computation of adjusted total income of Mr. Arjun for levy of Alternate Minimum Tax

Particulars	₹	₹
Total Income (as computed above)		18,40,000
<i>Add:</i> Deduction under section 10AA		3,60,000
<i>Add:</i> Deduction under section 35AD	10,00,000	
<i>Less:</i> Depreciation under section 32		
On building @10% of ₹ 10 lakhs	1,00,000	9,00,000
Adjusted Total Income		31,00,000
Alternate Minimum Tax @18.5%		5,73,500
<i>Add:</i> Health and Education cess @4%		22,940
Tax liability under section 115JC (rounded off)		5,96,440

Since the regular income-tax payable is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income and tax is leviable @18.5% thereof and cess@4%. Therefore, the tax liability is ₹ 5,96,440.

AMT Credit to be carried forward under section 115JEE

	₹
Tax liability under section 115JC	5,96,440
<i>Less:</i> Tax liability under the regular provisions of the Income-tax Act, 1961	3,79,080
	2,17,360

Notes:

(1) Deduction under section 10AA in respect of Unit in SEZ =

$$\text{Profit of the Unit in SEZ} \times \frac{\text{Export turnover of the Unit in SEZ}}{\text{Total turnover of the Unit in SEZ}}$$

$$= ₹ 6,00,000 \times \frac{₹ 30,00,000}{₹ 50,00,000} = ₹ 3,60,000$$

(2) Deduction@100% of the capital expenditure is available under section 35AD for P.Y.2019-20 in respect of specified business of building & operating a hospital, anywhere in India, with at least 100 beds for patients commences after 1/4/10.

Deduction under section 35AD would, however, not be available on expenditure incurred on acquisition of land.

In this case, since the capital expenditure of ₹ 10 lakhs (i.e., ₹ 30 lakhs – ₹ 20 lakhs, being expenditure on acquisition of land) has been incurred in the F.Y.2019-20 would qualify for deduction under section 35AD.

(3) Hotel containing less than 100 Beds is not a specified business, so no deduction U/s 35AD however for cost of building depreciation will be available u/s 32.

(Marks for Students:

1.5 marks for SEZ Unit exemption and note for Unit C

1.5 Marks for 35AD calculation for Unit A

1 mark for taxable income of Unit B

1 mark for Total Income

1 mark for normal tax

2 marks for calculating adjusted total income

1.5 mark for finding AMT amt.

0.5 mark for final tax payable note.)

(b)**Computation of Total Income for Mr. Amitabh for P.Y.2019-20**

Particulars	₹	₹	₹
Income From House Property(Note-1)			
Rent received (10,000*12)	1,20,000		
Less: 24(a) standard deduction	(36,000)	84,000	
Less: Business Loss		(3,00,000)	
Balance Business Loss cannot be set off against Dividend U/s 115BBDA		2,16,000	
Income From Other Sources			
Dividend taxable U/s 115BBDA (Above ₹ 10,00,000 taxable)			500,000
Gross Total Income			5,00,000
Less: Deduction U/c VI-A			Nil
Total Income			5,00,000

Notes:

- As per section 64(1)(vi) when any person transfers any property to son's wife then income from that property will be clubbed in the hands of transferor.
Hence here rent Income received by Mrs. Aishwarya will be taxable to Mr. Amitabh.
However, Accretion to Income is not to be clubbed. Hence, Interest of ₹ 12000 is not to be clubbed.

2. As per section 10(34) dividend from domestic company is exempt. However as per section 115BBDA if a dividend received from domestic company over ₹10,00,000 is taxable @10%. However, no losses can be claimed against that.

(Marking for students:

2 marks for house property income and clubbing note for accretion

1 mark for setoff PGBP loss

1 mark for 115BBDA IFOS Income.)

Q.4**(a)**

**Computation of Capital Gains from Slump Sale for Mr. Mohan for
P.Y.2019-20(A.Y.2020-21):**

Particulars	₹
Full Value of Consideration (Lumpsum Sale Consideration)	30,00,000
Less: Expense in connection with transfer	(25,000)
Net consideration	29,75,000
Less: Cost of Acquisition (Net Worth as per section 50B) - (Note 1)	(21,95,000)
Long-term capital gains	7,80,000

Tax liability of Mr. Mohan for the P.Y.2019-20 (A.Y.2020-21)

Tax on LTCG U/s 112(7,80,000 – 3,00,000 basic exemption limit) * 20%	96000
Add: 4% H&EC	3840
Total Tax Payable	99,840

Note:**(1) Computation of Net Worth of as per section 50B:**

Particulars	₹
WDV of the Block of Building (As per Income tax)	9,00,000
Land (Before revaluation) (13,50,000-2,00,000)	11,50,000
Plant & Machinery (half used in specified business)	Nil
Plant & Machinery (10,00,000*50%)	5,00,000
Goodwill (20,000 (-) 25% depreciation of 1 year)	15,000
Other Asset (1,00,000(-) 20,000)	80,000
Cash	2,00,000
Total Assets	28,45,000
Less: Outside Liabilities	(6,50,000)
Net Worth	21,95,000

- (2) The capital gain arising on sale of business shall be treated as long-term capital gain because it is held by Mr. Mohan for more than 36 months before its transfer. However, benefit of indexation shall not be granted as per the provisions of section 50B.
- (3) As per the provisions of section 50B, any change in the book values of assets as appearing in the balance sheet on account of revaluation of such assets shall be ignored for the purposes of computing the Net Worth.
Hence, the Revaluation Reserve amounting to ₹ 2 lakhs appearing in the liability side would be in relation to the book value of the Land, therefore the revaluation figure is to be reduced from cost of land.
- (4) Further, the values of capital, profit-loss A/c as given in the question are to be ignored while computing the amount of net worth as the net worth is to be computed by following the method prescribed u/s 50B only.
- (5) For calculating net worth value of asset used in specified business u/s 35AD will be NIL.
- (6) As per section 50B if any depreciable asset is not depreciated then for calculating net worth, we have to take notional WDV.

(Marking for students:

1 mark for net consideration,

In net worth : 1 mark for building value
 : 1 mark for land value & Note of revaluation
 : 1 mark for note of 35AD and zero value
 : 0.5 marks for half plant & machinery
 : 1 mark for goodwill value & depreciation value
 : 1 mark for other asset and liability
 : 0.5 mark for Net worth total

0.5 marks for note that slump sale is LTCG.

1 mark for LTCG value.

1.5 marks for tax payable.)

(b)

Partnership Firm	Managing Partner or in absence other major partner
LLP	Designated partner or in absence any partner
HUF	Karta and in absence any adult member
AOP	Member of AOP

(1 mark for 1 point)

Section B – Indirect Tax

Division A - Multiple Choice Questions

1. (c) (1 Mark)
2. (b) (1 Mark)
3. (c) (1 Mark)
4. (a) (1 Mark)
5. (c) (1 Mark)
6. (a) (1 Mark)
7. (d) (1 Mark)
8. (d) (1 Mark)
9. (c) (1 Mark)

Division B: Descriptive Questions

Q.5

Computation of Input tax credit eligible for the tax period October, 2019

(amount in ₹)

Particulars	CGST	SGST	IGST
Total Input tax in a tax period [T]	1,08,000	1,08,000	54,000
Less:			
Tax on input services exclusively used for effecting supply of services for personal use [T ₁]	10,800	10,800	5,400
Tax on input services exclusively used for effecting exempt supply of services [T ₂]	18,000	18,000	7,200
Tax on inputs which are ineligible under Section 17(5) [T ₃]	18,000	18,000	6,300
Amount of Input tax credited to the electronic credit ledger [C ₁] $C_4 = T - [T_1 + T_2 + T_3]$	61,200	61,200	35,100
Less: Credit on input services exclusively used for supplying taxable services (including Zero rated supplies) [T ₄]	54,000	54,000	3,600
Common credit of input and input services used for providing supply of services [C ₂] $C_2 = C_1 - T_4$	7,200	7,200	31,500
Total inadmissible common credit as per Rule 42(1) [D ₁ +D ₂] [WN]	2,160	2,160	9,450
Net eligible common credit $C_3 = C_2 - [D_1 + D_2]$	5,040	5,040	22,050
Total credit eligible i.e. [T ₄ + C ₃]	59,040	59,040	25,650
Amount to be reversed by the X Ltd. in FORM GSTR-3B [D ₁ + D ₂]	2,160	2,160	9,450

Working Note: Calculation of Amount of input tax credit towards exempt supplies and supply made for non business use (amount in ₹)

Particulars		CGST	SGST	IGST
Aggregate Value of Exempted supply of services	[E]	15,00,000	15,00,000	15,00,000
Total Turnover for October, 2019	[F]	60,00,000	60,00,000	60,00,000
Credit attributable towards exempt supplies	$D_1 = [E/F] \times C_2$	1,800	1,800	7,875
Credit attributable for supplies made for non business purpose as per Clause (j) of Rule 42(1)	$D_2 = [5\% \times C_2]$	360	360	1,575
Total inadmissible common credit as per Rule 42(1)	$[D_1 + D_2]$	2,160	2,160	9,450

Steps marking: If students have done correctly up to $C_2 = C_1 - T_4$ then 3 Marks and for remaining portion 2 Marks while for working note 3 Marks

Make sure that you should write working notes properly otherwise you will lose around half of the marks of question though your answer is correct so working notes are must.

Q. 6

(a)

- (i) With effect from 31.01.2018, Indian Institutes of Management Act, 2018 came into force. This Act has empowered IIMs to (i) grant degrees, diplomas, and other academic distinctions or titles, (ii) specify the criteria and process for admission to courses or programmes of study, and (iii) specify the academic content of programmes. Resultantly, all the IIMs are now “educational institutions” as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force.

IIMs provide various long duration programs (1 year or more) for which they award diploma/ degree certificate duly recommended by Board of Governors as per the power vested in them under the IIM Act, 2017. Therefore, it is clarified that services provided by Indian Institutes of Managements to their students- in all such long duration programs (one year or more) are exempt from levy of GST

IIMs also provide various short duration/ short term programs (less than 1 year) for which they award participation certificate to the executives/ professionals as they are considered as “participants” of the said programmes. These participation certificates are not any qualification recognized by law. Such participants are also not considered as students of IIM. Services provided by IIMs as an educational institution to such participants is not exempt from GST. Such short duration executive programs attract standard rate of GST @ 18% (CGST 9% + SGST 9%).

By considering the above provision this service is not exempted.

(2 Marks)

(ii) As per Entry 21B of Notification No. 12/2017 CT(R) Services provided by a GTA, by way of transport of goods in a goods carriage, to, -

- (a) a Department or Establishment of the Central Government or State Government or Union territory; or
- (b) local authority; or
- (c) Governmental agencies, **which has taken registration** under the Central Goods and Services Tax Act, 2017 **only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services are exempted.**

While here services provided by Kamal GTA to Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 for making a taxable supply of goods or services **so this service is not exempted.**

(2 Marks)

(

b)

As per entry 14 of Notification No. 13/2017 CT(R), Security services (services provided by way of supply of security personnel) provided by any person other than a body corporate to a registered person located in the taxable territory is liable to pay GST under reverse charge as per section 9 (3) of CGST Act, 2017.

However, nothing contained in this entry shall apply to:

(i)

- (a)** a Department or Establishment of the Central Government or State Government or Union territory; or
 - (b)** local authority; or
 - (c)** Governmental agencies; which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or
- (ii)** a registered person paying tax under composition scheme.

Based on the above provision answer of the different situations as under:

- (i)** Here, security services provided by body corporate (Jasoos Ltd.) to a registered person so **it will not fall under reverse charge so liability to pay tax is on Jasoos Ltd.**

(1 Mark)

- (ii)** **Still answer remains same** because service provider is body corporate (Jasoos Ltd.) and in this case reverse charge will not apply so liability to pay tax is on Jasoos Ltd.

(1 Mark)

- (iii)** **Yes now answer will change** because supplier is Mr. Jagga (other than body corporate) providing services to a registered person than liability will be on recipient as per above entry so **liability to pay tax is on Zaveri Tribhovan Bhimji, a registered person under GST.**

(1 Mark)

(c)

As per section 15(3) of CGST Act, 2017 The **value of the supply shall not include any discount which is given**

- (a) **before or at the time of the supply** if such discount has been duly recorded in the invoice issued in respect of such supply; and
- (b) **after the supply has been effected**, if—
- (i) such discount is established in terms of an agreement entered into at or before the time of such supply and **specifically linked to relevant invoices; and**
- (ii) **input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.**

If any discount given after the supply then it is deductible only if it fulfils both the above mentioned conditions of clause (b) **(2 Marks)**

Here in the present case these conditions are not fulfilled because when supply taken place such situation not exist at all no such agreement entered into at or before the time of such supply so it is not deductible from the value of supply.

Whatever discount given here is known as **Secondary discounts** which are not known at the time of supply or are offered after the supply is already over.

Taxable value of this transaction is ₹ 5,00,000.

(1 Mark)

Q.7

(a)

As per Section 25(2) of CGST Act, 2017 A person seeking registration under this Act shall be granted a single registration in a State or Union territory.

Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.

(1 Mark)

In the present case Jai hind sweets already having one branch in Delhi which is registered and now they wants to start another branch in Delhi and for which they wants to take separate registration which is possible as per above mentioned provision by considering it as multiple places of business in a State. **(1 Mark)**

As per Rule 41A of CGST Rules, 2017 A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of thirty days from obtaining such separate registrations, the details in FORM GST ITC-02A electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:

Provided that the input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.

(1 Mark)

In the present case owner of Jai hind sweets had transferred half of the assets to newly opened branch and accordingly wants to transfer unutilized half of the credits which is lawful as per above mentioned provision so his opinion is correct.

(1 Mark)

(b)

The registration requirements of the commission agents in such cases have been clarified as follows:

(i) No, he is not liable to registered because the services provided by the commission agent for sale or purchase of agricultural produce are exempt from GST vide Notification No. 12/2017 CT (R) dated 28.06.2017, such commission agents (even when they qualify as agent under Schedule I) are not liable to be registered in accordance with provisions of section 23(1)(a).

As per section 23(1)(a) any person engaged **exclusively in the business of supplying goods or services or both **that are not liable to tax or wholly exempt from tax under CGST Act/IGST Act shall not be liable to registration.****

(2 Marks)

(ii) As per section 24 of CGST Act, 2017, a person is liable for mandatory registration if he makes taxable supply of goods or services or both on behalf of other taxable persons.

Accordingly, a commission agent will be liable to get mandatorily registered under this provision only when both the following conditions are satisfied:

(a) the principal should be a taxable person; and

(b) the supplies made by the commission agent should be taxable.

However, generally, a commission agent under APMC Act makes supplies on behalf of an agriculturist who is not a taxable person if he supplies produce out of cultivation of land.

Thus, a commission agent, who is making supplies on behalf of non- taxable person [viz. agriculturist], is not liable for compulsory registration under this provision.

(2 Marks)

(c)

The cash available in any minor head of a major head cannot be utilized for any other minor head of the same major head.

Therefore, in the given case, amount of ₹ 10,000 available under minor head 'tax' of major head 'SGST' cannot be utilized for payment of liability of ₹ 2,000 under minor head 'interest' of the same major head.

Amendment taken place in this provision

After sub- section (9) of section 49 the following sub- section (10) and (11) shall be inserted:

“(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).”

New sub-sections are being inserted in section 49 of the CGST Act to provide a facility to the registered person to transfer an amount from one (major/minor) head to another (major/minor) head in the electronic cash ledger and for that Govt. has prescribed FORM GST PMT 09 through which it can be easily transfer amount from one major/minor head to another major/minor head which will solve liquidity problem of tax payers.

So now after amendment answer is Dwiti Enterprises, amount of ₹ 10,000 available under minor head 'tax' of major head 'SGST' can utilize for payment of liability of ₹ 2,000 under minor head 'interest' of the same major head.

(2 Marks)

Q.8**(a)****The eligibility criteria for GSTP as under:**

An application in prescribed form may be made electronically through the common portal for enrolment as GST practitioner by any person who,—

- (i) is a citizen of India;
- (ii) is a person of sound mind;
- (iii) is not adjudicated as insolvent;
- (iv) has not been convicted by a competent court;

(1 Mark)

and satisfies **any of the following conditions**, namely:-

- (a) that he is a retired officer of the Commercial Tax Department of any State Government or of the Central Board of Indirect Taxes and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post not lower than the rank of a Group-B gazetted officer for a period of **not less than 2 years**; or
- (b) that he has enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of **not less than 5 years**;

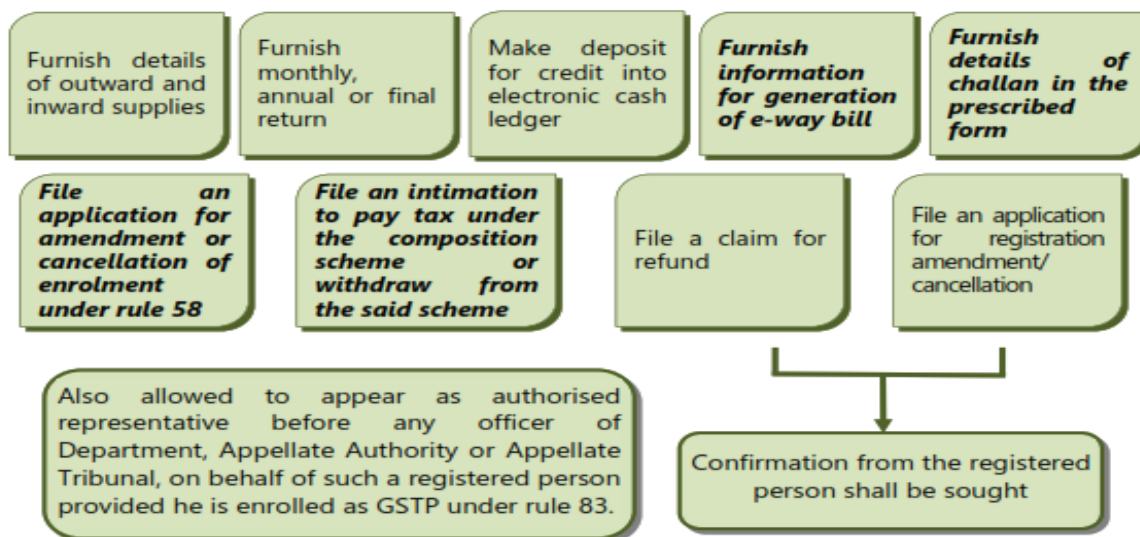
(1 Mark)

(c) he has passed,

- (i) a graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force; or
- (ii) a degree examination of any Foreign University recognised by any Indian University as equivalent to the degree examination mentioned in sub-clause (i); or
- (iii) any other examination notified by the Government, on the recommendation of the Council, for this purpose; or
- (iv) has passed any of the following examinations, namely:-
 - (a) final examination of the Institute of Chartered Accountants of India; or
 - (b) final examination of the Institute of Cost Accountants of India; or
 - (c) final examination of the Institute of Company Secretaries of India.

(1 Mark)

A GSTP can undertake any/all of the following activities on behalf of a registered person, if so authorised by him:



(2Marks)

(b)

(i) ITC on buses (seating capacity for 14 persons) purchased by a company for transportation of its employees from their residence to office and back, is allowed because as per section 17(5) of CGST Act, 2017 ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.

(1 Mark)

(ii) Outdoor catering service is availed by a company to run a free canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. ITC on such outdoor catering is allowed because such goods and/or services when provided by an employer to its employees under a statutory obligation are eligible for credit.

(1 Mark)

(iii) ITC on works contract services availed by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently, is allowed because Plant and machinery affixed permanently to the earth constitutes an immovable property. However, ITC on works contract services used for construction of such plant and machinery is allowed as an exception.

(1 Mark)

(iv) MN & Constructions procures cement, paint, iron rods and services of architects and interior designers for construction of a commercial complex for one of its clients. ITC on such goods and services is allowed to MN & Co because it using these goods for providing further services and not for the self purpose.

(1 Mark)

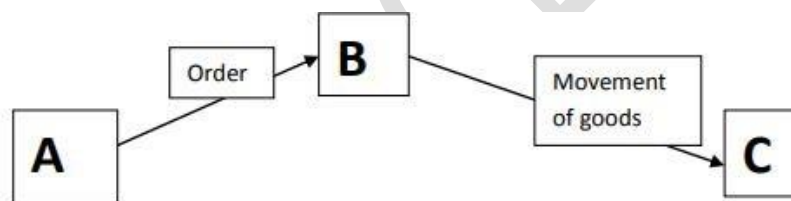
(v) Services of repair and maintenance of motor lorries used for transportation of goods is allowed because when ITC taken on motor vehicles purchased then services related to that motor vehicle also becomes eligible for credit.

(1 Mark)

(c)

E-way Bill in case of 'Bill To Ship To' Model

In a "Bill To Ship To" model of supply, there are three persons involved in a transaction, namely: 'A' is the person who has ordered 'B' to send goods directly to 'C'. 'B' is the person who is sending goods directly to 'C' on behalf of 'A'. 'C' is the recipient of goods.



In this complete scenario. two supplies are involved and accordingly two tax invoices are required to be issued:

Invoice -1: which would be issued by 'B' to 'A'.

Invoice -2: which would be issued by 'A' to 'C'.

It is clarified that as per the CGST Rules, 2017, either A or B can generate the e-Way Bill but it may be noted that **only one e-Way Bill** is required to be generated

[Press Release dated 23.04.2018]

(2Marks)

Situations where E-way Bill is not required to be generated

No e-way bill is required to be generated in the following cases:

(a) where the goods being transported are the ones given below:

S. No.	Description of Goods
1.	Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers
2.	Kerosene oil sold under PDS
3.	Postal baggage transported by Department of Posts
4.	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5.	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
6.	Currency
7.	Used personal and household effects
8.	Coral, unworked (0508) and worked coral (9601)]

- (b)** where the goods are being transported by a non-motorised conveyance
- (c)** where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs
- (d)** in respect of movement of goods within such areas as are notified under of rule 138(14)(d) of the State or Union territory GST Rules in that particular State or Union territory
- (e)** where the goods [other than de-oiled cake], being transported, are exempt from tax vide Notification No. 2/2017 CT(R) dated 28.06.2017
- (f)** where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel
- (g)** where the supply of goods being transported is treated as no supply under Schedule III of the Act
- (h)** where the goods are being transported -
- (i)** under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or

- (ii) under customs supervision or under customs seal
- (i) where the goods being transported are transit cargo from or to Nepal or Bhutan
- (j) where the goods being transported are exempt from tax under Notification No. 7/2017 CT (R) 28.06.2017 [Supply of goods by the CSD to the Unit Run Canteens or to the authorized customers and supply of goods by the Unit Run Canteens to the authorized customers] and Notification No. 26/2017 CT (R) 21.09.2017 [Supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd. (NPCIL)]
- (k) any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee
- (l) where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail
- (m) where empty cargo containers are being transported
- (n) where the goods are being transported up to a distance of 20 km from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.
- (o) where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply

Students supposed to write any three situations from the above.

(3Marks)