

TOPIC: INDIRECT TAX QUESTIONS AND ANSWER

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INDIRECT TAXATION – MKU – SEMESTER - QUESTIONS

1. List out the objectives of GST?

The main objectives of GST are as follows: It helps create a common market in India with a uniform taxation system and curb tax evasion in the country. The laws for GST are far more stringent compared to the erstwhile indirect tax laws.

GST offers some benefits to stakeholders, including state and central governments, businesses and citizens. The primary benefits are that GST can reduce the cost of goods and services, boost the economy and increase the competitiveness of service providers and manufacturers. GST allows input credit that a taxpayer can avail on value addition. The automated process allows seamless transfer of input credits across the value chain of a transaction. It can boost tax compliance. Since GST removes multiple barriers, it has the potential for integrating the economy through a uniform tax system. Additional benefits of GST include:

- i. It combines multiple indirect taxes of the central and state governments into one tax code.
- ii. It reduces cascading and makes Indian industry and products competitive.
- iii. It allows cross utilisation of tax credit.
- iv. IGST, CGST and SGST brings some uniformity in taxation for imports and local products.
- v. It allows exporters a provisional refund of 90%. This allows them to streamline their business.
- vi. It is likely to increase the taxpayer base.
- vii. Uniform GST rates reduce the scope of fraud.
- viii. It creates a uniform set of laws, procedures and tax rates to facilitate better compliance.
- ix. It is a technology driven platform and its interface allows automated procedures for registration, filing and payment of returns and claims.
- x. It improves transparency.
- xi. It reduces tax burden on industries, resulting in reduced pricing of goods and increased consumer expenditure. This boosts the economy.

It can boost domestic demand and subsequent production, generating more employment opportunities.

2. Describe the procedure and methods of assessment of customs duty?

Self-assessment is one of the pivotal clearance methods which was brought in by customs authorities to ease import procedures and expedite its clearance. Self-assessment formalities and procedures are applicable in large customs base locations for the following categories:

- Import consignments of government authorities, public sector transfers and importers who have manifested identity and sufficient previous performance.
- Import consignment of goods which are not limited or forbidden.
- Goods being imported that don't require any import license or customs clearance permit.
- Assessment procedures that do not comprise the original examination of goods and no test bond or end-use bond are associated with assessment procedures.
- Like customs duty self assessment, the Customs department has also introduced electronic sealing of containers to improve the ease the export of goods from India and E-MPS payment facility.

Procedures of self-assessment

Self-assessment could be done via online or manual modes. The steps to file the self-assessment have been listed below:

Manual Self-Assessment:

- i. There will be a green colored band at the margin of a bill of entry to differentiate it from other normal bills of entry.
- ii. After jotting of self-assessment bill of entry, the clerk in customs department assigns a serial number and attaches the date stamp with signature.
- iii. The rate of duty with an amount of duty to be paid will be stated in the bill of entry.
- iv. The importer or his customs house broker pays the duty in the customs treasury on his declaration of duty under imported goods, if applicable.
- v. Once the payment of duty under imported goods under self-assessment is made, the concerned customs officials detaches the original copy of the bill of entry and rest of the copies with other paperwork is produced to the appraiser in charges of examination who finishes the assessment and procedures built on the last evaluated bill of entry under the same type of goods imported.

- vi. If found contented with the declaration by the importer with the said last document, the concerned officer of customs department which allows 'pass out' procedures as normal import clearance procedures.

Online Self-Assessment

- i. To make the tax payments online, we must log on to <http://www.tin-nsdl.com> > Services > e-payment: Pay Taxes Online Click on the tab "e-pay taxes" provided on the above-stated link.
- ii. Select the concerned challan for eg; ITNS 280, ITNS 281, ITNS 282, ITNS 283, ITNS 284 or Form 26 appropriately.
- iii. Input PAN / TAN (whichever applies) and other compulsory challan details such as accounting head under which payment is made, the address of the taxpayer and the bank through which payment is to be made etc.
- iv. On verification of data entered, an authenticating screen would be displayed. If PAN / TAN is valid as per the ITD PAN / TAN master, then the full name of the taxpayer would be shown on the confirmation screen.
- v. On confirmation of the data so mentioned, it would direct the taxpayer to the net-banking site of the bank.
- vi. The taxpayer has to login to the net-banking site with the user id/password provided by the bank for net-banking purpose and the payment details must be input at the bank site.
- vii. On successful payment, a challan counterfoil will be shown which contains the CIN, payment details and bank name through which e-payment was made. This counterfoil the proof for which the payment has been made.

Verification of Self-Assessment

In the process of verification, the Customs officer may ask for further documents or information or get the goods examined or send the sample of imported / export for testing by an approved agency. The requirement of information for the purpose of verification will be documented by the proper officer.

After verification, based on the merits of the case, the proper officer may either accept the Self-Assessment or initiate the process of reassessment. On the basis of verification or for any other reason, if the proper officer of Customs is of the opinion that the Self-Assessment of duty done by the importer/exporter is not correct in any respect – misclassification, overvaluation, etc. – the proper officer of Customs may re-assess the duty.

If the re-assessment is not accepted by the exporter in writing, the proper officer may issue a speaking order within 15 days of the assessment order. In the event of no reassessment is done or a speaking order is not passed the assessment of duty of the imported / export goods may be audited at the premises of the importer/exporter.

Import Export Code

The Import Export Code is a primary document necessary for commencing Import-export activities. The IE code is to be obtained for exporting or importing goods or services. IEC has numerous benefits for the growth of the business. Indeed, you cannot ignore the necessity of IE code registration, as it is mandatory. You can apply for an Import Export code through IndiaFilings and obtain it within 6 to 7 days.

3. Explain different types of indirect taxes that are prevailing in India?

There are different types of indirect taxes in India. Listed below are some popular examples of indirect taxes, explained in brief:

1. Service Tax

Service tax is applicable on the services provided by a company and paid by the recipient of their services, collected by and deposited with the central government.

2. Value Added Tax

Value added Tax, popularly known as VAT, is levied on the sale of movable goods or goods sold directly to the customers. VAT is exacted by the respective state governments on intra-state sales.

3. Excise Duty

Excise duty is levied on the goods produced or manufactured in India, paid by the manufacturers of different goods. Excise duty is often recovered from the customers.

4. Custom Duty

Custom duty is applicable on the goods which are imported into India from other countries. In some cases, it is also levied on the goods being transported out of India.

5. Entertainment Tax

Entertainment tax is levied on all financial transactions related to entertainment such as movie shows, amusement parks, video games, arcades, and sports activities, and is charged by the respective state governments.

6. Stamp Duty

Stamp duty is levied on the transfer of immovable property located within the state, and is charged by the State Government and may vary in rates. It is also applicable on all legal documents.

7. Securities Transaction Tax

Securities Transaction Tax is levied at the time of trade of securities through Indian Stock Exchange.

4. What are the objectives of Customs Act?

Customs Duty

Goods are imported in or exported from India through sea, air or land. Goods may even come through post parcel or as baggage when passengers travel in and out of the country. The Customs Act was formulated in the year 1962 to prevent the illegal import and export of goods.

Moreover, all imported goods are subject to the duty to affording protection to indigenous industries as well as to keep the imports to a minimum in the interests of Indian companies and to secure the exchange rate of the Indian currency. In this article, we look at customs duty in India in detail.

Objective of Customs Act and Customs Duty

The following purposes are the reason why Customs Duty is levied on the import and export of goods in India.

1. To restrict the imports for conserving foreign exchange.
2. To protect the imports and exports of goods for achieving the policy objectives of the Government.
3. To regulate export
4. To co-ordinating legal provisions with other laws dealing with the foreign exchange such as the Foreign Trade Act and the Foreign Exchange Regulation Act.
5. To safeguard domestic trade.
6. To protect the revenue of resources.
7. To protect the industries in India from unfair competition.
8. To prevent the smuggling of goods and activities related to the same.
9. To prevent the dumping of goods.

5. What are the merits and demerits of Indirect Taxes?

Let us make an in-depth study of the merits and demerits of indirect taxes.

(A) Merits:

1. Wide Coverage:

The main merit of an indirect tax is that it touches all income groups. Direct tax, like income tax, is imposed on persons having a certain minimum level of income.

People having income below that level are exempted from the payment of tax. But indirect taxes, such as sales tax or excise duty, are equally imposed on all consumers or purchasers irrespective of their incomes.

2. Consumption Control:

By imposing an indirect tax, the consumption of an undesirable thing can be discouraged. For example, by imposing excise duties on wine and opium, the government discourages the consumption of such harmful products.

3. Popularity:

People are not always conscious of indirect taxes because, in most cases, it is combined with the price. When people purchase cinema tickets they may well remain unaware of the fact that the price of a ticket also includes the amusement tax. Again, the price of a match-box includes the excise duty imposed on it.

But the consumer does not at all bother to know how much he is paying as price and how much he is paying as an indirect levy. He thinks that he is paying the price, although he pays the indirect tax, too. He is not, therefore, consciously affected by the indirect tax and so he does not resent it much.

4. Productivity:

Like a direct tax, an indirect tax also enlarges the revenue receipts of the government. Indirect taxes in India today provide the bulk of government revenue. Such taxes have been imposed on sugar, cooking gas, textiles, shoes, petrol, cigarettes, and many other essential articles of consumption. By the levy of indirect taxes, the tax net is cast wider and all people are made to contribute to the national fund.

(B) Demerits:

But indirect taxes have certain demerits also. These are the following:

1. Regressive Character:

The main drawback of an indirect tax is that it is not an equitable tax. It is regressive in nature. It affects the poorer section more than the rich. A commodity tax imposed on foodstuff will affect a poorer family in a much greater degree than a rich family. A poor man feels the burden of a sales tax much more than a rich man. A rich man does not at all mind paying a few rupees as sales tax, but a poor man is greatly burdened by it.

2. Administrative Difficulties:

Indirect taxes create various administrative problems. The collection of an indirect tax like customs duty often involves large expenses. There is also the possibility of evasion. In India, it is well known that dealers evade the payment of sales tax to the government, although they realise it from their customers.

6. Distinguish between Direct and Indirect Taxes?

Direct Tax:

A direct tax is a tax that a person or organization pays directly to the entity that imposed it. Examples include income tax, real property tax, personal property tax, and taxes on assets, all of which are paid by an individual taxpayer directly to the government.

Indirect Taxes:

Indirect tax is the tax levied on the consumption of goods and services. It is not directly levied on the income of a person. Instead, he/she has to pay the tax along with the price of goods or services bought by the seller.

S.No	Direct Taxes	Indirect Taxes
1.	Payer of tax and sufferer of tax one and same (i.e. impact and incidence on the same person)	Payer of tax not sufferer of tax whereas sufferer of tax is not paying directly to the Government (i.e. impact on one head and incidence on other head)
2.	Income based taxes	Supply based taxes
3.	Rate of taxes are different from person to person	Rate of duties are not differ from person to person
4.	Entire revenue goes to Central Government of India	Entire revenue goes to Central Government of India
5.	Previous year income assessed in the	There is no previous year and assessment year

	assessment year	concept
6.	Central Board of Direct Taxes (CBDT) is an important part of Department of Revenue.	Central Board of Excise and Customs (CBEC) is an important part of Department of Revenue. w.e.f. 1-2-2019, The Central Board of Excise & Customs is being renamed as the Central Board of Indirect Taxes & Customs (CBIC). (i.e. CBEC renamed as CBIC).
7.	Progressive nature	Regressive nature.

7. Critically examine various 'Canons of Taxation' proposed by Adam Smith?

Canons of Taxation By canons of taxation we simply mean the characteristics or qualities which a good tax system should possess. It refers to the guiding rules and principle to make tax collection system effective and functional. In fact, canons of taxation are related to the administrative part of a tax as it is related to the rate, amount, method and collection of a tax. Canons of Taxation are broadly classified into two heads as:

- A) Adam Smith's canons of taxation
- B) Additional canons of Taxation

A) Adam Smith's canons of taxation:

In his famous book 'Wealth of Nation', Adam Smith presented 4 canons of taxation which are also commonly referred to as the Main Canons of Taxation. They are as follows:

1) Canon of equality or equity:

By equality is meant equality of sacrifice. Accordingly, Canon of equality states t that the burden of taxation must be distributed equally or equitably in relation to the ability of the tax payers. Hence, to ensure canons of equality, taxes are to be imposed in accordance with the principle of ability to pay.

2) Canon of Certainty:

This canon argues that the tax which an individual has to pay should be certain and not arbitrary with respects to the time of payment, the manner of payment, the quantity to be paid (tax liability) etc. In other words, Canon of Certainty states that there must be certain to the taxpayer as well as to the tax-levying authority in respect to certainty of revenue the government intends to collect over the given time period.

3) Canon of Economy:

This canon implies that the cost of collecting a tax should be as minimum as possible. Any tax that involves high administrative cost and unusual delay in assessment and high collection of taxes should be avoided altogether.

4) Canon of Convenience:

According to this canon, taxes should be levied and collected in such a manner that it provides the greatest convenience not only to the taxpayer but also to the government. For example, it is convenient to pay a tax when it is deducted at source from the salaried classes at the time of paying

B) Additional canons of Taxation:

Some modern writers on Public Finance such as Charles Francis Bastable (Irish classical economist: 1855–1945) provided additional canons of taxation which are as follows:

1) Canon of Productivity:

A tax is said to be a productive one only when it acts as an incentive to production. Accordingly, this canon implies that a tax must yield sufficient revenue and not adversely affect production in the economy.

2) Canon of Elasticity:

According to this canon, an ideal system of taxation should be fairly flexible in nature in accordance with the requirement of the country. Flexible taxes are more suited for bringing social equality and achieving equal distribution of wealth.

3) Canon of Simplicity:

The system of taxation should be made as simple as possible as complicated tax is bound to yield undesirable side-effects. In other words, every tax must be simple and intelligible to the people so that the taxpayer is able to calculate without any difficulty.

4) Canon of Diversity:

This canon simply implies that taxation must be dynamic which means that there should be a multiple tax system of diverse nature rather than having a single tax system. A dynamic or a diversified tax structure will result in the allocation of burden of taxes among the vast population resulting in a low degree of incidence of a tax in the aggregate.

5) Canon of Expediency:

This canon states that a tax should be determined on the ground of its economic, social and political expediency. For instance, a tax on agricultural income lacks social, political or administrative expediency in India and that is why the government of India had to discontinue it

8. Explain the import procedure prescribed under the Customs Act 1962?

Import procedures

Typically, the procedure for import and export activities involves ensuring licensing and compliance before the shipping of goods, arranging for transport and warehousing after the unloading of goods, and getting customs clearance as well as paying taxes before the release of goods.

Below, we outline the steps involved in importing of goods.

1. Obtain IEC

Prior to importing from India, every business must first obtain an Import Export Code (IEC) number from the regional joint DGFT. The IEC is a pan-based registration of traders with lifetime validity and is required for clearing customs, sending shipments, as well as for sending or receiving money in foreign currency.

The process to obtain the IEC registration takes about 10-15 days.

2. Ensure legal compliance under different trade laws

Once an IEC is allotted, businesses may import goods that are compliant with Section 11 of the Customs Act (1962), Foreign Trade (Development & Regulation) Act (1992), and the Foreign Trade Policy, 2015-20.

However, certain items – restricted, canalized, or prohibited, as declared and notified by the government – require additional permission and licenses from the DGFT and the federal government.

3. Procure import licenses

To determine whether a license is needed to import a particular commercial product or service, an importer must first classify the item by identifying its Indian Trading Clarification based on a Harmonized System of Coding or ITC (HS) classification.

An import license may be either a general license or specific license. Under a general license, goods can be imported from any country, whereas a specific or individual license authorizes import only from specific countries.

Import licenses are used in import clearance, renewable, and typically valid for 24 months for capital goods or 18 months for raw materials components, consumables, and spare parts.

4. File Bill of Entry and other documents to complete customs clearing formalities

After obtaining import licenses, importers are required to furnish import declaration in the prescribed Bill of Entry along with permanent account number (PAN) based Business Identification Number (BIN), as per Section 46 of the Customs Act (1962).

A Bill of Entry gives information on the exact nature, precise quantity, and value of goods that have landed or entered inwards in the country.

If the goods are cleared through the Electronic Data Interchange (EDI) system, no formal Bill of Entry is filed as it is generated in the computer system. However, the importer must file a cargo declaration after prescribing particulars required for processing of the entry for customs clearance.

If the Bill of Entry is filed without using the EDI system, the importer is required to submit supporting documents that include certificate of origin, certificate of inspection, bill of exchange, commercial invoice cum packing list, among others.

Once the goods are shipped, the customs officials examine and assess the information furnished in the bill of entry and match it with the imported items. If there are no irregularities, the officials issue a 'pass out order' that allows the imported goods to be released from the customs.

5. Determine import duty rate for clearance of goods

India levies basic customs duty on imported goods, as specified in the first schedule of the Customs tariff Act, 1975, along with goods-specific duties such as anti-dumping duty, safeguard duty, and social welfare surcharge.

In addition to these, the government levies an integrated goods and services tax (IGST) under the new GST system. The IGST rates depend on the classification of imported goods as specified in Schedules notified under Section 5 of the IGST Act (2017).

9. State the exemptions available the Excise duty?

Power to grant exemption from duty of excise:

Section 5A in the Central Excise Act, 1944

(1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after removal) as may be specified in the notification, excisable goods of any specified description from the whole or any part of the duty of excise leviable thereon: Provided that, unless specifically provided in such notification, no exemption therein shall apply to excisable goods which are produced or manufactured—

1. Free trade zone or a special economic zone and brought to any other place in India
2. by a hundred per cent. export-oriented undertaking and brought to any other place in India. Export-oriented undertaking” shall have the same meanings as in Explanation 2 to sub-section (1) of section 3.
3. For the removal of doubts, it is hereby declared that where an exemption under sub-section (1) in respect of any excisable goods from the whole of the duty of excise leviable thereon has been granted absolutely, the manufacturer of such excisable goods shall not pay the duty of excise on such goods.
4. If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from payment of duty of excise, under circumstances of an exceptional nature to be stated in such order, any excisable goods on which duty of excise is leviable.

5. The Central Government may, if it considers it necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2) insert an explanation in such notification or order, as the case may be, by notification.

6. An exemption under sub-section (1) or sub-section (2) in respect of any excisable goods from any part of the duty of excise leviable thereon (the duty of excise leviable thereon being hereinafter referred to as the statutory duty may be granted by providing for the levy of a duty on such goods at a rate expressed in a form or method different from the form. Explanation.—“Form or method”, in relation to a rate of duty of excise means the basis, namely, valuation, weight, number, length, area, volume or other measure with reference to which the duty is leviable.

7. Every notification issued under sub-rule (1), and every order made under sub-rule (2) of rule 8 of the Central Excise Rules, 1944, and in force

immediately before the commencement of the Customs and Central Excise Laws (Amendment) Act, 1987 shall be deemed to have been issued or made under the provisions of this section and shall continue to have the same force and effect after such commencement until it is amended, varied, rescinded or superseded under the provisions of this section.]

8. Every notification issued under sub-section (1)³² [or sub-section (2A)] shall,

(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette; tc" (a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;"

(b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations, Customs and Central Excise, New Delhi, under the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963). tc" (b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations, Customs and Central Excise, New Delhi, under the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)."

7. Notwithstanding anything contained in sub-section (5), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force.