

CA Membership Advanced Taxation
Suggested Answer

Roll No.....

Maximum Marks - 100

Total No. of Questions - 6

Total No. of Printed Pages - 18

Time Allowed - 3 Hours

Marks

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

Use separate answer book for each question.

1. Shraddha Shoes Industries Pvt. Ltd., a well-known company for shoes manufacturing in Nepal manufactures “Nepali Pride” brand shoes. Following is the income statements of the company for Financial Year (FY) 2074/075:

Particulars		Amount in Rs.
Revenue from Operation	Note	
Shoes Sales		403,456,000.00
Scrap Sales		13,470,000.00
Other Miscellaneous Income		2,000,000.00
Total Revenue from Operation		418,926,000.00
Cost of Material Consumed	15	226,100,319.40
Direct Manufacturing Expenses	16	86,831,097.63
Total Direct Expenses		312,931,417.03
Gross Profit		105,994,582.97
Administrative Expenses	17	12,464,976.16
Selling and Distribution Expenses	18	11,412,530.00
Repair and Maintenance Expenses	19	13,775,440.98
Financial Charges		17,550,000.00
Depreciation	20	17,538,837.53
Total		72,741,784.67
Profit Before Employee Bonus		33,252,798.30
Less: Provision for Employee Bonus		3,325,279.83
Less: Provision for Corporate Tax		5,686,228.51
Profit for the Year		24,241,289.96

Note to Financial Statements

Note: 15 Cost of Material Consumed:		
Opening Stock of:		
Raw Material		54,599,728.54
Work-in-Progress		7,142,613.34
Finished Goods		30,460,867.32
Add: Purchase During the Year:		
Raw Material		199,278,190.94
Packing and Helping Material		24,343,924.74
Less: Closing Stock of:		
Raw Material		57,907,814.48
Work-in-Progress		10,908,595.50
Finished Goods		20,908,595.50
Total		226,100,319.40

Note: 16 Direct Manufacturing Expenses:		
Direct Labor Cost		55,767,140.37
Factory Overhead		31,063,957.26
Total		86,831,097.63

Note: 17 Administrative Overhead:		
Employee Cost		9,042,577.46
Directors' Remuneration		1,192,689.60
Electricity, Power and Fuel		43,200.00
Communication Expenses		24,000.00
Audit and Legal Fees		500,000.00
Rent Expenses		162,000.00
Printing and Stationery Expenses		63,622.50
Travelling and Conveyance		1,069,440.00
Books and Periodicals		258,766.20
Other Expenses		108,680.40
Total		12,464,976.16

Note: 18 Selling and Distribution Expenses:		
Advertisement and Publicity		1,876,520.00
Sales Promotion Expenses		3,214,560.00
Distribution Expenses		6,321,450.00
Total		11,412,530.00

Note: 19 Repair and Maintenance Expenses:		
Repair and Maintenance of:		
Building		1,270,376.26
Machinery and Electric Equipment		11,691,410.43
Furniture and Office Equipment		189,794.91
Vehicles		623,859.38
Total		13,775,440.98

Note: 20 Depreciation:					
Particulars	Rate of Depn. (%)	Opening WDV	Addition During the Year	Depreciable Value	Depreciation for the Year
Land		22,113,182.00	-	22,113,182.00	-
Factory Building	7	33,993,697.17	9,800,000.00	43,793,697.17	3,065,558.80
Furniture and Office Equipment	20	3,172,002.41	1,657,802.00	4,829,804.41	965,960.88
Vehicle	15	12,256,855.88	2,200,000.00	14,456,855.88	2,168,528.38
Machinery and Electric Equipment	10	96,506,150.13	16,881,744.51	113,387,894.64	11,338,789.47
Total		168,041,887.59	30,539,546.51	198,581,434.10	17,538,837.53

For Income Tax Purpose

Particulars	Opening WDV as per Tax
Land	22,113,182.00
Factory Building	36,655,324.53
Furniture and Office Equipment	2,883,638.55
Vehicle	11,142,596.25
Machinery and Electric Equipment	81,639,284.14
Total	154,434,025.47

Additional Information:

- i) Company has 1,500 employees during whole year of the FY 2074/075.
- ii) Purchase of raw material includes Rs. 5,000,000.00 which is purchased through sister concern. Price of such material to unrelated party is Rs. 3,500,000.00.
- iii) Opening stock of finished goods is understated by Rs. 3,000,000.00.
- iv) Closing stock of raw material is overstated by Rs. 5,600,000.00 which is made to increase the profit of the company and management of the company wants to pay higher tax.
- v) Direct labor cost includes Rs. 600,000.00 for driver and gardener who work in the house of the director of the company.
- vi) Factory overhead includes penal interest of Rs. 1,500,000.00 for delay payment of one installment of loan.
- vii) Travelling and local conveyance includes Rs. 169,000.00 for Malaysia tour of CFO of the Company. He goes Malaysia to entertain his force leave.
- viii) Company has a policy to account goods distributed as sample product at the rate applicable to normal customer and issue tax invoice for the same. Among distribution expenses Rs. 200,000.00 is accounted at factory cost. Actual selling price of such goods would be Rs. 250,000.00.
- ix) Average outstanding of loan is Rs. 180,000,000.00 for the financial year.
- x) Balance sheet of the company shows Rs. 9,700,000.00 as advance to directors.
- xi) Repair and maintenance of machinery and electric equipment includes disallowed expenses of Rs. 1,000,000.00.
- xii) Other miscellaneous income is from confiscation of bank guarantee given by the contractor for non-compliance of his contract.
- xiii) Scrap sales is realized by scrapping raw materials.
- xiv) Cost of scrap sales is Rs. 12,000,000.00. Except this, all cost including employee bonus are part of manufacturing business.
- xv) Assume all fixed assets are purchased within Poush 2074.

Now you are required to calculate:

20

- i) Taxable income of the company for FY 2074/075.
- ii) Income tax liability for FY 2074/075.

Answer:

- i) Statement showing taxable income of Shraddha Shoes Industries Pvt. Ltd. for Income Year 2074/075:

Particulars	W.N.	Manufacturing Business	Normal Business
Inclusion:			
Shoes Sales	1	403,506,000.00	-
Scrap Sales		-	13,470,000.00
Other Miscellaneous Income		-	2,000,000.00
Total Inclusion (A)		403,506,000.00	15,470,000.00
Deduction:			
Cost of Material Consumed	2	221,200,319.40	12,000,000.00
Direct Manufacturing Expenses	3	84,731,097.63	-
Administrative Overhead	4	12,295,976.16	-
Selling and Distribution Expenses	5	11,462,530.00	-
Depreciation	6	20,904,799.91	-
Repair and Maintenance Expenses	7	8,980,502.56	-
Interest Expenses	8	18,104,250.00	-
Provision Employee Bonus		3,325,279.83	-
Total Deduction (B)		381,004,755.49	12,000,000.00
Taxable Income (A-B)		22,501,244.51	3,470,000.00

Working Notes:

W.N.1 Shoes Sales		
Shoes sales as per books		403,456,000.00
Add: Understatement of sales for Distribution of Goods		50,000.00
Total Shoes Sales		403,506,000.00
W.N. 2 Cost of Material Consumed		
Opening Stock of:		
Raw Material		54,599,728.54
Work-in-Progress		7,142,613.34
Finished Goods		33,460,867.32
(Opening stock is to be increased by Rs. 3,000,000)		
Add: Purchase During the Year		
Raw Material		197,778,190.94
(Only 3500000 is allowed as deduction)		
Packing and Auxiliary Material		24,343,924.74
Less: Closing Stock of		
Raw Material		52,307,814.48
(Closing stock is to be reduced by Rs 5,600,000)		
Work-in-Progress		10,908,595.50
Finished Goods		20,908,595.50
Total		233,200,319.40
Less: Cost of Scrap sales		12,000,000.00
Cost of material consumed for Manufacturing Business		221,200,319.40

W.N. 3 Direct Manufacturing Expenses		1.5 Marks
Direct Labour Cost		55,167,140.37
(Expense of Rs. 600,000 is not related with company's business and disallowed as deduction.)		
Factory Overhead		29,563,957.26
(Penal interest is part of Interest Expenses and to be eliminated from factory overhead.)		
Total		84,731,097.63

W.N. 4 Administrative Overhead		
Employee Cost		9,042,577.46
Directors' Remuneration		1,192,689.60
Electricity, Power and Fuel		43,200.00
Communication Expenses		24,000.00
Audit and Legal Fees		500,000.00
Rent Expenses		162,000.00
Printing & Stationery Expenses		63,622.50
Travelling & Conveyance		900,440.00
(Personal expenses of CFO for Malaysia tour is not allowed as deduction and should be reduced from Travelling & Conveyance expenses)		
Books & Periodicals		258,766.20
Other Expenses		108,680.40
Total		12,295,976.16

W.N. 5 Selling and Distribution Expenses		
Advertisement and Publicity		1,876,520.00
Sales Promotion Expenses		3,214,560.00
Distribution Expenses		6,371,450.00
(Under recording of distribution expenses at factory cost is to be increased by Rs. 50,000)		
Total		11,462,530.00

W.N.6 Depreciation					
Particulars	Depn Rate	Opening WDV	Absorbed Addition	Depreciation Base	Depreciation for the Year
Land	0%	22,113,182.00	-	22,113,182.00	-
Factory Building	5%	36,655,324.53	9,800,000.00	46,455,324.53	2,322,766.23
Furniture & Office Equipment	25%	2,883,638.55	1,657,802.00	4,541,440.55	1,135,360.14
Vehicle	20%	11,142,596.25	2,200,000.00	13,342,596.25	2,668,519.25
Machinery & Electric Equipment	15%	81,639,284.14	16,881,744.51	98,521,028.65	14,778,154.30
Total		154,434,025.48	30,539,546.51	184,973,571.99	20,904,799.91

W.N.7 Repair and Maintenance

Repair and Maintenance of Machinery & Electric Equipment excluding disallowed expenses would be (Rs. 11691410.43-1,000,000= 10,691,410.43)

Only minimum of 7% of depreciation base of respective pool or actual expense is allowed as deduction as repair and maintenance.

Now,

Particulars	Depreciation Base	7% Of Depn Base	Actual Expenses	Allowed Expenses
Land	22,113,182.00	1,547,922.74	-	-
Factory Building	46,455,324.53	3,251,872.72	1,270,376.26	1,270,376.26
Furniture & Office Equipment	4,541,440.55	317,900.84	189,794.91	189,794.91
Vehicle	13,342,596.25	933,981.74	623,859.38	623,859.38
Machinery & Electric Equipment	98,521,028.65	6,896,472.01	10,691,410.43	6,896,472.01
Total				8,980,502.56

W.N. 8 Interest Expenses	
Average rate of Interest	9.75%
Interest on advance given to director	945,750.00
(9700000x9.75%)	
Now, allowable interest expenses would be:	
Interest Expenses as per books	17,550,000.00
Less: Interest on advance given to directors	(945,750.00)
Add: Penal Interest (As per WN 3)	1,500,000.00
Total Interest Expense	18,104,250.00

ii) Computation of Tax Liability for F/Y 2074/75

Particulars	Manufacturing Business	Normal Business
Taxable Income	22,501,244.51	3,470,000.00
Income Tax Rate*	14.00%	25%
Provision for Income Tax	3,150,174.23	867,500.00
Hence, total tax liability of the company for FY 2074/075 would be		Rs. 4,017,674.23

*Normal tax rate for special industry	20%
Rebate for employing more than 1000 employee for whole year	
(30% of Applicable Tax Rate) (Section 11(3(a))	6.00%
Applicable tax Rate	14.00%

2.

- a) Tax office has carried out tax assessment of Income Year 2073/74 of Hanuman Private Limited on 1st Chaitra 2075 which Hanuman Private Limited had filed on 30 Asoj 2074. Hanuman Private Limited has paid the differential tax amount as per tax assessment order for Income Year 2073/74, and has taken tax clearance certificate as well. However, Hanuman Private Limited again received notice for re-assessment of Income Year 2073/74 on 1st Jetha 2076 from the concerned Tax office stating it has reasonable ground for doing so. Contention of management of Hanuman Private Limited is that since tax assessment has already been done by the Tax authority and it has also taken tax clearance certificate, the tax office cannot again do tax assessment for that financial year.

Describing the relevant provisions of Income Tax Act, 2058, advise whether the contention of the company is correct.

- b) Few years back Mr. Ashwin and Mrs. Manisha got married in a Five Star Hotel in Delhi. Mrs. Manisha owns gold jewelry worth NPR. 5 crore after marriage. After first anniversary celebration in New Delhi Mr. Ashwin started his own business in Kathmandu. Mr. Ashwin started his gold business in Kathmandu

from 1st Shrawan 2075 with jewelry of his wife. In the business transaction Mr. Ashwin sold jewelry of NPR. 7 crore during the year 2075/76. Market value of jewelry on date of start of business was NPR. 4.6 crore of his wife.

Calculate the liability of Mr. Ashwin and Mrs. Manisha in the following cases: 7

- i) Jewelry wholly belonging to his wife was received as a part of her marriage gift from her parents.
- ii) Out of total jewelry owned by Ms. Manisha, NPR. 50 lakh worth of jewelry was purchased by Ashwin and given to her at the time of marriage.
- c) New Nepal Construction Company Private Limited (Contractor) has been awarded to construct a shopping mall at Chabahil on Shrawan 01, 2073 for Rs. 2,000 million to be completed on or before 31st Ashadh 2076 by Triveni Complex Private Limited (Owner) with escalation clause. The initial cost of contract estimated by the contractor was Rs. 1,800 million. In Financial Year 2074/75, the owner increases contract value by Rs. 35 million for variation order which has again been escalated by Rs. 5 million in third year. Due to variation order, the cost of contract likely to increase by Rs. 25 million in second year and by Rs. 5 million in third year. The contractor has incurred Rs. 900 million in first year, Rs. 414 million in second year and Rs. 516 million in third year. You are required to compute taxable income of the contractor for all the three Financial Years of the contract period. 6

Answer:

- a) As per section 101(2) of the Income Tax Act, 2058, Tax Officer can carry out reassessment of tax assessment done as per section 101 of Income Tax Act, 2058 if Tax Officer has reasonable justifiable ground for doing so. Re-assessment under section 101(2) can be done as many times as Tax Officer deems fit if there is reasonable justification for doing so. (2 marks)

However, section 101(3) provides that reassessment u/s 101(2) can be done only within 4 years from the following dates:

- (a) If assessment has been done as per section 99 of the Income Tax Act, 2058, the due date for filing of Income Tax Return
- (b) If assessment has been done as per section 100 of the Income Tax Act, 2058, the date of serving of notice to the assessee u/s 102 of the Income Tax Act, 2058, and
- (c) If revised assessment has been done as per section 101(1) or 101(2) of the Income Tax Act, 2058, then from the dates as mentioned above in (a) and (b).

(3 marks)

Here, Hanuman Private Limited has submitted its tax return for FY 2073-74 on 30 Asoj 2074. Due date for filing of Income Tax Return for Income year 2073-74 is end of Asoj 2074. So, Tax Officer can do reassessment of Income Year 2073-74 only till end of Asoj 2078 (i.e. 4 Years from Asoj 2074). Income Tax officer has issued notice for reassessment of on 1st Jestha 2076 which is well within the time limit prescribed by the law. Hence, contention of the management, that “since tax assessment has already been done by the Tax authority and it has also taken tax clearance certificate, the tax office cannot again do tax assessment” is not correct. Tax Officer is right and can do the reassessment under the law. (2 marks)

- b) Income Tax Act, 2058 has defined “Non-business chargeable assets (NBCA)” under which “personal jewelry” is not covered neither it is covered under the definition of any other assets that are covered under Income Tax Act. Therefore, profit from the transfer of personal Jewelry (which is not an asset under Income Tax Act) by Mrs. Manisha to Mr. Ashwin is not taxable. (2 marks)

On 1st Shrawan 2075, when Mr. Ashwin started his business with personal Jewelry where the jewelry becomes trading stock as per Income Tax Act, 2058, it is valued at the market price as on the date of transfer to Business and market price is the cost for Mr. Ashwin which is NPR.4.6 cores. (1.5 marks)

Calculation of Business Income of Mr. Ashwin for FY 2075/76:

Sales Income	Rs. 7 Crorer
Less: Cost of Sales	Rs. 4.6 Crorer
Profit from Business of Jewelry	Rs. 2.4 Crorer

In both the cases, the tax liability is not affected in any way. In both cases jewelry treated as belongings to Ms. Manisha. Thus, there shall be no change in tax computation in either case. (1.5 marks)

Hence, Mr. Ashwin's profit from Jewelry is NPR. 2.4 Crorer and after deducting normal operating expenses of the business, the net profit shall be arrived and will be treated as a taxable profit in the hands of Mr. Ashwin in F/Y 2075/76. However, Mr. Ashwin has choice to be selected as a single assessee or couple assessee under sec 50 of Income Tax Act, 2058. (2 marks)

- c) Section 26 of Income Tax Act 2058 stipulates that for the purpose of assessing a person's income for an income year from any employment, business, or investment, estimated cumulative inclusions and deductions under a long term contract of the person shall be treated as derived or incurred according to the percentage of the contract completed during the year.

Further, the section also clarifies that a long term contract of person means a contract which meet the following conditions:

- (i) The term of contract exceeds 12 months; and
- (ii) The contract is either a contract for manufacture, installation, or construction, or, in relation to each, the performance of related service; or a contract with a deferred return that is not an excluded contract. (1.5 marks)

Based on the above provision of Income Tax Act 2058, the contract between New Nepal Construction and Triveni Complex is a long term contract for the taxation purposes and the inclusions & deductions shall be calculated on percentage of the contract completed basis.

The inclusions, deductions & taxable income of the contractor for three fiscal years would be as follows:

Particulars	Amounts in Million		
	FY 2073-74	FY 2074-75	FY 2075-76
Initial contract value	2,000.00	2,000.00	2,000.00
Add: Variation Amount	-	35.00	40.00
Total Revised Contract Value	2,000.00	2,035.00	2,040.00
Initial Estimated cost of the contract	1,800.00	1,800.00	1,800.00
Increase in contract value due to variation order	-	25.00	30.00

Total Estimated Cost of Contract	1,800.00	1,825.00	1,830.00
Actual Cost incurred for the year	900.00	414.00	516.00
Actual Cost incurred till date	900.00	1,314.00	1,830.00
Addition cost to be incurred to complete the contract	900.00	511.00	-
Completed contract in % (1.5 marks)	50.00%	72.00%	100.00%
<u>Computation of Taxable Income:</u>			
Cumulative Revenue (Contract Value X Completion %)	1,000.00	1,465.20	2,040.00
Less: Revenue included till last year	-	(1,000.00)	(1,465.20)
Revenue for the year	1,000.00	465.20	574.80
Deduction for the year (Actual Cost Incurred)	900.00	414.00	516.00
Taxable Income for the year	100.00	51.20	58.80

(1.5 marks) (1.5 marks) (1.5 marks)

3.

a) An audit client ABC & Co. requests Kapil & Associates, a chartered accountants firm to assist the company in taxation matters by providing consultancy services that involve assisting in the resolution of tax dispute which involve amount that are material to the financial statements. Explain in light of revised Code of Ethics issued by the Institute of Chartered Accountants of Nepal (ICAN), steps to be adhered to by the firm.

5

b) From the following, calculate the amount that has to be deposited to go for Administrative Review under Income Tax Act if Administrative Review is to be filed in the month of Shrawan 2076 under Income Tax Act, 2058.

5

Amount in '000'

S.N.	Basis of Assessment	Disputed Tax Amount	Undisputed Tax Amount
1	Omission of Sales	10,000	5,000
2	Under Invoicing	1,400	300
3	Disallowed Deduction of Expenses	1,700	500

Answer:

a) As per Para 604.11 of Code of Ethics issued by ICAN, a firm or a network firm shall not provide tax services that involve assisting in the resolution of tax disputes to an audit client if:

(a) The services involve acting as an advocate for the audit client before a public tribunal or court in the resolution of a tax matter; and (1.5 marks)

(b) The amounts involved are material to the financial statements on which the firm will express an opinion.

However, Paragraph R604.11 does not preclude a firm or network firm from having a continuing advisory role in relation to the matter that is being heard before a public tribunal or court, for example:

- Responding to specific requests for information.
- Providing factual accounts or testimony about the work performed.
- Assisting the client in analyzing the tax issues related to the matter.

(1.5 marks)

In the given case, since the service includes taxation matters by providing consultancy services that involve assisting in the resolution of tax dispute and which involve amount that are material to the financial statements, the firm should not accept such assignment from the audit client. (2 marks)

- b) There is provision in the Income Tax Act, 2058 about the filing of application to the DG of IRD for Administrative Review, if the taxpayer is not satisfied with any decision of tax assessment by the assessing officer. Further, there is provision in the tax laws for making deposits of certain portion of the tax for such administrative review. (0.5 Mark)

Further, the mount of undisputed tax is required to be paid on full, whereas in case of disputed tax, only 1/4th of the amount of tax is to be deposited on account of IRD under section 115(6) of Income Tax Act, 2058. (1.5 Marks)

Calculation of tax and Deposits

Rs. in '000'

S.N.	Basis of Assessment	Disputed Tax Amount	Undisputed Tax Amount
1	Omission of sales	10,000	5,000
2	Under invoicing	1,400	300
3	Disallowed Deduction of Expenses	1,700	500
	Total	13,100	5,800

Amount to be paid as tax: Rs. 5,800,000 (1.5 mark)

Amount to be paid as deposit: Rs. 13,100,000/4= Rs. 3,275,000 (1.5 mark)

4.

- a) Shankar Gases Industries Pvt. Ltd. located at Simara is engaged in manufacturing of Oxygen and Nitrogen Gases since its inception. The accountant of the company reports the transactions for the month of Ashadh, 2076 to the management of the company is as follows:

Sales Details (Excluding VAT)

Sold to	Date	Oxygen Gases (in Rs.)	Nitrogen Gases (in Rs.)
Local Sales:			
Nepal Hospital	2076.03.02	50,000.00	-
Gokul Metal Works	2076.03.05	40,000.00	25,000.00
Yuga Hospital	2076.03.10	55,000.00	-
Vishwa Cement Industries	2076.03.14	125,000.00	250,000.00
Him Hydro	2076.03.25	150,000.00	30,000.00
Export Sales:			
Kamal Metal Work, Kolkata, India	2076.03.15	200,000.00	100,000.00
Vishal Hydro, Delhi, India	2076.03.25	-	200,000.00
Total Sales for the Month		620,000.00	605,000.00

Purchase Details (Excluding VAT)

Particulars	Amount (In Rs.)
Diesel Purchase for Generator Running	90,000.00
Telephone Chagres	18,000.00
Gas Bullet Purchase for Storage	1,000,000.00
Insurance Premium for Fixed assets	100,000.00
Purchase of Vehicle for General Manager	2,250,000.00

Apart from the above, the Industry also paid advance consultancy fee amounting to IRS 50,000.00 to Rama Consultancy, New Delhi, India. The service from Rama shall be provided in Shrawan 2076.

VAT receivable as per Jestha 2076 VAT Return already submitted is NPR 28,000.

The management of company approaches to you for the computation of output VAT, input VAT and VAT payable/receivable for the month.

10

- b) Arniko Private Limited, imports raw materials amounting to USD 50,000 from Goa, India. On Shrawan 15, 2076 the material arrived at Birgunj custom point and the custom agent of the company submitted the documents for custom clearance purpose. On verification of documents by the custom authority, he finds that the insurance and freight bill is missing and refused to clear the goods. Based on this background reply the following specific questions:

10

- i) What procedure will the agent initiate to clear the goods from custom as soon as possible and compute the custom duty payable?
- ii) What action will have to be taken by the Arniko Private Limited if the actual bill upto boarder for Freight is Rs. 100,000 and Insurance Rs. 15,000 received on Bhadra 30, 2076. Also calculate the financial implication to Arniko, if any.
- iii) What action Arniko Private Limited will take if the actual bill upto boarder for Freight Rs. 300,000 and Insurance Rs. 50,000 received on Bhadra 30, 2076. Also calculate the financial implication to Arniko, if any.

Note: Assume the rate of custom duty is 15% and exchange rate prescribed by the Nepal Rastra Bank for the day is NPR 110.5/NPR 111.3.

Answer:

- a) As per group 5 of Schedule 1 relating to section 5 (3) of Value Added Tax 2052, Oxygen Gas used for the medical treatment is exempt from VAT. Therefore, Oxygen gas sold to Hospitals, being used for medical treatment purposes, will be tax-exempt.

(0.5 marks)

Further, as per Section 41 of Value Added Tax Rules, 2053 only 40% of VAT Paid on purchase of Automobiles is eligible for claim as input VAT and VAT paid on diesel is not eligible for claim as input VAT.

(0.5Marks)

As per section 8(2) of Value Added Tax Act, 2052 a person obtaining any service from unregistered person residing outside Nepal shall have to collect VAT on the taxable value. Therefore, in this case, consultancy fee paid to Goma Consultancy, New Delhi, India amounting to IRS. 50,000 is taxable under VAT as per the reverse tax mechanism & have to collect VAT.

(0.5 mark)

Moreover, the company is engaged in dealing in taxable & tax-exempt goods and section 40 (3) & 40 (4) of VAT Rules 2053 describes about the criteria to claim input vat for the person dealing taxable as well as tax-exempt goods or services as follows:

Section 40 (3) of VAT Rules stipulates that in case a taxpayer has carried on both the transactions of taxable goods or services and tax-exempt goods or services, such taxpayer may deduct only the tax paid on purchase or imports directly related to the taxable goods or services.

Section 40 (4) of VAT Rules stipulates that in case a taxpayer has carried on both the transactions of taxable goods or services and tax-exempt goods or services fails to establish the direct relationship of the purchased or imported goods or services with the taxable goods or services, such taxpayer may deduct the amount of tax paid on purchase or imports by calculating the proportion of taxable transaction value out of total sales value.

(1 Mark)

Local Sales attract 13% VAT, Export Sales attract 0% VAT, but export sales are also considered as taxable sales and input vat is eligible to claim of purchases or imports related export sales.

i. VAT Collected on Sales

Sold to	Taxable (Local)	Non Taxable (Local)	Export Sales
Nepal Hospital	-	50,000.00	-
Gokul Metal Works	65,000.00	-	-
Yuga Hospital	-	55,000.00	-
Vishwa Cement Industries	375,000.00	-	-
Him Hydro	180,000.00	-	-
Kamal Metal Work, Kolkata, India	-	-	300,000.00
Vishal Hydro, Delhi, India	-	-	200,000.00
Base Amount	620,000.00	105,000.00	500,000.00
Rate of VAT	13%	NIL	0%
VAT @ 13% on Taxable & 0% on Export	80,600.00 (1 Mark)	-	-
% Taxable Sales to Total Sales			91.43%
% Tax-Exempt Sales to Total Sales			8.57% (1.5 mark)

ii. VAT Paid on Purchase & Eligible to claim as input VAT

Particulars	Purchase Amount (NPR)	VAT	Claimable input VAT	Remarks
Diesel purchase for Generator Running	90,000.00	11,700.00	-	Not eligible to claim as input <u>vide Finance Act 2076 applicable from 16th Jestha 2076 (VAT is applicable from the date of Budget announcement)</u>
Telephone Chagres	18,000.00	2,340.00	2,340.00	
Purchase of Vehicle for General Manager	2,250,000.00	292,500.00	117,000.00	(Only 40% is eligible for input VAT)
Gas Bullet Purchase	1,000,000.00	130,000.00	130,000.00	
Insurance Premium	100,000.00	13,000.00	13,000.00	General insurance premium
Consultancy Fee (IRS 50,000.00)	<u>80,000.00</u>	<u>10,400.00</u>	<u>10,400.00</u>	
Total VAT Paid on Purchase		<u>459,940.00</u>	<u>272,740.00</u> (1.5 mark)	

Out of the above VAT paid on purchase & import, there is no direct relationship with the taxable sales, hence, proportioned vat is only eligible to claim as input VAT.

Total claimable VAT Paid on Purchase	<u>272,740.00</u>
% Taxable Sales to Total Sales	91.43%
Eligible Input VAT for the Month	<u>249,366.00</u>

(1.5 Marks)

iii. Computation of Net VAT Payable/Receivable for the Ashadh, 2076

Particulars	Amount
VAT Collected on Sales	80,600.00
Eligible Input VAT	<u>249,366.00</u>
Net Receivable for the month	<u>168,766.00</u>
Opening Receivable	28,000.00
Net Vat Receivable for the Ashadh, 2076	<u>196,766.00</u>

(2 marks)

b)

i). As per section 15 (1) of the Customs Act, 2064, if any importer failed to provide the documents of insurance, freight & other related expenses up to the border customs point, then an application should be given to the customs chief to assess the insurance, freight & other expenses on estimated basis citing the unavoidable circumstances for not to submit the actual documents of insurance, freight & other expenses. Under section 15 (2), the custom chief assess the estimated expenses of insurance, freight & other expenses (generally, 12% of invoice value) if the reason seems appropriate. So, the custom duty payable is calculated as follows: (1.5 marks)

Particulars	Amount
Invoice Value in USD	50,000.00
Exchange Rate	111.30
Invoice value in NPR	5,565,000.00
Add: Transaction Expenses (12% of Inv. Value)	667,800.00
Assessable Amount for Custom	6,232,800.00
Rate of Customs Duty	15%
Amount of Customs Duty	934,920.00

(Note: If the candidate answers by considering 7% of invoice value as transaction cost then marks should be awarded) (2 marks)

As per the clause 3 of section 15 of the Customs Act, if the importer submits the actual bill of insurance, freight & other related within 90 days from the date of fixation of the estimated amount of freight, insurance or other related cost pursuant to section 15(2), the actual expenses if greater than that of estimated expenses pursuant to section 15(2), customs duty shall have to be paid on the difference amount, however, if the actual expenses is lower than that of estimated expenses, excess custom duty shall be refunded by custom office. (1 mark)

ii). In this case the actual expenses is lower than estimated expenses so, the Arniko Private Limited should have to submit the actual bill of insurance & freight to the custom office to get refund the custom duty. The amount of refund will be as follows: (1 mark)

Particulars	Amount
Invoice Value in USD	50,000.00
Exchange Rate for the day	111.30
Invoice value in NPR	5,565,000.00
Add: Actual Freight & Insurance upto Boarder	115,000.00
Assessable Amount for Custom	5,680,000.00
Rate of Custom Duty	15%
Amount of Custom Duty	852,000.00
Amount Paid as customs duty earlier	934,920.00
Refundable amount of custom duty	82,920.00

(2 mark)

iii). In this case the actual expenses is higher than estimated expenses so, the Arniko Private Limited should have to submit the actual bill of insurance & freight to the custom office and have to pay the additional custom duty. The additional amount to be paid as custom duty will be as follows: (0.5 mark)

Particulars	Amount
Invoice Value in USD	50,000.00
Exchange Rate for the day	111.30
Invoice value in NPR	5,565,000.00
Add: Actual Freight & Insurance upto Boarder	350,000.00
Assessable Amount for Custom	5,915,000.00
Rate of Custom Duty	15%
Amount of Custom Duty	887,250.00
Amount Paid as custom duty earlier	934,920.00
Payable amount of custom duty	47,670.00

(2 Marks).

5.

a) Describing the relevant provisions of Value Added Tax Act, 2052 (As amended by Finance Act, 2076), advise whether these business are required to be registered under VAT:

6

- i) Shri Ganesh Private Limited plans to run a departmental store. It estimates that its sales during the year will be Rs. 60 lakh.
- ii) Rama Food Supply Private Limited has been engaged in the business of sale of Rice. The total turnover during last FY was Rs. 40 lakh. This year, it is estimated that its turnover will be Rs. 90 lakh.
- iii) Sugam Distributers Private Limited sales various motor parts through its shop at Biratnagar. It has turnover of Rs. 30 lakh during last FY, and this year it estimates to sale goods worth Rs. 35 lakh. It wants to import goods from India worth Rs. 5 lakh in this year.
- iv) Annapurna Trade Link Private Limited, a business engaged in sale of Readymade Garments in Pokhara, has annual turnover of Rs. 40 lakh. It has taken loan of Rs. 20 lakh from Bank for this business.
- v) Ram Shrestha is a Doctor, and has his own clinic. His annual income from clinic is Rs. 60 lakh.
- vi) Suresh and Associates is a Chartered Accountant firm registered in Kathmandu. Its annual turnover is Rs. 15 lakh.

b) TBC Private Limited is engaged in the assembling of LED Television sets after obtaining Excise License from the Inland Revenue Department. All the TV are sold in the domestic market but main materials i.e. Panel and Packing Materials as well as Parts (SKD) required to assemble the TV have been imported from India. The transactions for the month of Baishakh 2076 is as follows:

Particulars	Basic Amount (in NPR)	Excise Rate	Custom Rate
Sales of LED Television	7,500,000.00	10%	
Import of Panel *	3,500,000.00	10%	0%
Import of Packaging Materials *	1,500,000.00	5%	5%
Import of Parts (SKD) *	1,000,000.00	10%	0%

*Import value inclusive of freight and insurance assessable for custom but exclusive of any duty.

You are required to compute the excise duty paid on import and excise payable for the month of Baishakh 2076.

7

- c) The Management of Shital Cement Private Limited, a VAT registered Company, has been considering for the closure of the business on 15 Jestha 2076. Below is its Balance Sheet as on 15 Jestha 2076.

Particulars	Book Value	Fair Market Value	Remarks
Assets			
Land	10,000,000	50,000,000	
Other Fixed Assets	5,000,000	1,000,000	
Investment in Shares	2,000,000	5,000,000	
Inventory (Vatable)	3,000,000	2,000,000	
Inventory (Non-Vatable)	2,000,000	1,500,000	
Sundry Debtors	1,000,000	800,000	
Cash and Bank	100,000	100,000	
Other Advances	900,000	900,000	
Total Assets	24,000,000		
Equity and Liability			
Share Capital	5,000,000		
Reserve	10,000,000		
Bank Loan	2,500,000	2,500,000	
VAT Payable	5,000,000	5,000,000	Due Date is 25 Jestha 2076
Other Liabilities	1,500,000	1,500,000	
Total Liabilities	24,000,000		

Suggest the management of the company regarding:

7

- The provisions contained in Value Added Tax Act for cancellation of registration of VAT, and
- Amount of VAT payable or refundable to the company on the date of closure.

Answer:

- Shri Ganesh Private Limited needs to get registered under VAT u/s 10(1) since it plans to carry out business of taxable goods and its expected turnover for last 12 months is in excess of exemption limit of Rs 50 lacs per annum as prescribed u/s 9 and Rule 6.
 - Rama Food Supply Private Limited need not get registered under VAT since it deals on VAT exempt goods. As per schedule 1 of VAT Act, 2052, Rice is VAT exempt goods, and a person who does not deal in vatable goods need not get registered under VAT as per section 10 even if its estimated turnover of next 12 months is in excess of minimum threshold of Rs 50 lacs.
 - Shyam Distributers Private Limited need to get registered under VAT since u/s 10(2) any person engaged in the business of motor parts is required to get registered under VAT compulsorily.
 - Annapurna Trade link Private Limited needs to get registered under VAT under rule 7(5) (d) since it has taken loan from bank of more than Rs 10 lakhs.
 - Section 10(3) of Value Added Tax Act, 2052 provides that any person dealing only in VAT exempt goods and services as mentioned in annexure 1 of the Act, need not be registered under VAT. Hence, in the given case, even though Ram Shrestha has annual turnover of Rs 60 lacs which is in excess of threshold limit, it is not required

to be registered under VAT since it is dealing in health services which is VAT exempt services as per group 5 of annexure 1 of Value Added Tax Act, 2052.

- vi) Suresh and Associates need not get to registered under VAT since u/s 10(2) any person engaged in the business of Accounting and Auditing is required to get registered under VAT compulsorily.

(1 Mark for each question)

- b) As per section 3ka (5), excise duty paid on subsidiary raw materials, packing materials and custom duty free raw materials & spare parts import, are not eligible for set off with output excise duty. In the given case, panel is the main material for manufacturing LED TV, hence, excise paid, if any, on panel is only eligible for set off but excise pad on packing materials & parts (SKD) are not allowed for set off as input excise duty. The computation for Excise Duty Payable is as follows:

(3 marks)

Excise paid on Purchase/Import:

Particulars	Basic Amount	Custom Duty	Excisable Amount	Excise Duty Paid
Import of Panel	3,500,000.00	-	3,500,000.00	350,000.00
Import of Packaging Materials	1,500,000.00	75,000.00	1,575,000.00	78,750.00
Import of Parts (SKD)	1,000,000.00	-	1,000,000.00	100,000.00
Excise Duty Paid on Import				528,750.00

(2 marks)

As the panel is custom free goods, excise paid on import of panel is not eligible to set off. Excise paid on packing materials & parts are also not eligible to claim as input, hence, there is NIL Excises to claim as input.

Computation of Excise Payable for the Month of Baisakh 2076:

Particulars	Basic Amount	Excise
Sales of LED Television	7,500,000.00	750,000.00
Less: Excise paid on purchase/import		-
Excise Payable for the month of Baisakh 2076		750,000.00

(2 marks)

- c) Section 11 and Rule 12 of Value Added Tax Act, 2052 and Rules, 2053 provides for various provisions for cancellation of registration of VAT. As per section 11(1) of the Value Added tax Act, 2052 and Rule 12 of Value Added Tax Rules, 2053.
- VAT registration of an entity may be cancelled by Tax Officer if such entity is closed down, or sold or transferred. (section 11(1) of Value Added Tax Act, 2052)
 - VAT registered entity should file application in a prescribed form stating reason for cancellation of VAT registration within 3 months of the date of occurrence of events mentioned in section 11(1) of Value Added Tax Act, 2058. (Rule 12(1) of Value Added Tax Rule, 2053)
 - Such entity should file VAT return till date of filing of application for VAT cancellation along with VAT amount payable if any. (Rule 12(1) of Value Added Tax Rule, 2053)
 - Such entity should pay VAT on closing stock of goods (including capital goods) in which VAT credit had been taken earlier presuming the same has been disposed off at the market value. (section 11(4) of Value Added Tax Act, 2052)
 - Tax officer shall carry out tax assessment, and decide whether the VAT registration should be cancelled or not within 3 months of date of such application. (section 11(3) of Value Added Tax Act, 2052)

- f. VAT registered person shall file VAT return for next 3 months or date of decision of VAT cancellation whichever is earlier. (Rule 12(3) of Value Added Tax Rule, 2053)
- g. Such person cannot be relieved of any liability which may be incurred due to something which has been done which should not have been done or something which has not been done which should have been done during the period when such person was registered under VAT simply due to the reason that VAT registration of such person has been cancelled.

(3.5 marks)

Hence, following the above provisions of the law, Shital Cement Private Limited can cancel its' VAT registration.

Computation of VAT Payable/Refundable to the Company

Particulars	Market Value	VAT @ 13%
VAT on closing stock assuming disposed at Market Value		
Land	VAT no Applicable	
Other Fixed Assets	10,00,000	1,30,000
Investment in Shares	VAT no Applicable	
Inventory (Vatable)	20,00,000	2,60,000
Inventory (non-Vatable)	VAT no Applicable	
Sundry Debtors	VAT no Applicable	
Cash and Bank	VAT no Applicable	
Other Advances	VAT no Applicable	
Total VAT Payable		3,90,000
Opening VAT Payable		50,00,000
Balance VAT Payable		53,90,000

(3.5 marks)

- 6.
- a) What do you mean by "Professional services" under the agreement between Nepal and Sri Lanka for avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income? State the provisions with respect to the income derived by a resident of one contracting state in other contracting state from professional services. 5
- b) Describe the concept of "Transactional net margin" method of computing arm's length price. 5

Answer:

- a) As per Article 14 of the agreement between Sri Lanka and Nepal for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants. (2 marks)

The income derived by a resident of a contracting state in respect of professional services or other activities of an independent character shall be taxable only in that state unless he has a fixed base regularly available to him in the other contracting state for the purpose of performing his activities or he is present in that other state for a period or periods exceeding in the aggregate 90 days in any twelve month period. If he has such a fixed base or is present in that other state for the aforesaid period or periods, the income, may be taxed in that other state by only so much of it as is attributable to that fixed base or is derived in that other state during the aforesaid period or periods. (3 marks)

- b) The transactional net margin method (TNMM) in transfer pricing compares the net profit margin of a taxpayer arising from a non-arm's length transaction with the net profit

margins realized by arm's length parties from similar transactions; and examines the net profit margin relative to an appropriate base such as costs, sales or assets. (3 marks)

This differs from the cost-plus and resale price methods that compare gross profit margins. However, the TNMM requires a level of comparability similar to that required for the application of the cost plus and resale price methods. Where the relevant information exists at the gross margin level, taxpayers should apply the cost plus or resale price method. Because the TNMM is a one-sided method, it is usually applied to the least complex party that does not contribute to valuable or unique intangible assets. Since TNMM measures the relationship between net profit and an appropriate base such as sales, costs, or assets employed, it is important to choose the appropriate base taking into account the nature of the business activity. (2Marks)

CA Membership Corporate Law
Suggested Answer

Roll No.....

Maximum Marks - 100

Total No. of Questions - 6

Total No. of Printed Pages –12

Time Allowed - 3 Hours

Marks

Attempt all questions.

Use separate answer book for each question.

1. Answer the following questions:

- a) Dhankuta Agro Business Ltd. having paid-up capital of Rs. 45 million is being charged by the shareholders that there is lack of transparency and accounts of the company and running against the principles of good corporate governance. The Board of Directors make clarification by claiming that they have been maintaining the accounts properly as per the monitoring and advice of the Audit committee formed thereof. They want to satisfy the shareholders making the audit committee as main responsible body in this respect. Answer the following questions with reference to the provisions under the Companies Act, 2063.
- i) Explain the nature of the audit committee to be formed in a company and its mandatory requirements. 4
- ii) Being a part of good corporate governance how an audit committee performs its functions, duties and powers as per the Companies Act, 2063? 4
- iii) How can you justify the provision regarding audit committee under the Companies Act, 2063 to support the problem? 2
- b) Nepal Rastra Bank (NRB) is the custodian of the banking system in Nepal. The two pillar law concerning the bank implies the NRB as the regulatory body for the banking system. The Bank and Financial Institution Act (BAFIA), 2073 also reinforces the same role of NRB. NRB believes that Gandaki Bank Limited has not been operated smoothly and failed to satisfy the report or inspection and supervision. In this respect, how the NRB maintains the control over Gandaki Bank Limited? State the requirements on the basis of BAFIA, 2073. 10

Answer:

- a)
- i) Section 164 of the Companies Act, 2063 prescribes the provision regarding the Audit Committee of a company. According to the legal provision of audit committee as prescribed by the Act, it can be discussed as follows:

1. A listed company with paid up capital of thirty million rupees or more or a company when is fully or partly owned by the Government of Nepal has to form an audit committee under the Chairpersonship of a director who is not involve in the day to day operations of the company and consisting of a least three members.
 2. A person who is a close relative of the chief executive of a company will not be eligible to be a member of the audit committee formed as said above.
 3. At least one member of the audit committee should be an experienced person having obtained professional certificate on accounting or a person having gained experience in accounting and financial field after having obtained at least bachelor's degree in accounts, commerce, management, finance or economics.
 4. The report of board of directors required to be prepared by a company should set out a short description of the activities of the audit committee, working policies adopted by the board of directors to implement the suggestions, if any, given by the audit committee, the allowances or facilities, if any received by the members or the audit committee and the names of the members of audit committee.
 5. The audit committee may, for inquiring into any matter, notify the managing director of the company chief executive or the company or other director, auditor, internal auditor and accounts chief involved in the day to day operations of the company to attend its meeting; and it will be their duty to be present in the meeting of that committee if they are so notified.
 6. The board of directors should implement the suggestions given by the audit committee in respect of the accounts and financial management of the company; and where any suggestion cannot be implemented, the board of directors should also mention the reasons for the same in its report.
 7. A company should arrange for such means and resources as may be adequate for the fulfillment of responsibilities of the audit committee; and the audit committee may fix its internal rules of procedures on its own.
 8. The chairperson of the audit committee should be present in the annual general meeting of the company.
 9. The audit committee should be there to present as per necessity.
(0.5 marks for each point for any eight point= 4 marks)
- ii) Section 165 of the Companies Act 2063 prescribes the functions, duties and powers of audit committed as follows:
- a. To review the accounts and financial statements of the company and ascertain the truth of the facts mentioned in such statements;
 - b. To review the internal financial control system and the risk management system of the company;
 - c. To supervise and review the internal auditing activity of the company;
 - d. To recommend the names of potential auditors for the appointment of the auditor of the company, fix the remuneration and terms and conditions of appoint of the auditor and present the same in the general meeting for the ratification thereof;
 - e. To review and supervise as to whether the auditor of the company has observed such conduct, standards and directives determined by the

competent body pursuant to the prevailing law as required to be observe in the course of doing auditing work;

- f. Based on the conduct, standard and directives determined by the competent body pursuant to the prevailing law, to formulate the policies required to be observed by the company in respect of appointment and selection of the auditor;
 - g. To prepare the accounts related policy of the company and enforce, or cause to be enforced the same;
 - h. Where any regulatory body has provided for the long term audit report to be set out in the audit report of the company, to comply with the terms required to prepare such report;
 - i. To perform such other terms as prescribed by the board of directors in respect of the accounts, financial management and audit of the company.
- (0.5 marks for each point for any eight point=4 marks)
- iii) The chairman of the audit committee being other than that a director, regularly engaged in the day to day business of the company it shows that this provision has been made for the check and balance in the corporate management. The provision of the inclusion of the professional person as a member in the audit committee clearly indicates that the audit committee be there to give appropriate directives to the board and follow them accordingly so that it can assure the account of that particular company has been kept perfectly. In this respect, the formation of the audit committee, and the functions and duties of the audit committee prescribed respectively under Sections 164 and 165 plays an important role for the maintenance of the accounting system properly with an objection of promotion of the concept of good corporate governance of the company.
- b) Section 102 of BAFIA prescribes the provision regarding the power to control over the Licensed Institutions by the Nepal Rastra Bank. Pursuant to the provision of the Act, NRB has authority to maintain the economic stability and sustainable economic development of the Licensed Institutions as follows:

1. Suspension of Board of Directors :

NRB may suspend the Board of Directors of Licensed institution for a period of maximum three years in the following conditions:

- licensed institution has violated this Act (BAFIA) or Rastra Bank Act or the Rules or Byelaws framed hereunder, or
- Violated the Orders or Directives issued hereunder, or
- License institution failed to satisfy the inspection and supervision report, or
- Fail to perform the obligations required to be performed by the licensed institution, or
- A bank or financial institution has not been operated smoothly, or
- Carried out anything contrary to the interests of its shareholders or depositors

2. Taking under control of bank or financial institution:

As given in the above in clause a that the NRB may suspend the Board of Directors of concern bank and financial institution. After the suspension of the

- Board of Directors, NRB may take under control the bank and financial institution.
3. Carrying out the operation of the management:
After taking any licensed institution under its control pursuant to Subsection (1), the Rastra Bank may either itself or through any appropriate person, firm, company or institution appointed by it, carry out the management of such bank or financial institution.
 4. Audit of such institution:
The RastraBank shall, within one year after the management of licensed institution has been carried out by itself or through any other person, firm, company or institution pursuant to Sub-Section (2), conduct or cause to be conducted financial and management audit of such institution and publicly publish a report thereof.
 5. Taking other actions:
If NRB satisfied, from the report the concerned licensed institution has become capable of performing the liabilities required to be performed by it or that the institution has reached a stage of operating smoothly, the Rastra Bank may take the following actions:-
 - To remove the suspension and handover the management of the institution again to that Board of Directors, or
 - To dismiss the Board of Directors of the licensed institution and form a new Board of Directors from amongst the shareholders of the licensed institution and handover the management of that institution to the new Board of Directors, or
 - To convene the General Meeting of the licensed institution, get a new Board of Directors formed by the Meeting, and handover the management of the institution to the Board of Directors, or
 - To take any other action as the Rastra Bank deems appropriate.
 6. Taking other action if the NRB is satisfied from the audit report :
Rastra Bank is satisfied, from the report referred to in Sub-Section (3), that the concerned licensed institution has become incapable of performing the liabilities required to be performed by it or that the institution has reached a stage of not being operated smoothly, the Rastra Bank may take any of the following two actions:-
 - To initiate the process of mandatory liquidation according to the provisions made in Chapter 12 of the Act, or
 - To initiate the process of settlement according to the Rastra Bank Act.
 7. Providing the opportunity of defense:
The Rastra Bank shall, prior to taking a licensed institution under its control pursuant to Sub-Section (1), give an opportunity to the concerned bank or financial institution to defend itself, by providing it with a time-limit not exceeding 15 days, having regard to the situation.
 8. Financial Liability of such action:
The concerned licensed institution shall bear all expenses incurred by the Rastra Bank in every act and action taken by it after taking such institution under its control pursuant to this Section.
 9. Giving information to Government of Nepal:

The Rastra Bank shall have to inform Government of Nepal, Ministry of Finance about the taking of any licensed institution under its control pursuant to Sub-Section (1). (one marks for Section +background, and one marks for each point till 9 points= 10 marks)

2. Answer the following questions:

- a) The Council of the Institute of Chartered Accountants of Nepal (ICAN) received a complaint letter from 'A' a member of ICAN against Surbir Singh with two fold allegation that: (i) He carries out audit without obtaining a certificate of practice, and (ii) He carries out audit in partnership with a person who has not obtained the certificate of practice. Examine how this complaint will be processed under the Nepal Chartered Accountants Act, 2053? 7
- b) District Attorney Office,Manang published a bid document for works of Intranet installation. Vendor 'V' submitted upon the respective bid including X,Y, Z. The District Attorney constituted a committee for evaluation of Bid as prescribed in the Public Procurement Act (PPA), 2063.If you are a member amongst them,how can you evaluate the Bid? Suggest the process of the evaluation of bids referring the PPA. 7
- c) Nepal Rastra Bank prepares profit and loss account every year. If it earns profit, it will allocate net profit as per the provisions of the Act. If it incurred loss, how it shall allocate the net loss in the account? Explain referring the provisions of the Nepal Rastra Bank Act, 2058. 6

Answer:

- a)
- (i) **If Surbir Singh is not member of ICAN** it is clear that this complaint is neither the reach of the Council of ICAN's authoritative Jurisdiction nor of the investigative or recommendatory jurisdiction of the Disciplinary Committee of ICAN pursuant to Section 41(6) of Nepal Chartered Accountant Act, 2053. Because the Council of ICAN is entrusted to hear complaint cases only against the members of ICAN, but not against non-members under the provisions of Sections 34(Conduct of Members), Section 35 (Complaints to be lodged), and Section 14 (Disciplinary Committee) of the Act. Therefore, from the wording of section 41(l) of this Act that "a person, who carries out audit without obtaining a certificate of Practice, pursuant to this Act, shall be liable of punishment", and also the wording of section 41(6) of this Act that "the complaint cases except those to be heard under section 14, lodged in the Council against any member, pursuant to section 35, shall be instituted in the concerned High Court", clearly directs the competence of the concerned High Court to hear the two-fold allegations at a time, because the nature of both the allegations in same one. Hence it is advisable that the Council of ICAN should reject the complaint filed by 'A', a member of ICAN on the above ground of its lack of competence. (3 marks)

Now it is upto 'A", whether it directly files a complaint case in the concerned High Court under the above section 41(6) of that Act against the allege Surbir Singh or not. (0.5 marks for this conclusion)

- (ii) **If Surbir Singh is a member of ICAN** the complaint in both cases goes in disciplinary committee as follows to inquire into a complaint and recommend the Council for necessary action in cases where any one lodges a complaint in the Institute that

any member has done any act or action contrary to this Act or the Rules or code of conduct framed under this Act, or where the Institute receives such information (1 marks)

- Further the procedures relating to the meeting of disciplinary committee and the term of office of the chairperson and members of the disciplinary committee shall be as prescribed. (0.5 marks)
- The disciplinary committee shall have the same powers as are vested in the court in respect of issuing an order to the concerned person, receiving evidence and examining witnesses. The disciplinary committee shall make recommendation, along with its opinion and finding, to the Council for taking necessary action against a member found guilty from its investigation; and the Council may, in view of such recommendation, impose any of the following penalties on the concerned member, according to the gravity of the offence: (1 marks)
 - (a) Reprimanding;
 - (b) Removing from the membership for a period not exceeding Five years;
 - (c) Prohibiting from carrying on the accountancy for any specific period;
 - (d) Canceling the professional certificate or membership;
- Where the disciplinary committee, upon investigating the matter that any councilor has done any act or action contrary to this Act or Rules, bye-laws or code of conduct framed under this Act, has made recommendation, along with its opinion and findings, to the Council for instituting necessary action against the councilor, such councilor shall not be entitled to take part and cast vote at the meeting of the Council while taking decision by the Council on such recommendation. (0.5 marks)
- Before imposing penalty as referred to in Sub-section (5), the Council shall provide a reasonable opportunity to the concerned member to defend himself/herself. (0.5 marks)
- The concerned member may, if he or she is not satisfied with the decision referred to in Sub-section (5), make an appeal to the Court of Nepal.

b) Section 25 of the PPA, 2063 has provided the process of evaluation of Bid as follow:

1. All submitted bids other than those separated for non-procession shall be included for evaluation.
2. Where a bid is found containing minor deviations in the matters such as the technical specifications, descriptions and characteristics etc. so as not to reject the bid, the value of such deviations shall be quantified, to the extent possible, and included in the evaluation of bids pursuant to Sub-section (1).

3. Where the value of minor deviations under Sub-section (2) exceeds fifteen percent of the bid price of the bidder, such a bid shall be deemed to be substantially non-responsive; and shall be excluded from evaluation. “minor deviations” mean such deviations that do not materially depart from the matters such as the technical specifications and descriptions as set forth in the bidding documents.
 4. Where invitation to bid has been made after determination of prequalification, the bids submitted by the bidder other than the pre-qualified bidders shall be excluded from evaluation under Sub-section (1).
 5. Bid shall be evaluated in accordance with the criteria and methodology set forth in the bidding documents; and in carrying out such evaluation, the bid with the lowest bid price shall be determined by making comparison of the evaluated price of every bid with the evaluated price of the other bids.
 6. The qualifications of the bidder of the bid having the lowest bid price under Sub-section (4) shall be verified in order to ascertain whether it conforms to the qualification criteria set forth in the bidding documents or not.
 7. Where on examination, the qualification of the bidder of the bid having the lowest bid price pursuant to Sub-section (4) is in conformity with the qualification evaluation criteria set forth in the bidding documents under Sub section (5), such bid shall be the lowest evaluated substantively responsive bid. Where, on examination, the qualification of such bidder is found not to be in conformity with the qualification as evaluation criteria set forth in the bidding documents, such bid shall be excluded from evaluation; and the qualification of the next bidder having the next lowest bid price shall be examined on the same grounds respectively.
 8. The evaluation committee shall prepare an evaluation report stating, inter alia, the criteria and methodology of evaluation of the lowest evaluated substantially responsive bid pursuant to Sub-section (6) and submit the report to the Public Entity. (1 marks for each for any seven point = 7)
- c) Nepal Rastra Bank following Section 42 of the NRB Act, 2058 will allocate the net loss as follows:
1. If loss of the Bank exceeds in comparison to the profit in any fiscal year, the surplus net loss amount shall have to be allocated as follows :-
 - (a) If revaluation profit is also included in the net loss, revaluation profit shall have to be kept in revaluation reserve fund. (1 marks for this part)
 - (b) If revaluation loss is also included in the net loss, revaluation loss shall have to be written as loss in revaluation reserve fund. If revaluation loss exceeds the amount remained in revaluation reserve fund, the surplus loss amount shall be written as loss in the following fund and account in a sequence of priority:-
 - 1) In accumulated savings fund, up to the amount deposited in accumulated savings fund,
 - 2) In general reserve fund, if loss amount remains after the adjustment in the accumulated savings fund as per Sub-section (1), and
 - 3) In capital account, if loss amount remains after adjustment in accumulated savings fund and general reserve fund as per Sub-section (1) and (2). (2 marks for this part)

(c) The operation except for the revaluation profit as per Section (A) and revaluation loss as per Section (B), as well as other loss shall have to be written as loss in accumulated savings fund. (1 marks for this part)

(d) If loss amount is more than the amount remained as deposit in accumulated savings fund, the surplus loss amount shall have to be written in following fund and account as loss in a sequence of priority :-

- 1) In general reserve fund, up to the amount deposited in general reserve fund,
- 2) In capital account, if loss amount remains after the adjustment in the general reserve fund as per Sub-section (1),
- 3) The Government of Nepal shall bear the loss that could not be adjusted while allocating loss as per Sub-Section (1). (2 marks for this part)

3. Answer the following questions:

- a) How a foreign investor can invest in Nepal according to the Foreign Investment and Technology Transfer Act, 2075? State the different areas where the foreign investment is not allowed under the Act. 7
- b) R& D Group of Kathmandu has established one manufacturing industry at Khotang, one apple brandy industry at Manang and another manufacturing industry at Dang. Based on the above information, answer the following questions:
 - i) What type of facilities do they receive as per Industrial Enterprise Act, 2073? 3
 - ii) If all above industries are owned by a woman entrepreneur, what additional facilities do these industries receive? 4
- c) What is the procedure for an international entity to be a part of international financial transactions? Illustrate your answer in accordance with the International Financial Transaction Act, 2054. 6

Answer:

- a) Foreign Investment and Technology Transfer Act, 2075 prescribes the provision regarding the foreign investment in Nepal. The Act prescribes the provision that prior permission from the Department of Industry (DOI) is mandatory for foreign investment and technology transfer. Section 3 of the Act prescribes the process of permission. Pursuant to Sec.3, it requires to obtain permission of the Department of Industry (DOI) for foreign investment or technology transfer.

For this, a person desiring to avail the foreign investment or technology transfer requires to make an application to the DOI in the prescribed form along with the prescribed particulars for obtaining permission in that behalf. (1 marks for this part)

On receipt of the an application the DOI shall, in the case of an industry with fixed assets up to five hundred million rupees, itself, and in the case of an industry with fixed assets in excess thereof, in accordance with the decision of the Board, grant permission within thirty days from the date of application. The Department shall communicate the decision made in regard to such permission to the applicant. (1 marks for this part)

However no permission shall be granted for making foreign investment in the industries set forth in the Annex like:

Annex Part "A" Cottage Industries.

2. Personal Service Business (Business such as Hair Cutting, Beauty Parlour, Tailoring, Driving Training etc.)
3. Arms and Ammunition Industries.
4. Explosives, Gunpowder
5. Industries related to Radio-Active Materials.
6. Real Estate Business (Excluding Construction Industries)
7. Motion Pictures Business (Produced in the national language)
8. Security Printing
9. Currencies and Coinage Business (0.5 for each point for any five point =2.5)

Part (B)

1. Other Retail Business except the Retail Business instantly conducted more than Two countries as International transaction.
2. Bidi (Tobacco), - (excluding those exporting more than 90%)
3. Internal Courier Service
4. Atomic Energy
5. Poultry Farming
6. Fisheries
7. Bee-Keeping
8. Other Consultancy Services such as Management, Accounting, Engineering and Legal Services besides Consultancy Services having the foreign investment up to Fifty One percent.
9. Beauty parlor
10. Domestic food processing methods in rent.
11. Local catering Service
12. Rural tourism

However, the permission may be granted for the transfer of technology in such industries. (0.5 for each point for any five point =2.5)

- b) (i) Section 22(1)(g) has mentioned the facilities of such industry which has been established in highly least developed area, least developed area and undeveloped area. Manufacturing industry of Khotang will receive 90% income tax exemption for ten years from the date of establishment of such industry. (1 marks for this part)

Apple brandy industry of Mustang will get 70% income tax exemption for 10 years from the date of establishment. Though it is established in a highly least developed zone, due to its nature as liquor, it gets only 70 percent tax exemption. Other types of industry in this area will get 90% tax exemption as well. (1 marks for this part)

Manufacturing industry which was established in Dang will get 70% tax exemption for ten years from the date of establishment as Dang belongs to the underdeveloped area as per Industrial Enterprise Act, 2073 Schedule 4. (1 marks for this part)

- (ii) Section 25 of the act has provided additional facilities to those industries where there are only women entrepreneurs. Additional facilities are as follows:

- (i) Waving 35% registration fee at the time of registration of such industry.
 - (ii) Waving 20% fee while getting registration all industrial properties in the name of industry.
 - (iii) Priority will be given to such industry in industrial zone. The industry will get first priority to select the area within the industrial zone.
 - (iv) If such industry are export oriented industry, commercial bank of Nepal will give special priority to provide the bank loan to such industry based on the financial status of the company. (1 marks for each point =4)
- c) The International Financial transactions Act, 2054 prescribes the provision relating to the procedures for an international financial transaction as an international entity. Pursuant to it, the procedure regarding it can be listed as follows:
1. Application for License:
An international financial entity interested to carry out international financial transaction shall, for the purpose of obtaining license to carry out such financial transaction, submit an application to the Accreditation Committee in the format as prescribed along with the prescribed application fee, details and documentations. (1 marks for this part)
 2. Granting of License:
If the Accreditation Committee, after the necessary inquiry made into an application submitted under Section 13 for obtaining license to carryout international financial transactions, deems it appropriate to grant a license to carryout international financial transactions, it shall, upon taking the prescribed amount of license fee, issue a license in the prescribed format setting out therein the necessary terms and conditions. If a license may not be issued, the applicant shall be informed thereof. (1.5 marks for this part)
 3. Information, Details and Documentations may be demanded:
The Accreditation Committee may, before issuing a license to any international financial entity under this Act, demand from such entity such information, details and documentations as it may deem necessary in connection with issuing a license for carrying out international financial transactions. It shall be the duty of the concerned international financial entity to furnish forthwith the information, details and documentations so requested by the Accreditation Committee. (1.5 marks for this part)
 4. Renewal of License:
A license issued under section 14 for carrying out international financial transaction shall be renewed every year. The license renewal fee and other provisions regarding renewal shall be as prescribed. (1 marks for this part)
 5. Secrecy to be maintained :

The Accreditation Committee shall maintain secrecy of all documents and information which are related with license holder entities and are in possession or control of the Accreditation Committee. The Accreditation Committee shall not be compelled to produce any documents or information referred to in Sub-section (1) before any court, commission of inquiry, Commission for the Investigation of Abuse of Authority or committee of inquiry, nor shall it be compelled to leak otherwise the secrecy of such documents or information. (1 marks for this part)

4. Answer the following questions:

- a) Valley Insurance Ltd. provided loan to Ms. SaritaRaymajhi, sister-in-law of Mr. Chauhan, a board member. When, other board member demanded such type of loan, the question is raised in the board meeting and discussed about its validity in your presence. Chief executive officer of the company refused the lending. What is your view on the matter of lending? If such lending does not satisfy the existing insurance law then is it a circumstance of imposing a ban to the insurance business? Justify your answer providing the circumstances to impose a ban to the insurance business under the Insurance Act, 2049. 8
- b) An application was filed before the Court to institute insolvency proceeding in relation to Company 'A', and the Court issued an order to enquire into insolvency proceedings of the Company. Now, based on the legal provisions of the Insolvency Act, 2063, answer how and who shall carry out the management of the Company 'A' during the period of its enquiry of insolvency proceedings? Also explain which Court you mean by the word 'Court' used herein? 7

Answer:

- a. Section 12A of the Insurance Act, 2049 has provided the circumstances to impose a ban entirely or partially or may cancel any type of business being operated by the Insurer under the Insurance Business: (0.5 marks for Section)
- (a) If the directives provided by the Board time to time regarding the procedures to be followed by the Insurer during the operation of the Insurance Business has been violated,
- (b) If the Insurer provides loan to any corporate body in which any of its Directors or his/her family is working as a Managing Agent or partner or provides guarantee or security of any kind for any loan provided to him/her by others by violating Section 14,
- (c) If the Insurer does not provide information to the Board to be provided pursuant to Section 15,
- (d) If the Insurer does not maintain the accounts and record, to be maintained pursuant to Section 19,
- (e) If the Insurer does not maintain separate accounts and records to be maintained separately pursuant to Section 20,

- (f) If the Insurer does not maintain the fund to be maintained by it pursuant to Section 21 or bears liability of one Insurance Business from the fund maintained for another business,
- (g) If the Insurer does not maintain the compulsory reserve fund to be maintained by it pursuant to Section 22,
- (h) If the Insurer accepts the insurance risk without receiving the insurance premium pursuant to Section 27,
- (i) If the Insurer does not re-insure pursuant to Section 28. (0.5 marks each point for any nine points = 4.5)

Provide reasonable time to Clarification:

Before imposing a ban on the Insurance Business of an Insurer pursuant to Sub-section (1), the Board shall provide a reasonable time-limit to submit clarification to the concerned Insurer clearly stating the reasons for imposing the ban on its Insurance Business. (1 marks for this part)

Publish notice:

If the concerned Insurer does not submit its clarification within the time-limit mentioned in Sub-section (2) or the clarification submitted by it is not found to be satisfactory, the Board may impose a ban on the Insurance Business of the concerned Insurer pursuant to Sub-section (1) and shall publish a notice in two major newspapers to be published in Nepal for the information of public in general. (0.5 marks for this part)

Payment of claim of compensation:

During the time period of a ban on the Insurance Business of any Insurer pursuant to Sub-section (3) such Insurer shall make payment of claims of compensation filed against it as prescribed. (0.5 marks for this part)

Imposing a fine:

If the ban is imposed in the Insurance Business of any Insurer under this section, the Board may, if it finds the evidence submitted by the Insurer within the time-limit by stating that the circumstances for imposing the ban on its business existed no longer to be satisfactory, impose a fine as prescribed and lift the ban

In the matter of validity of the lending section 12a (1)(b) has clearly mentioned that providing the loan to prescribed relationship to board member is a circumstances of imposing a ban. So, the lending is not valid due to the legal requirements. (1 marks for this part)

- b) Section 15 of the Insolvency Act, 2063 provides the following provisions for the management of company during inquiry period: (0.5 marks for Section)
 1. Notwithstanding anything contained in the laws in force, the board of director of the company shall carry out the management and ordinary transactions of the

- company during the period of inquiry of insolvency proceedings, under the regular supervision of the inquiry official. (1.5 marks for this part)
2. Notwithstanding anything contained in Sub-section (1) above, where the inquiry officer submits to the Court a report indicating that the board of directors of the company has not operated the company properly, the Court may issue an order to remove the board of directors and order the inquiry officer to carry out the management and ordinary transactions of the company. (1.5 marks for this part)
 3. Where the Court orders the inquiry officer to carry out the management and ordinary transactions of the company pursuant to Subsection(2) above, the inquiry officer shall carry out the transactions accordingly. (1 marks for this part)
 4. Where any special transaction such as the sale of the assets or business of the company shall be carried out in the course of operating the ordinary business of the company pursuant to Sub-section (3), an application setting out the reason therefore shall be made to the Court for permission, and where the Court issues an order granting such permission, the inquiry officer may carry out such transaction. (1.5 marks for this part)

Pursuant to section 2(g) of this Act, the word "Court" used in this question means the Commercial Bench of the concerned High Court. (1 marks for this part)

5. Answer the following questions:

(3×5=15)

- a) What is Corporate Social Responsibility? Explain legal provision as prescribed by the Industrial Enterprises Act, 2073 relating to it.
- b) State the constitution of the Financial Information Unit (FIU) under the Asset (Money) Laundering Prevention Act, 2064.
- c) You are a registered auditor. Juddha Fire Brigade Office requested you to audit the accounts of the fiscal year 2075/76. Can you audit the accounts of that office? If you cannot, who shall audit the accounts of the given office? State the audit of bodies wholly owned by Government of Nepal.

Answer:

- a) Corporate Social Responsibility refers to “The continuing commitment by business houses to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the community and society at large.”
EU Commission (2002) has explained “CSR is a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.”
Corporate social responsibility (CSR) also called corporate sustainability, sustainable business, corporate conscience, corporate citizenship or responsible business is a type of international private business self-regulation. (1 marks for this part)

Section 48 of the Industrial Enterprises Act, 2073 has prescribed the concept of Corporate Social Responsibility in Nepal. (0.5 marks for Section)

The Act makes it mandatory to allocate at least 1% of the annual profit (there is no clarity on whether it is to be calculated on pre-tax profit or post tax profit) to be

utilized towards corporate social responsibility. As per the legal provision of it the “CSR Requirement” is targeted there towards the medium and large industries.

(1 marks for this part)

The CSR Requirement is applicable to all (i) medium industries; i.e. industries having investment in fixed assets exceeding NPR 100,000,000 but less than NPR 250,000,000; and large industries; having investment in fixed assets exceeding of NPR 250,000,000) and (ii) cottage industries and small industries having annual turnover more than NPR 150,000,000. (1 marks for this part)

The fund created for CSR is to be utilized on the basis of annual plans and programs but in the sectors that are prescribed under the Act, however, such sectors are yet to be specified by the Act. It is required to prepare annual policies and programs relating CSR by the establishment. (1 marks for this part)

The progress report of the utilization of the fund collected for CSR is required to be submitted to the relevant government authorities registered within three months from expiry of the financial year. (0.5 marks for this part)

b) Section 9 of the Asset (Money) Laundering Prevention Act, 2064 has been provided the provisions for the constitution of the Financial Information Unit (FIU) as follows: (0.5 marks for Section)

1. There shall be a Financial Information Unit, with functional autonomy and independent in Rastra Bank for the purpose of reporting on suspicious transactions of money laundering, financing in terrorist activities and predicate offences and obtaining other information thereof, analyzing and flowing the conclusion of such analysis. (0.5 marks for this part)
2. The Governor of Rastra Bank shall appoint the chief of the Financial Information Unit from among the first class officers, at the least, of Rastra Bank. (1 marks for this part)
3. The Office of the Financial Information Unit shall be placed in the Rastra Bank and the Rastra Bank shall manage the staffs required for it and the Government of Nepal or any public institution shall provide employees working in the Financial Information Unit on the request thereof. (1 marks for this part)
4. Nepal Rastra Bank shall provide budget to the Financial Information Unit separately. (1 marks for this part)
5. It shall be as mentioned in the by-regulation of the Rastra Bank on the matter of chief of the Financial Information Unit as well as minimum qualification, organization structure, number of employee or conditions of vacant and the provision to be provided the other resources and materials. (1 marks for this part)

c. As per section 3 of Audit Act, 2075, Auditor General is responsible for the audit of Governmental offices, Constitutional bodies etc. Section 10 of the Audit Act, 2075 prescribes the provision of audit of the corporate bodies wholly owned by federal

Government, Provincial Government or Local Government of Nepal as follows: (0.5 for Section)

1. The audit of the corporate body's bodies wholly owned by federal Government, Provincial Government or Local government of Nepal shall be audited by the Auditor General.
2. The Auditor General may appoint an auditor, who is qualified to do an act of the audit as per prevailing law of Nepal, as an assistant as per the requirement.
3. The auditor, appointed as per the sub-section (1) of section 10, shall act under the direction, supervision and control of the Auditor General.
4. The powers, functions, duties and responsibilities of the auditor appointed as per sub-section (1) and the procedures to be followed by him/her in the course of audit and the provisions relating to their report shall be as prescribed by the Audit Act, 2075. Where the provisions relating to the audit are not specifically prescribed by the Audit Act is to be performed as per the provision as prescribed by the Auditor General.
5. The remuneration to be paid by the concerned organization to the auditors appointed as per sub-section (1) of section 10, shall be fixed by the Auditor General keeping in view the volume of financial transactions, status of accounts, number of branches and sub-branches, work load and work progress of the concerned organization. (0.5 for each point =2.5)

Concerning the audit of Juddha Fire Birgade Office, being owned by the Government, the audit of it shall be done by the Auditor General as per the Audit Act, 2075. However, auditor General may appoint someone as an auditor as assistant to the Auditor General as per requirement of the audit of the given institution. If you are appointed to audit of such office then you can audit as per the direction, supervision and control of the Auditor General as set forth in the section 10 of the Audit Act, 2075. (2 marks for this conclusion part)

6. Answer the following questions:
- a) What are qualifications of an arbitrator? Explain with the reference of the provision of Arbitration Act, 2055. 4
 - b) List out the acts, which are considered as the banking offense under the Banking Offences and Punishment Act, 2064. 3
 - c) How permission of Nepal Rastra Bank shall be obtained by a Nepalese Citizen residing in Nepal or a body corporate registered in Nepal for opening a bank account in a foreign country under the Foreign Exchange (Regulation) Act, 2019? 3

Answer:

- a) Section 10 of the Arbitration Act, 2055 prescribes the provision regarding the Qualifications of Arbitrators. As per the legal provision of the Act, following persons are not qualified to be appointed as arbitrators:
 1. Disqualified for entering into contracts as per prevailing laws.

2. Punished by a court on criminal charges involving moral turpitude.
3. Become insolvent or been declared bankrupt.
4. Any personal interest in the dispute which has to be settled through arbitration.
5. Not having any specific qualification specified in the agreement for becoming eligible for appointment as an arbitrator. (1 marks for each point for any four points=4 marks)

b) According to Chapter two Sections 3 to 14 of the Banking Offence and Punishment Act, 2064 following acts are considered as banking offences:

1. To open an account or demand cash payment in an unauthorized manner
2. To obtain or issue cheques, cheque-books or bank statements in an unauthorized manner
3. To make unauthorized withdrawals or payments
4. To obtain or make payment by way of abuse or unauthorized use of electronic means.
5. To avail or provide loans in an unauthorized manner
6. To misuse credit
7. To misuse banking resources, means and assets
8. To acquire assets or open account by borrower who has over dues
9. To stop credit facility in the way to loss working project of Borrower
10. To make loss by making alteration in the account or ledger or by committing forgery or fraud
11. To derive excess, low or false valuation
12. To carry out and cause to carry out irregular economic or financial transactions (0.5 marks for each point for any six point=3 marks)

c) Section 16 of the Foreign Exchange (Regulation) Act, 2019 requires persons to obtain permission of the Nepal Rastra Bank (NRB), to open bank account in a foreign country, as under:

1. Any citizen of Nepal residing in Nepal or any company, body corporate or firm registered in Nepal shall obtain the permission of NRB to open an account with a bank in a foreign country.
2. In giving permission to open an account pursuant to Subsection (1) above, NRB may demand required statements and also specify terms and conditions.
3. The operation and use of the account opened pursuant to Sub-section (1) above shall be as specified by NRB by publishing and broadcasting a public notice.
4. The matters relating to the opening, operation and use by any citizen of Nepal residing in Nepal or any company, body corporate or firm registered in Nepal of an account in foreign currency within Nepal shall be as specified by NRB by publishing and broadcasting a public notice. (1 marks for each point for any 3 points= 3)