

**SYLLABUS****Class – B.Com III Year (Tax)****Subject – Various Central & Provincial Tax**

UNIT – I	Introduction of Customs Duty. Features objects and types Important Definitions. Procedure for import and export and clearance. Prohibited goods. Notified goods. Specified goods Restricted imports. Function and powers of customs officers.
UNIT – II	Determination of Assessable value for customs Practical problem relating to Assessable value. Calculation of payable customs duty.
UNIT– III	General study of Madhyapradesh Excise Duty Act. Rates and calculation of Antoxicants issued from ware house
UNIT– IV	Main Porvision of Professional Tax. Persons Convered under Professional Tax Rates of
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Unit – 1

Meaning of Customs Duty

The term Customs has derived its essence from the Custom, which means a customary practice or a course of action that is observed and repeated in the like circumstances. Customs Duty has been in vogue from ancient times.

As per ancient custom, a merchant entering a kingdom with his goods had to make a suitable gift to the king. In the course of time, this custom was formalized into Customs Duty. This is collected on imports and occasionally on exports too. The word Customary is derived from customs, which indicates that it is a very old tax. Taxes on goods were levied on various goods right from the Veda period. Customs duty as we understand today has its origin in British period.

In the present time customs duty means a tax which is levied by the Government on import of goods into India and export out of India. It is a central tax and mainly imposed on imported goods. Generally govt. levies export duty on a very few items due to export promotion.

Basis of determining the duty

Import Duty and Export may be determined on the following two bases;

1. Ad Valorem Duty

When the duty is determined on the basis of the value of the goods it is referred to as 'Ad Valorem Duty'

Specific Duty

When the duty is determined on the basis of the measurement of goods, it is called Specific Duty.

Main features of customs Duty

Customs duty is tax on import or export of goods. It is levied by central Govt. of India. It is collected and used by the centre. The main features of this tax are as under –

1. Customs Duty levied on Import and Export

Customs Duty is an indirect tax levied by Central Government on import and export of goods. Customs Duty is applicable in foreign trade. It is an important source of revenue and instrument for regulating import and export of the country.

Customs duty is levied on the following two types of transactions –

- a. Goods imported from outside India, i.e. Duty on Import
- b. Goods exported to other countries i.e./ export duty.

2. Levying of customs duty

Customs duty levied upon import and export, there for it may be –

- a. Import Duty – When a person imports some goods from outside India, is called import and tax or duty payable on such goods called Import Duty.
- b. Export Duty – When a person exports some goods from India to other countries, is called export and duty payable on such goods called Export Duty.

3. Indirect Tax

It is an indirect tax. It is imposed by the central govt. on import in India or export of goods from India. Duty imposed on import called Import duty and on export called Export Duty. However Import Duty is more than Export Duty.

4. Goods under Customs Act

Customs duty is on goods as per section 12 of Customs Act. Section 2(22), gives inclusive definition of goods includes (a) vessels, aircrafts and vehicles (b) stores (c) baggage (d) currency and negotiable instruments and (e) any other type of movable property.

5. Objects of Customs Duty



The customs duty is levied, primarily, for the purpose of raising revenue. However, it serves as an important tool in regulating imports of foreign goods into India with the view to conserve foreign exchange, regulate supply of goods into domestic market and provide protection to the domestic industry from foreign competition by restricting import to selected goods and services. The duty on export is also levied for the purpose of regulating exports in the like manner.

6. Important source of Revenue

Customs duty started with 5%. After independence, need arose to reduce imports as foreign exchange became scarce and to protect Indian industry from foreign competition. Customs duty rates were increased. Auxiliary duty and countervailing duty was introduced.

7. Rate of Customs Duty

In India, customs duty has been widely used for not only increasing the government Revenue, but for providing protections to the domestic industry. Though the customs duty started with 5%, but at one point of time, the total burden of duty was as high as 100% and in some cases even more than 200% or 300%

Customs Duty has second rank first Central Excise Duty among indirect taxes levied by Central Government. It is an indirect tax and levied by govt. of India on import and export of goods.

Taxable Event

In case of Importation

Import of goods will commence when they cross the territorial waters of India but is completed when it becomes part of the mass of the goods within the country. Taxable event is reached when the goods reach the customs barrier and the bill of entry for home consumption is filed.

In case of Exportation

Exportation commences when the shipping bill in respect of such goods is filed but the taxable event is completed when the goods cross the territorial waters of India.

Types of Customs Duties

Following custom duties are levied in India:

1. Basic Customs Duty

Basic Customs duty is levied on the value of the goods. Value of the goods is fixed in accordance with the provisions of Sec. 14 of the Act.

Duty is levied at different rates on different goods. According to Finance Act, 2007 the peak rate of duty on non-agricultural product has been reduced from 12.5% to 10% with a few exceptions, which is maintained by finance Act, 2011.

2. Additional Custom Duty (ACD)

If an article which is produced in India is imported then an additional customs duty will be levied on it. This duty will be equal to the excise duty leviable on that article in India. Where a like article is not manufactured in India, the duty would be leviable on the class of articles to which the imported article belongs. Where such duty is leviable at different rates, the highest duty shall be levied.

3. Countervailing Duty (CVD)

This levy has use when goods manufactured indigenously are exempt from excise duty. In such case, the indigenous manufacturer will be loser to the extent of duty paid on inputs. This duty paid on his inputs is lost as final product is exempt from duty. This becomes additional cost to indigenous manufacturer. On the other hand, the imported goods do not have to pay CVD as the product is exempt from duty. The foreign supplier has not paid any excise duty on his inputs. He gets cost advantage to that extent. Section 3(3) is intended to offset such cost advantage to foreign supplier.

4. Special Additional Duty (SDA)



Keeping in mind the maximum sales tax, VAT, local tax or any other charge leviable on a like article on its sale or purchase in India, the Central Government levy special additional duty on the imported article.

Purpose of the Additional Duty is to counter-balance sales tax, VAT, local tax or other charges leviable on articles on its sale, purchase or transaction in India. Explanation to section 3(5) makes it clear that even if imported article was not sold in India, tax will be leviable on the basis of sales tax, VAT or other tax that would have been payable if the goods were sold, purchased or transported in India.

5. Education Cess

Finance Act, 2004 has imposed an education cess on items imported into India @2% and 1% Higher Education cess is imposed by Finance Act, 2007, to make it a total of 3% on the aggregate of duties of customs.

6. Safeguard Duty

If the Central government is satisfied that an article is imposed into India in such increased quantity that it will cause serious injury to domestic industry then it may impose a safeguard duty on that article by a notification.

7. Product Specific Safeguard Duty on Imports from China

If the Central government is satisfied that an article is imposed into India from China in such increased quantity that it will cause serious injury to domestic industry then it may impose a safeguard duty on that article by a notification.

8. Countervailing duty on Subsidized Articles

Where any country pays, directly or indirectly, any subsidy on the exportation of any article then on the importation of that article in India the Central Government may impose countervailing duty not exceeding the amount of such subsidy.

9. Anti-dumping Duty on Dumped Articles

Where any article is exported from any country into India at less than its normal value, then, upon the importation of such article in India, the Central Government may impose an antidumping duty not exceeding the margin of dumping in relation to such article.

This duty shall be in addition to other custom duties.

10. Re-Importation Duty

If the goods are imported into India after exportation there from, such goods shall be liable to duty and be subject to all the conditions and restrictions which are imposed on the actual imports.

11. Additional Duty on Tea and Tea Waste

In the case of tea waste imported into India, there shall be levied and collected, by surcharge, an additional duty of customs @Rs. 1 per kg. However, green tea has been exempted from this additional duty of customs.

12. National Calamity Contingent Duty of Customs

On the following goods this duty is levied:

1. Pan Masala – Not containing tobacco	23%
2. Pan Masala – Containing tobacco	10%
3. Chewing tobacco, snuff tobacco and similar tobacco products	10%
4. Cigarettes	Rs. 20 to Rs. 235 per thousand
5. Bidis	Rs. 1 to Rs. 2 per thousand
6. Crude petroleum oils	Rs.50 per ton
7. Polyester Yarn (withdrawn by Finance Act, 2008)	
8. Motor cars and two-wheelers	1%

Important Definitions



“Adjudicating authority” means any authority competent to pass any order or decision under this Act, but does not include the Board, Commissioner (Appeals) or Appellate Tribunal. (Sec. 2(1))

“Baggage” includes unaccompanied baggage but does not include motor vehicles; (Sec 2(3))

“Coastal Goods” means goods other than imported goods, transported in a vessel from one port in India to another. (Sec 2(7))

“Conveyance” includes a vessel and aircraft and a vehicle. (Sec.2 (9))

“Customs area” means the area of a customs station and includes any area in which imported goods or exported goods are ordinarily kept before clearance by customs Authorities. (Sec.2(11))

“Customs stations” means any customs port, airport or land customs stations. (Sec. 2(13))

“Dutiable Goods” Any goods which are chargeable to duty and on which duty has not been paid.

“Entry” in relation to goods means an entry made in a bill of entry, shipping bill or bill of export and includes in the case of goods imported or to be exported by post, the entry referred to in section 82 or the entry made under the regulations made under section 84 (Sec. 2(16))

“Export” means taking out of India to a place outside India.

“Export goods” means any goods which are to be taken out of India to a place outside India. (Sec. 2(19))

“Exporter” in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner or any person holding himself out to be the exporter. (Sec.2(20))

“Foreign going vessel or aircraft” means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India or not, and includes:

1. Any naval vessel of a foreign Government taking part in any naval exercises;
2. Any vessel engaged in fishing or any other operations outside the territorial waters of India;
3. Any vessel or aircraft proceeding to a place outside India for any purpose whatsoever. (Sec. 2(21))

“Import” means bringing into India from a place outside India. (Sec. 2(23))

Import Manifest” or Import Report required to be delivered under section 30. (Sec. 2(24))

“Imported Goods” means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption (Sec. 2(25))

“Importer” in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer. (Sec. 2(26))

“Indian customs waters” means the waters extending to the sea up to the limit of contiguous zone of India under section 5 of the Territorial Waters, Continental shelf, Exclusive Economic Zone and other Maritime zones Act, 1976 and includes any bay, gulf, harbor, creek or tidal river. (Sec. 2(28))

“Prohibited goods” means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. (Sec. 2(33))

“Shipping Bill” means a shipping bill referred to in Section 50 (Sec. 2(37))

Restrictions of Import & Export

Through collecting revenue for central government by way of customs duty is, of course a major purpose of Customs Act, yet, another major purpose is to prohibit or restrict illegal imports and exports. Section 11 of the Customs Act, 1962, empowers Central Government to prohibit the import or export of goods of any specified description. Such prohibition may be absolute or conditional. Such prohibition can be made by issuing a notification.

Purpose for which import/export can be prohibited: The purpose for which imports/ exports can be prohibited are given in section 11(2) as follows:

1. Maintenance of the security of India.
2. Maintenance of public order and standards of decency of morality
3. Prevention of smuggling
4. Prevention of shortage of goods of any description



5. Conservation of foreign exchange and the safeguard of balance of payments
6. Prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver.
7. Prevention so surplus of any agricultural product or the product of fisheries.
8. Maintenance of standards for the classification, grading or marketing of goods in international trade.
9. Establishment of any industry.
10. Prevention of serious injury to domestic production of goods of any description
11. Protection of human, animal or plant life or health.
12. Protection of national treasures or artistic, historic or archeological value
13. Conservation of exhaustible natural resources
14. Protection of patents, trademarks and copyrights
15. Prevention of deceptive practices.
16. Carrying on of foreign trade in any goods by the State, or by a Corporation owned or controlled by the State to the exclusion, complete or partial, of citizens of India.
17. Fulfillment of obligations under the Charter of the United Nations for the maintenance of International peace and security.
18. Implementation of any treaty, agreement or convention with any country.
19. Compliance of imported goods with laws which are applicable to similar goods produced or manufactures in India.
20. Prevention of dissemination of documents containing any matter which is likely to prejudicially affect friendly relations with any foreign state is derogatory to national prestige.
21. Prevention of the contravention of any law for the time being in force and
22. Nay other purpose conducive to the interests of the general public.



UNIT II

ASSESSABLE VALUE AND CALCULATION OF CUSTOMS DUTY

Procedure for computation of Customs Duty on Imports

Customs duty is payable on goods imported from outside India. Calculating the amount of duty the procedure can be divided in two steps-

- a. Determination of Assessable value
- b. Calculation of Customs Duty Payable

The procedure discussed below –

ASSESSABLE VALUE

Base of Assessable Value is 'Transaction Value' of imported or exported goods. Transaction value as the price actually paid or payable for the goods when sold or export to India, adjusted in accordance with Rule 9. As per rule 9 of the Valuation Rules, the price of the imported goods is to be increased by-

- a. Specified costs and services such as commission, brokerage, cost of containers and packing.
- b. Proportionate value of goods and services supplied by the buyer, free of charge or at concessional rates for use in production/sale for export of the imported goods like tools, materials, etc.
- c. Royalties and licence fees related to the imported goods required to be paid by the buyer.
- d. The value of any part of the proceeds of any subsequent resale, disposal, etc.
- e. All other made or to be made by the buyer as a condition of sale of the imported goods.

Transaction Value

Some costs, services and expenses are to be added to the price paid or payable, these are not already included in the invoice price. These are discussed below-

1. Commission and Brokerage includible – Commission and brokerage except buying commission is includible.
2. Packing cost is includible – Cost of containers which are treated as being part of goods for customs purposes. Similarly, cost of packing-both labour and material is to be included.
3. Value of Goods supplied by buyer to be added – If buyer has supplied goods free of cost or at reduced cost in connection with production or export of goods, these should be included.
4. Services/documents/technical know-how supplied by Buyer to be added – Cost of engineering, development, art work, design work and plans and sketches undertaken by buyer which is necessary for production of imported goods is includible, only if work is undertaken outside India:
5. Royalties and licence free – If buyer has paid royalties and licence fees separately in relation to imported goods, these are includible, unless these are already included in selling price. Royalty may include payments in respect of patents, trademarks or copyrights.
6. Other payments made to seller to be added – If buyer has made, directly or indirectly, any payment to seller as a condition of sale, such payments should be included for obvious reason that ordinary selling price has been reduced due to such payment
7. Cost of Transport upto port should be added – Cost of transport from exporting country to India is to be added in Assessable Value.
8. Insurance cost should be added- Insurance charges on goods are to be added. If these are not ascertainable, these- will be calculated @ 1.25% of FOB value of goods.
9. Landing charges to be added – Cost of unloading and handling associated with delivery of imported goods in port (called landing charges) shall be added. These will be calculated @ 1% of CIF value, i.e. FOB price plus freight plus insurance.

Exclusions from Assessable Value

Such expenses or charges should be excluded

1. Some Specific charges – If the following charges are included in the invoice, shall be excluded from assessable value.



- Charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation of plant, machinery or equipment.
 - Cost of transport after importation.
 - Duties and taxes in India
- Payment not related to imported goods – Other payments from buyer to seller that do not relate to imported goods are not part of the customs value.
 - Interest on Deferred Payment – Interest on deferred payment, if shown separately in the Invoice cannot be added.

CALCULATION OF CUSTOMS DUTY PAYABLE

The following are the different types of Customs (Import) Duties-

- Basic Customs Duty (BCD) – This is the duty levied under Section 12 of the Customs Act. It is levied as a Percentage of value as determine under Section 14(1) of the Act. Basic duties prescribed in the Customs Tariff Act.

Formula: Basic Customs Duty

$$\frac{\text{Assessable Value} \times \text{Rate of Customs Duty}}{100} = \text{Basic Customs Duty}$$

- Additional Duty of Customs (CVD) – This duty is popularly known as countervailing duty. Under Section 3 (1) of the Customs Act, an additional duty on goods imported into the country is leviable.

Formula: Additional Customs Duty

$$\frac{\text{Aggregate amount (A. V + Basic Duty)} \times \text{Rate of additional duty}}{100} = \text{Additional Customs Duty (CDV)}$$

- Education cess on customs duty – An education cess has been imposed on imported goods. The Education cess will be 3% of the aggregate duty of customs. Education cess on customs duty of 'dutycustoms' it mean it will be calculated on aggregate amount of Basic Customs Duty + Additional Customs Duty (Counter Vailing Duty)
- Special Additional Duty in Lieu of Sales Tax [sec. 3(5)] – A special additional duty was imposed 4% to counter balance Sales Tax etc.
 - If the goods imported the special additional duty shall be charged @ 4% on the following aggregate amount –
 - Assessable Value (A.V.) _____
 - Basic customs duty _____ + _____
 - Additional customs duty for excise _____ + _____
 - Education cess on basic duty + Additional duty _____ + _____

Aggregate amount for special Additional Duty _____

COMPUTATION OF ASSESSABLE VALUE AND CALCULATION OF CUSTOMS DUTY

Following procedure is adopted for determining the customs duty on the imported goods:

- Determining the Assessable Value of goods.
- Converting the foreign exchange value of the imported goods into Indian Currency i.e., Rupees.
- Computing the Customs Duty.

COMPUTATION OF ASSESSABLE VALUE OF GOODS

1. Purchase Price of Goods		<u>XXXX</u>
2. Commission and Brokerage (except buying Commission)	<u>XX</u>	
3. Cost of Packing		XX
4. Material and Services provided by the Importer		XX
5. Royalty and Licence Fee	XX	(+)XXX



	FOB Value of Goods Tag	—	Total
6.	Transportation Cost (upto 20% of F.O.B. Value)		x x
7.	Insurance Premium (upto 1.125% of F.O.B. Value)	<u>x x</u>	<u>(+)xxx</u>
	CIF Value of Goods		Total
a.	Loading, Unloading and Handling charges at 1% of the CIF Value	x x	(+) xx
	Assessable Value of Goods in Foreign Currency		G. Total
	x Rate of Exchange		x Rate of
	exchange		
	Assessable Value of Goods in Indian Currency		<u>As ascertained</u>

CALCULATION OF CUSTOMS DUTY

			Amt. of duty
1.	BASIC CUSTOMS DUTY		
a.	Assessable Value of Goods	x x x (a)	
b.	Rates of duty say 10% u/s 3(1) of C. T. A.	<u>x (b)</u>	XXXX
2.	ADDITIONAL CUSTOMS DUTY:		
	Assessable Value	x x x (a)	
	Add : Basic Custom Duty	<u>x x (b)</u>	
	Value of Add. Custom (a +b)	Total (c)	
	x Rate of A.C.D. including Education Cess (c x Rate)		XXX(d)
	Add : Education Cess 3% on Total of Basic Customs Duty and Additional Customs Duty		<u>x x</u>
			Total

Procedures for Imports and Exports

General Provisions about Customs Procedures

Basic document is 'Entry'	Entry' in relation to goods means entry made in Bill of Entry, Shipping Bill or Bill of Export. In case of import by post, label or declaration accompanying goods is 'entry'
Loading and unloading at specified places only	Imported goods can be unloaded only at specified places. Goods can be exported only from specified places.
Computerization of customs procedures	Customs procedures are largely computerized. Most of documents have to be e-filed.
Amendment to documents	Documents submitted to customs can be amended with permission In case of bill of entry, shipping bill or bill of export; it can be amended after clearance only on the basis of documentary evidence which was in existence at the time the goods were cleared, warehoused or exported, and not on basis of any subsequent document. [Proviso to section 149].
ICD and CFS	Imported and export goods are usually handled in containers. These can be stored in Inland Container Depot (ICD) or Container Freight Station (CFS). They function like dry port for handling and temporary storage of imported/export goods and empty containers.
Boat Notes	'Boat Notes' are used for transferring small cargo from ship to shore, or from shore to ship, without berthing the ship.
Transshipment of goods	Goods can be transshipped from one conveyance to other after following required procedure. Such transshipment may be to any major port or airport in India. The goods can be transshipped to any other customs station in India if Customs Officer is satisfied that the goods are bona fide intended for transshipment to any customs station. The facility is available at all customs



	ports and Inland Container Depots (ICDs).
Coastal goods	Procedures have been prescribed for coastal goods, even if there is neither import nor export.

Import Procedures

e-filing of documents	Goods should arrive at customs port/airport only. Most of customs procedures are computerized. E-filing of documents is required.
Import manifest or Import Report	'Person in charge of conveyance' is required to submit Import Manifest or Import Report.
Entry Inwards	Goods can be unloaded only after grant of 'Entry Inwards'.
Risk Management System	Self Assessment on basis of 'Risk Management System' (RMS) has been introduced in respect of specified goods and importers.
Bill of Entry for home consumption on payment of customs duty	Importer has to submit Bill of Entry giving details of goods being imported, along with required documents. Electronic submission of documents is done in major ports. White Bill of Entry is for home consumption. Imported goods are cleared on payment of customs duty.
Bill of Entry for warehousing	Yellow Bill of Entry is for warehousing. It is also termed as 'into bond Bill of Entry' as bond is executed. Duty is not paid and imported goods are transferred to warehouse where these are stored. Green Bill of Entry is for clearance from warehouse on payment of customs duty. It is for ex-bond clearance.
Noting, examination and assessment	Bill of Entry is noted, Goods are assessed to duty, examined and pre-audit is carried out. Customs duty is paid after assessment.
Bond	Bond is executed if required if assessment is provisional (PD bond) or concessional rate of customs duty is subject to certain post import conditions.
Out of customs charge order	Goods can be cleared outside port after 'Out of Customs Charge' order is issued by customs officer. After that, port dues, demurrage and other charges are paid and goods are cleared.
Demurrage if clearance from port delayed	Demurrage is payable if goods are not cleared from port/airport within three days. Goods can be disposed of if not cleared from port within 30 days.

Export Procedures

Entry Outward	Loading in conveyance can start after 'Entry Outward' is given by customs officer.
Export manifest/Export report	Person in charge of conveyance is required to submit 'Export Manifest' or 'Export Report'.
Registration with DGFT and EPC	Exporter has to obtain IEC number from DGFT in advance. He should be registered with Export Promotion Council if he intends to claim export benefits.
Third party exports	Export can be by manufacturer himself or third party (i.e. by exporter on behalf of another). Merchant exporter means a person engaged in trading activity and exporting or intending to export goods [para 9.40 of FTP]
Registration of documents under Export Promotion Scheme	Advance authorization, DEPB etc. should be registered if exports are under Export Promotion Scheme.
Shipping Bill	Export is required to submit Shipping Bill with required documents for obtaining permission to export. There are five forms :



	(a) Shipping Bill for export of goods under claim for duty drawback – these should be in Green colour (b) Shipping Bill for export of dutiable goods – this should be yellow colour (c) Shipping bill for export of duty free goods – it should be white colour (d) shipping bill for export of duty free goods ex-bond – i.e. from bonded store room – it should be pink colour (e) Shipping Bill for export under DEPB scheme – Blue colour.
FEMA formalities	GR/SDF/Softex form (under FEMA) is required to be submitted.
Noting, assessment, examination	The shipping bill is noted, goods are assessed and examined. Export duty is paid, if applicable.
Certification of documents for export incentives	If export is under export incentives, relevant documents are checked and certified. Then proof of export is obtained on ARE-1.
Let export order	Conveyance can leave only after 'Let Export' order is issued.

Procedure for Clearance of Imported and Export Goods

1. Introduction:

The imported goods before clearance for home consumption or for warehousing are required to comply with prescribed Customs clearance formalities. This includes presentation of a Bill of Entry containing details such as description of goods, value, quantity, and exemption notification etc., Customs Tariff Heading. This Bill of Entry is subject to verification by the proper officer of Customs (under self assessment scheme) and may be reassessed if declarations are found to be incorrect. Normally import declarations made are scrutinized without prior examination of goods with reference to documents made available and other information about the value/ classification etc. It is at the time of clearance of goods that these are examined by the Customs to confirm the nature of goods, valuation and other aspects of the declarations. In case no discrepancies are observed at the time of examination of goods 'Out of Charge' order is issued and thereafter the goods can be cleared. Similarly Customs clearance formalities for goods meant for export have to be fulfilled by presenting a Shipping Bill and other related documents. These documents are verified for correctness of assessment and after examination of the goods, if warranted, 'Let Export Order' is given on the Shipping Bill.

2. Import procedure - Bill of Entry:

1 Goods imported into the country attract Customs duty and are also required to confirm to relevant legal requirements. Thus, unless the imported goods are not meant for Customs clearance at the port/airport of arrival such as those intended for transit by the same vessel/aircraft or transshipment to another Customs station or to any place outside India, detailed Customs clearance formalities have to be followed by the importers. In contrast, in terms of Section 52 to 56 of the Customs Act, 1962 the goods mentioned in the IGM/Import Report for transit to any place outside India or meant for transshipment to another Customs station in India are allowed transit without payment of duty. In case of goods meant for transshipment to another Customs station, simple transshipment procedure has to be followed by the carrier and the concerned agencies at the first port/airport of landing and the Customs clearance formalities have to be complied with by the importer after arrival of the goods at the other Customs station. There could also be cases of transshipment of the goods after unloading to a port outside India. Here also simple procedure for transshipment is prescribed, and no duty is required to be paid.

2 For goods which are offloaded at a port/airport for clearance the importers have the option to clear the goods for home consumption after payment of duties leviable or to clear them for warehousing without immediate discharge of the duties leviable in terms of the warehousing provisions of the Customs Act, 1962. For this purpose every importer is required to file in terms



of the Section 46 ibid a Bill of Entry for home consumption or warehousing, as the case may be, in the form prescribed by regulations.

The Bill of Entry is to be submitted in sets, different copies meant for different purposes and also bearing different colours, and on the body of the Bill of Entry the purpose for which it will be used is mentioned.

3 The importers have to obtain an Importer-Export Code (IEC) number from the Directorate General of Foreign Trade prior to filing of Bill of Entry for clearance of imported goods. The Customs EDI System receives the IEC number online from the DGFT.

4 If the goods are cleared through the EDI system, no formal Bill of Entry is filed as it is generated in the computer system, but the importer is required to file a cargo declaration having prescribed particulars required for processing of the Bill of Entry for Customs clearance.

5 The importer clearing the goods for domestic consumption through non-EDI ports/ airports has to file Bill of Entry in four copies; original and duplicate are meant for Customs, third copy for the importer and the fourth copy is meant for the bank for making remittances. Along with the Bill of Entry the following documents are also generally required:

- (a)** Signed invoice
- (b)** Packing list
- (c)** Bill of Lading or Delivery Order/Airway Bill
- (d)** GATT valuation declaration form duly filled in
- (e)** Importers/CHA's declaration
- (f)** Import license, wherever necessary
- (g)** Letter of Credit, wherever necessary
- (h)** Insurance document
- (i)** Import license, where necessary
- (j)** Industrial License, if required
- (k)** Test report in case of items like chemicals
- (l)** DEEC Book/DEPB in original, where relevant
- (m)** Catalogue, technical write up, literature in case of machineries, spares or chemicals, as applicable
- (n)** Separately split up value of spares, components, machineries
- (o)** Certificate of Origin, if preferential rate of duty is claimed

6 While filing the Bill of Entry, the correctness of the information given therein has also to be certified by the importer in the form a declaration at the foot of the Bill of Entry and any mis-declaration/incorrect declaration has legal consequences.

7 Under the EDI system, the importer does not submit documents as such but submits declarations in electronic format containing all the relevant information to the Service Centre. A signed paper copy of the declaration is taken by the service centre operator for non-reputability of the declaration. A checklist is generated for verification of data by the importer/CHA. After verification, the data is filed by the Service Centre Operator and EDI system generates a Bill of Entry Number, which is endorsed on the printed checklist and returned to the importer/CHA. No original documents are taken at this stage.

8 The first stage for processing a Bill of Entry is termed as the noting/registration of the Bill of Entry vis-à-vis the IGM filed by the carrier. In the manual format, the importer has to get the Bill of Entry noted in the concerned Noting Section which checks the consignment sought to be



cleared having been manifested in the particular vessel and a Bill of Entry number is generated and indicated on all copies. After noting, the Bill of Entry gets sent to the appraising section of the Custom House for assessment functions, payment of duty etc. In the EDI system, the noting aspect is checked by the system itself, which also generates Bill of Entry number.

9 After noting/registration the Bill of Entry is forwarded manually or electronically to the concerned Appraising Group in the Custom House dealing with the commodity sought to be cleared. Appraising Wing of the Custom House has a number of Groups dealing with commodities falling under different Chapter Headings of the Customs Tariff and they take up further scrutiny for assessment, import permissibility angle etc.

3. Self-assessment of imported and export goods:

1 Vide Finance Act, 2011, 'Self-Assessment' has been introduced under the Customs Act, 1962. Section 17 of the Customs Act, 1962 provides for self-assessment of duty on imported and export goods by the importer or exporter himself by filing a Bill of Entry or Shipping Bill, as the case may be, in the electronic form (new Section 46 or 50). Thus, under self-assessment, the importer or exporter who will ensure that he declares the correct classification, applicable rate of duty, value, and benefit of exemption notifications claimed, if any, in respect of the imported / export goods while presenting Bill of Entry or Shipping Bill.

2 Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make entry for the imported goods by presenting a Bill of Entry electronically to the proper officer except for the cases where it is not feasible to make such entry electronically. It provides a legal basis for electronic filing. Where it is not feasible to file these documents in the System, the concerned Commissioner can allow filing of Bill of Entry in manual mode by the importer. However, this facility should not be allowed in routine and Commissioner of Customs should ensure that manual filing of Bill of Entry is allowed only in genuine and deserving cases. Similarly, on export side also, Section 50 of the Customs Act, 1962, provides the same procedure for the clearance.

3 The declaration filed by the importer or exporter may be verified by the proper officer when so interdicted by the Risk Management Systems (RMS). In rare cases, such interdiction may also be made with the approval of the Commissioner of Customs or an officer duly authorized by him, not below the rank of Additional Commissioner of Customs, and this will necessarily be done after making a record in the EDI system. On account of interdictions, Bills of Entry may either be taken up for action of review of assessment or for examination of the imported goods or both.

4 The verification of a self-assessed Bill of Entry or Shipping Bill shall be with regard to correctness of classification, value, rate of duty, exemption notification or any other relevant particular having bearing on correct assessment of duty on imported or export goods. Such verification will be done selectively on the basis of the Risk Management System (RMS), which not only provides assured facilitation to those importers having a good track record of compliance but ensures that on the basis of certain rules, intervention, etc. high risk consignments are interdicted for detailed verification before clearance.

5 One of the salient features of self-assessment is that verification of declarations and assessment done by the importer or exporter, except for cases wherein a speaking order has been passed by the proper officer while re-assessing the duty, can also be done at the premises of the importer or exporter. This provision is being implemented as 'On Site Post Clearance Audit' (OSPCA) programme. OSPCA has been applied to importers under the Accredited Client Programme (ACP) with effect from 1.10.2011. The current Post Clearance Audit at Custom



Houses shall continue for other importers.

6 In cases, where the importer or exporter is not able to determine the duty liability / make self-assessment for any reason, except in cases where examination is requested by the importer under proviso to Section 46(1), a request shall be made to the proper officer for assessment of the same under Section 18(a) of the Customs Act, 1962

7 Subsequent to introduction of self-assessment, it was felt that the existing facilitation levels under RMS could be increased as responsibility of filing correct declarations has been shifted to importers and exporters; the idea being to move towards a trust based Customs control while at the same time fine tuning the risk parameters based interdictions through RMS to check against non-compliance. Therefore, consequent to introduction of self-assessment, Board has decided that the facilitation target to be achieved for Bills of Entries would be 80% at Air Cargo Complexes, 70% at Seaports and 60% at ICDs.

4. Examination of goods:

All imported goods are required to be examined for verification of correctness of description given in the Bill of Entry. However, ordinarily only a part of the consignment is selected on random selection basis and examined. Under the EDI system, the Bill of Entry, after assessment by the appraising group or first appraisement, as the case may be, needs to be presented at the counter for registration for examination in the import shed. A declaration for correctness of entries and genuineness of the original documents needs to be made at this stage. After registration, the Bill of Entry is passed on to the shed Appraiser for examination of the goods. Along with the Bill of Entry, the CHA is required to present all the necessary supporting documents.



5 Execution of bonds:

Wherever necessary, for availing duty free assessment or concessional assessment under different schemes and notifications, execution of end use bonds with Bank Guarantee or other surety is required to be furnished. These have to be executed in prescribed forms before the assessing Appraiser.

6. Payment of duty:

1 The duty can be paid in the designated banks through TR-6 challans. It is necessary to check the name of the bank and the branch before depositing the duty. Bank endorses the payment particulars in challan which is submitted to the Customs. Facility of e-payment of duty through more than one authorized bank is also available since 2007 at all major Customs locations.

In order to reduce the transaction costs and expedite Customs clearance the Board has decided to make e-payment of duty mandatory from a date to be notified for the importers paying an amount of Rs. 1 lakh or more per transaction.

7. Amendment of Bill of Entry:

Whenever mistakes are noticed after submission of documents, amendments to the Bill of Entry is carried out with the approval of Deputy/Assistant Commissioner. The request for amendment may be submitted with the supporting documents.

8. Prior Entry for Bill of Entry:

For faster clearance of the goods, Section 46 of the Customs Act, 1962 allows filing of Bill of Entry prior to arrival of goods. This Bill of Entry is valid if vessel/aircraft carrying the goods arrives within 30 days from the date of presentation of Bill of Entry. This Bill of Entry has 5 copies, the fifth copy being called Advance Noting copy. The importer must declare that the vessel/aircraft is due within 30 days and present the Bill of Entry for final noting as soon as the IGM is filed.

9 Bill of Entry for bond/warehousing:

A separate form of Bill of Entry is used for clearance of goods for warehousing. All documents, as are required to be attached with a Bill of Entry for home consumption are also required with the Bill of Entry for warehousing which is assessed in the same manner and duty payable is determined. However, since duty is not required to be paid at the time of warehousing, the purpose of assessing the duty at this stage is only to secure the duty in case the goods do not reach the warehouse. The duty is paid at the time of ex-bond clearance of goods for which an Ex-Bond Bill of Entry is filed. The rate of duty applicable to imported goods cleared from a warehouse is the rate enforce on the date of filing of Ex-Bond Bill of Entry.

10. Risk Management System:

'Risk Management System' (RMS) has been introduced in Customs locations where the EDI System (ICES) is operational. This is one of the most significant steps in the ongoing Business Process Re-engineering of the Customs Department. RMS is based on the realization that ever increasing volumes and complexity of international trade and the deteriorating global security scenario present formidable challenges to Customs and the traditional approach of scrutinizing every document and examining every consignment will simply not work. Also, there is a need to reduce the dwell-time of cargo at ports/airports and also transaction costs in order to enhance the competitiveness of Indian businesses, by expediting release of cargo where compliance is high.

11 Risk Management Divisions:

With a view to streamline the operations of the RMS, a Risk Management Division (RMD) has been created under the Directorate General of Systems.

12. National Risk Management Committee:



A National Risk Management (NRM) Committee headed by DG (Systems) reviews the functioning of the RMS, supervise implementation and provide feedback for improving its effectiveness. The NRM Committee includes representatives of Directorate General of Revenue Intelligence (DGRI), Directorate General of Valuation (DGOV), Directorate General of Audit (DG Audit), Directorate General of Safeguards (DGS) and Tax Research Unit (TRU), and Joint Secretary (customs), CBEC.

13. Local Risk Management (LRM) Committee:

A Local Risk Management (LRM) Committee headed by Commissioner of Customs has been constituted in each Custom House / Air Cargo Complex / ICD, where RMS is operationalised. The LRM Committee comprises the Additional / Joint Commissioner in charge of Special Investigation and Intelligence Branch (SIIB), who is designated as the Local Risk Manager and includes the Additional / Joint Commissioner in charge of

Audit and a nominee, not below the rank of a Deputy Director from the regional / zonal unit of the DRI, and a nominee, not below the rank of Deputy Director from the Directorate of Valuation, if any.

14. Accredited Clients Programme:

The Accredited Clients Programme (ACP) has been introduced with the objective of granting assured facilitation to importers who have demonstrated capacity and willingness to comply with the laws administered by the Customs.

1 Export procedure – Shipping Bill:

For clearance of export goods, the exporter or his agent has to obtain an Importer- Export Code (IEC) number from the Directorate General of Foreign Trade prior to filing of Shipping Bill. Under the EDI System, IEC number is received by the Customs System from the DGFT online. The exporter is also required to register authorized foreign exchange dealer code (through which export proceeds are expected to be realized) and open a current account in the designated bank for credit of any Drawback incentive.

2 Octroi exemptions for export goods:

Since the Shipping Bill is generated only after the 'Let Export' order is given by Customs, the exporter may make use of export invoice or such other document as required by the Octroi authorities for the purpose of Octroi exemption.

3 Waiver of GR form:

Generally the processing of Shipping Bills requires the production of a GR form that is used to monitor the foreign exchange remittance in respect of the export goods. However, there are few exceptions when the GR form is not required.

4 Arrival of export goods at docks:

The goods brought for the purpose of export are allowed entry to the Dock on the strength of the check list and other declarations filed by the exporter in the Service Center. The custodian has to endorse the quantity of goods actually received on the reverse of the check list.

5 Customs examination of export goods:

After the receipt of the goods in the Docks, the exporter/CHA may contact the Customs Officer designated for the purpose, and present the check list with the endorsement of custodian and other declarations along with all original documents such as, Invoice and Packing list, AR-4, etc. The Customs Officer may verify the quantity of the goods actually received and enter into the system and thereafter mark the Electronic Shipping Bill and also hand over all original documents to the Dock Appraiser who assigns a Customs Officer for examination and indicate the officers' name and the packages to be examined, if any, on the check list and return it to the exporter/CHA.



6 Examination norms:

In respect of consignments selected for examination, a minimum of two packages with a maximum of 5% of packages (subject to a maximum of 20 packages from a consignment) shall be opened for examination. The package number to be opened for examination is selected by the EDI system. It is to be ensured that exporters do not split up consignments so as to fall within the lower examination norms. Therefore, wherever on the same day the same exporter attempts to export a second consignment (other than under Free Shipping Bills) involving export incentive of Rs.1 lakh or less (Drawback/DEPB) or in other cases having the FOB value upto Rs.5 lakhs to the same country, the EDI system would alert the Examining Officer. The Examining Officer can then decide whether to subject the second consignment for examination or not. In case the buyer in both or more consignments happens to be the same person, subsequent consignments should be examined.

7 Factory stuffing permission:

The grant of a single factory stuffing permission valid for all the Customs stations instead of Customs station-wise permission is permitted. This facility is subject to the following safeguards:

- (i) The exporter is required to furnish to Customs a list of Customs stations from where he intends to export his goods
- (ii) The Custom House granting the factory stuffing permission should maintain a proper register to keep a track-record of such permissions, and also create a unique serial number for each of such permissions.
- (iii) The Custom House should circulate the factory stuffing permission to all Custom Houses concerned clearly indicating the name and contact details of the Preventive Officer/Inspector and Superintendent concerned of the Custom House granting the permission as well as those of the Central Excise Range concerned to facilitate real time verifications, if required.
- (iv) In case something adverse is noticed against the exporter, the Customs station concerned shall promptly intimate the Custom House granting the permission, which will, in turn, withdraw the permission, and inform all Custom Houses concerned.

8 Variation between declaration and physical examination:

The check list and the declaration along with all original documents submitted with the Shipping Bill are retained by the Appraiser concerned. In case of any variation between the declaration in the Shipping Bill and physical documents/examination report, the Appraiser may mark the Electronic Shipping Bill to the Assistant Commissioner/Deputy Commissioner of Customs (Exports) along with sending the physical documents and instruct the exporter or his agent to meet the Assistant Commissioner/Deputy Commissioner of Customs (Exports) for settlement of dispute.

9 Drawn of samples:

Where the Appraiser Dock (Export) orders for samples to be drawn and tested, the Customs Officer may proceed to draw two samples from the consignment and enter the particulars thereof along with details of the testing agency in the ICES/EDI system. There is no separate register for recording dates of samples drawn. Three copies of the test memo shall be prepared by the Customs Officer and signed by the Customs Officer and Appraising Officer on behalf of Customs and the exporter or his agent. The disposal of the three copies of the test memo is as follows:

- (i) Original – to be sent along with the sample to the test agency.
- (ii) Duplicate – Customs copy to be retained with the 2nd sample.
- (iii) Triplicate – Exporter's copy.



10 Stuffing / loading of goods in containers:

The exporter or his agent should hand over the Exporter's copy of the Shipping Bill duly signed by the Appraiser permitting "Let Export" to the steamer agent who would then approach the proper officer (Preventive Officer) for allowing the shipment. In case of container cargo the stuffing of container at Dock is done under Preventive Supervision. Further, loading of both containerized and bulk cargo is to be done under Preventive Supervision.

11 Amendments:

Any correction/amendments in the check list generated after filing of declaration can be made at the Service Center provided the documents have not yet been submitted in the EDI system and the Shipping Bill number has not been generated. Where corrections are required to be made after the generation of the Shipping Bill number or after the goods have been brought into the Export Dock, the amendments will be carried out in the following manner:

- (i) If the goods have not yet been allowed "Let Export" the amendments may be permitted by the Assistant Commissioner (Exports).
- (ii) Where the "Let Export" order has already been given, amendments may be permitted only by the Additional/Joint Commissioner in charge of Export.

12. Drawback claim:

After actual export of the goods, the Drawback claim is automatically processed through EDI system by the officers of Drawback Branch on first-come-first-served basis. The status of the Shipping Bills and sanction of Drawback claim can be ascertained from the query counter set up at the Service Center. If any query is raised or deficiency noticed, the same is also shown on the terminal and a print out thereof may be obtained by the authorized person of the exporter from the Service Center. The exporters are required to reply to such queries through the Service Center. The claim will come in queue of the EDI system only after reply to queries/deficiencies is entered in the Service Center.

13 Generation of Shipping Bills:

After the "Let Export" order is given on the EDI system by the Appraiser, the Shipping Bill is generated in two copies i.e., one Customs copy, one exporter's copy (EP copy is generated after submission of EGM). After obtaining the print out the Appraiser obtains the signatures of the Customs Officer and the representative of the CHA on both copies of the Shipping Bill and examination report. The Appraiser thereafter signs and stamps both the copies of the Shipping Bill.

14 Export General Manifest:

All the shipping lines/agents need to furnish the Export General Manifests, Shipping Bill-wise, to the Customs electronically before departure of the conveyance. Apart from lodging the EGM electronically the shipping lines need to continue to file manual EGMs along with the exporter copy of the Shipping Bills in the Export Department where they would be entered in a register. The shipping lines may obtain acknowledgement indicating the date and time at which the EGMs were received by the Export Department.

15 Electronic Declarations for Bills of Entry and shipping Bills:

Bill of Entry (Electronic Declaration) Regulations, 2011 has been framed in supersession of the Bill of Entry (Electronic Declaration) Regulations, 1995 to incorporate changes made vide Finance Act, 2011 and mandate self-assessment by the importer or exporter, as the case may be. Likewise, Shipping Bill (Electronic Declaration) Regulations, 2011 are framed in tune with statutory provisions of Sections 17, 18 and 50 of the Customs Act, 1962



PROHIBITED AND RESTRICTED GOODS

The term “Prohibited Goods” has been defined in sub section 33 of Section 2 of the Customs Act thereby meaning “any goods the import or export of which is subject to any prohibition under the Customs Act or any other law for the time being in force”.

Import and export of some specified goods may be restricted/ prohibited under other laws such as Foreign Trade (Development & Regulation) Act, Foreign Trade Policy, Environment Protection Act, Wild Life Act, The Foreign Exchange Management Act, The Trade Marks Act, Arms Act, Drugs & Cosmetics Act, etc. Prohibitions under those Acts will also be treated as Prohibitions under the penal provisions of the Customs Act, rendering such goods liable to confiscation under section 111(d) of the Customs Act (for import) and 113 (d) of the Customs Act (for export).

Some of the prohibitions and restrictions both for imports and exports are listed below:

Prohibited items (these are indicative only and not exhaustive):

- Fire Arms
- Pornographic and obscene materials
- Maps and literature where Indian external boundaries have been shown incorrectly.
- Narcotic Drugs and Psychotropic Substances.
- Counterfeit goods and goods violating any of the legally enforceable intellectual property right
- Chemicals mentioned in Schedule 1 to the Chemical Weapons Convention of U.N. 1993.
- Wild life including its products and endangered species of plants and animals whether live or dead
- Specified Live birds and animals
- Wild animals, their parts and products
- Exotic birds except a few specified ones
- Import of beef in any form and products containing beef in any form.
- Specified Sea
- shells
- Human skeleton
- Reptiles skin
- Sex determination kits
- Import of mobile handsets without IMEI number or with all zeros IMEI and CDMA mobile phones without electronic serial number (ESN)/Mobile equipment Identifier (MEID) or with all zeros as ESN/MEID.
- Drawal of foreign exchange for travel to Nepal and/or Bhutan.
- Any other item as notified from time to time

Restricted items (these are indicative only and not exhaustive):

- Radio transmitters not approved for normal usage.
- Arms and ammunition.
- Medicines and drugs
- Vintage products, replicas of antiques or weapons
- Whole human blood plasma and certain products derived from human blood.
- Sandal
- wood (except handicraft products & oil)
- Import of Multichannel GSM/CDMA receivers, transmitters and transreceivers capable of receiving or transmitting or both in two or more frequencies simultaneously.
- Any goods in trade quantity brought as part of passenger’s baggage for commercial purpose, for profit or gain.
- Export and import of Indian currency in excess of permissible limits.
- Any other item as notified from time to time.



Whenever planning to bring or take any unusual item please enquire about its permissibility for export or import before undertaking the journey. It's a smart move to do so from ports, exit and destination so as to ensure that you are in conformity with laws of both countries.

BAGGAGE AND PERSONAL IMPORTATION BY PASSENGERS AND TOURISTS

Passengers returning from countries other than Nepal, Bhutan, Myanmar or

China. - An Indian resident or a foreigner residing in India, returning from any country other than Nepal, Bhutan, Myanmar or China, shall be allowed clearance free of duty articles in his bonafide baggage to the extent mentioned in column (2) of Appendix A.

Provided that such Indian resident or such foreigners returning from Pakistan, by land route, shall be allowed clearance free duty articles in his bona fide baggage to the extent mentioned in column (2) of Appendix B.

Passengers returning from Nepal, Bhutan Myanmar or China. - An Indian resident or a foreigner residing in India, returning from Nepal, Bhutan, Myanmar or China, other than by land route, shall be allowed clearance free of duty articles in his bona fide baggage to the extent mentioned in column (2) of Appendix B.

Professionals returning to India - An Indian passenger who was engaged in his profession abroad shall on his return to India be allowed clearance free of duty, in addition to what he is allowed under rule 3 or, as the case may be, under rule 4, articles in his bona fide baggage to the extent mentioned in column (2) of Appendix C.

Jewellery. - A passenger returning to India shall be allowed clearance free of duty jewellery in his bona fide baggage to the extent mentioned in column (2) of Appendix D.

Tourists. - A tourist arriving in India shall be allowed clearance free of duty articles in his bona fide baggage to the extent mentioned in column (2) of Appendix E.

Transfer of residence. (1) A person who is transferring his residence to India shall be allowed clearance free of duty, in addition to what he is allowed under rule 3 or, as the case may be, under rule 4, articles in his bona fide baggage to the extent mentioned in column (1) of Appendix F, subject to the conditions, if any, mentioned in the corresponding entry in column

(2) Of the said Appendix.

(2) The conditions may be relaxed to the extent mentioned in column (3) of the said Appendix.

Provisions regarding unaccompanied baggage

(1) Provisions of these Rules are also extended to unaccompanied baggage except where they have been specifically excluded.

(2) The unaccompanied baggage had been in the possession abroad of the passenger and is dispatched within one month of his arrival in India or within such further period as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may allow.

(3) The unaccompanied baggage may land in India up to 2 months before the arrival of the passenger or within such period, not exceeding one year, as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may allow, for reasons to be recorded, if he is satisfied that the passenger was prevented from arriving in India within the period of two months due to circumstances beyond his control such as sudden illness of the passenger or a member of his family, or natural calamities or disturbed conditions or disruption of the transport or travel arrangements in the country or countries concerned or any other reasons, which necessitated a change in the travel schedule of the passenger.



Application of these Rules to members of the crew. - The provisions of these Rules shall apply in respect of members of the crew engaged in a foreign going vessel for importation of their baggage at the time of final pay off on termination of their engagement.

Provided that except as specified in this sub-rule, a crew member of a vessel shall be allowed to bring items like chocolates, cheese, cosmetics and other petty gift items for their personal or family use which shall not exceed the value of rupees six hundred.

GENERAL EXEMPTION

A crew member of an aircraft shall be allowed to bring gift items like chocolates, cheese, cosmetics and other petty gift items at the time of the returning of the aircraft from foreign journey for their personal or family use which shall not exceed the value of rupees six hundred.

Articles allowed free of duty

- (a) All passengers of and above 10 years of age returning after stay abroad for more than three years
 - (i) Used personal effects, excluding jewel and jewelry, required for satisfying daily necessities of life.
 - (ii) Articles other than those mentioned in Annex. I up to a value of Rs. 25,000 if these are carried on the person or in the accompanied baggage of the passenger.
- (b) All passengers of and above 10 years of age and returning after stay abroad for three days
 - (i) Used personal effects, excluding jewel and jewellery required for satisfying daily necessities of life.
 - (ii) Articles other than those mentioned in Annex. I up to a value of Rs. 12,000 if these are carried on the person or in the accompanied baggage of the passenger.
- (c) All passengers up to 10 years of age and returning after stay abroad for three days or more than three days.
 - (i) Used personal effects, excluding jewel and jewellery required for satisfying daily necessities of life.
 - (ii) Articles other than those mentioned in Annex. I up to a value of Rs. 6,000 if these are carried on the person or in the accompanied baggage of the passenger.
- (d) All passengers up to 10 years of age and returning after stay abroad of three days or less
 - (i) Used personal effects, excluding jewel and jewellery, required for satisfying daily necessities of life.
 - (ii) Articles other than those mentioned in Annex. I Up to a value of Rs. 3,000 if these are carried on the person or in the accompanied baggage of the passenger

(See rule 4)

- (a) Passengers of and above 10 years of age and returning after stay abroad for more than three days
 - (i) Used personal effects, excluding jewellery, required for satisfying daily Necessities of life.
 - (ii) Articles other than those mentioned in Annex. 1 Up to a value of Rs. 6,000 if these are carried on the person or in the accompanied baggage of the passenger.
- (b) Passengers up to 10 years of age and returning after stay abroad for more than three days
 - (i) Used personal effects, excluding jewel and jewellery, required for satisfying daily necessities of life.
 - (ii) Articles other than those mentioned in Annex. 1 up to a value of Rs. 1500 if these is carried on the person or in the accompanied baggage of the passenger.



Explanation - The free allowance under this rule shall not be allowed to be pooled with the free allowance of any other passenger.

(See rule 5)

Articles allowed free of duty

- (a) Indian passenger returning after at least 3 months (i) Used household articles up to an aggregate value of Rs. 12,000.
- (ii) Professional equipment up to a value of Rs.20,000.
- (b) Indian passenger returning after at least 6 months (i) Used household articles up to an aggregate value of Rs. 12,000.
- (ii) Professional equipment up to a value of Rs.40,000.
- (c) Indian passenger returning after a stay of minimum 365 days during the preceding 2 years (i) Used household articles and personal effects, availed this concession in the preceding three years or his family for at least six months up to an aggregate value of Rs. 75,000

GENERAL EXEMPTION

(See Rule 6)

- Indian passengers who has been residing abroad (i) Jewellery up to an aggregate for over one year. Value of Rs.10 000 by a gentleman passenger, or
- (ii) Up to an aggregate value of Rs.20,000 by a lady passenger.

(See rule 7)

Article allowed free of duty

- (a) Tourists of Indian origin other than those (i) Used personal effects and travel coming from Pakistan by land route. souvenirs, if-
 - (a) these goods are for personal use of the tourist, and
 - (b) these goods, other than those consumed during the stay in India, are re-exported when the tourist leaves India for a foreign destination.
- (ii) articles as allowed to be cleared under rule 3 or rule 4.
- (b) Tourists of foreign origin other than those of (i) Used personal effects and travel Nepalese origin coming from Nepal or of Bhutanese souvenirs, if - origin coming from Bhutan or Pakistani origin (a) these goods, are for personal use of coming from Pakistan the tourist and
- (b) these goods, other than those consumed during the stay in India, are re-exported when the tourist leaves India for a foreign destination.
- (ii) articles upto a value of Rs. 8,000/- for making gifts.
- (c) Tourists of Nepalese origin coming from Nepal No free allowance or of Bhutanese origin coming from Bhutan.

GENERAL EXEMPTION

- (d) Tourists of Pakistani origin or foreign tourists (i) used personal effects and travel coming from Pakistan or tourists of Indian origin souvenirs, if coming from Pakistan by land route. (a) these goods are for personal use of the tourist, and
- (b) these goods, other than those consumed during the stay in India, are re-exported when the tourist leaves India for a foreign destination.
- (ii) articles up to a value of Rs. 6000 for making gifts.

Annexure - I

1. Fire arms.
2. Cartridges of fire arms exceeding 50.
3. Cigarettes exceeding 200 or cigars exceeding 50 or tobacco exceeding 250 gms.
4. Alcoholic liquor or wines in excess of two litres.
5. Gold or silver, in any form, other than ornaments.



GENERAL EXEMPTION

Annexure - II

1. Colour Television or Monochrome Television.
2. Digital Video Disc Player.
3. Video Home Theatre System.
4. Dish Washer.
5. Music System.
6. Air –Conditioner.
7. Domestic refrigerators of capacity above 300 liters or its equivalent .
8. Deep Freezer.
9. Microwave Oven.
10. Video camera or the combination of any such video camera with one or more of the following goods, namely:-
 - (a) Television Receiver;
 - (b) Sound recording or reproducing apparatus;
 - (c) Video reproducing apparatus.
11. Word Processing Machine.
12. Fax Machine.
13. Portable Photocopying Machine.
14. Vessel.
15. Aircraft.
16. Cinematographic films of 35 mm and above.
17. Gold or Silver, in any form, other than ornaments.”

Annexure III

1. Video Cassette Recorder or Video Cassette Player or Video Television Receiver or Video Cassette Disk Player.
2. Washing Machine.
3. Electrical or Liquefied Petroleum Gas Cooking Range
4. Personal Computer(Desktop Computer)
5. Laptop Computer(Laptop Computer)
6. Domestic Refrigerators of capacity up to 300 liters or its equivalent.”

GENERAL EXEMPTION

Effective rates of basic duty of customs on specified goods imported by persons returning to India after a period of not less than one year of stay abroad.

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the goods specified when imported by-

(a) any person holding a valid passport issued under the Passports Act, 1967 (15 of 1967) and returning to India after having stayed abroad for at least 365 days during the two years immediately preceding the date of arrival in India; or;

(b) Any person on a bonafide transfer of residence to India as part of his bonafide baggage. From the whole of the duty of Customs leviable thereon under the said First Schedule.

In case of (a) above,-

(i) such person has been working abroad and is returning to India on termination of such work after having stayed abroad for atleast 365 days during the two years immediately preceding the date of arrival in India;



(ii) such person affirms by a declaration that the goods have been in his possession abroad or, the goods are purchased by such person at the time of his arrival, but before clearance from customs, from the duty free shop located in the arrival hall of the international airports;

(iii) Omitted

(iv) the goods (other than those purchased from the duty free shops at the time of arrival of such passenger) not accompanying such passenger were shipped or dispatched or arrived within the time limits specified in the Baggage Rules, 1998; and

(v) in respect of such goods, not more than one unit shall be permissible to such person and the total aggregate of value of the such goods including other goods imported free of duty by him under rule 5 of the Baggage Rules, 1998 shall not exceed rupees seventy five thousand.

In case of (b) above,-

(i) Such person has been residing abroad for a minimum period of two years immediately preceding the transfer of residence and has not availed this concession in the preceding three years.

(ii) such person affirms by a declaration that the goods have been in his possession abroad or, the goods are purchased by such person at the time of his arrival, but before clearance from customs, from the duty free shop located in the arrival hall of the international airports;

(iii) Omitted

(iv) the goods (other than those purchased from the duty free shops at the time of arrival of such passenger) not accompanying such passenger were shipped or dispatched or arrived within the time limits specified in the Baggage Rules, 1998;

(v) not more than one unit of each item of such goods shall be permissible per family and the person claiming the benefit of this notification affirms by a declaration that no other member of the family had availed of, or would avail of, the benefit of this notification in respect of that item; and

(vi) The total aggregate value of such goods shall not exceed Rs. 5 lakhs.

1 Video Cassette Recorder or Video Cassette Player or Video Television Receiver or Video Cassette, Disk Player.

2 Washing Machine.

3 Electrical or Liquefied Petroleum Gas Cooking Range

4 Personal Computers (Desk Top Computer)

5 Laptop Computers (Notebook Computer)

6 Domestic refrigerators of capacity up to 300 litres or equivalent

Table - II

1 Colour Television or Monochrome Television.

2 Digital Video Disc Player.

3 Video Home Theatre System.

4 Dish Washer.

5 Music System.

6 Air-Conditioner.

7 Domestic refrigerators of capacity above 300 litres or its equivalent.

8 Deep Freezer.

9 Microwave Oven.

10 Video camera or the combination of any such video camera with one or more of the following goods, namely:-

(a) Television Receiver;

(b) Sound recording or reproducing apparatus;

(c) Video reproducing apparatus.

11 Word Processing Machine.

12 Fax Machine.

13 Portable Photocopying Machine.



- 14 Vessel.
- 15 Aircraft.
- 16 Cinematographic films of 35 mm and above.
- 17 Gold or Silver, in any form, other than ornaments.

LIST OF EXPORT PROMOTION SCHEMES

To achieve the objectives laid down under the Foreign Trade Policy 2004-09 and double India's percentage share of global merchandise trade by the year 2009, the government is committed to providing a stimulus to exports through various export promotion schemes from time to time. Details of the existing Export Promotion Schemes are as follows:

1. Advance licensing scheme
2. Duty Free Replenishment Certificate (DFRC) scheme
3. Duty drawback scheme
4. Export Promotion Capital Goods (EPCG) scheme
5. Export Oriented Units (EOUs), Electronics Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) scheme
6. Served from India scheme
7. Target Plus scheme
8. Duty Entitlement Pass Book (DEPB) Scheme
9. Vishesh Krishi Upaj Yojana

The Government has formulated a number of export promotion schemes to support and promote exports. Except for Duty Drawback Scheme, the policy framework for various export promotion schemes is laid down in the Foreign Trade Policy 2004-09, whereas the procedures governing the schemes are detailed in the Handbook of Procedures, Vol-I 2004-09. The Department of Revenue has issued notifications to operationalise the scheme.

The objectives of most schemes are to neutralize the incidences of levies and duties on inputs used in export products, based on the fundamental principle that duties and levies should not be exported. Presently, the major schemes are either duty exemption or duty remission schemes. Duty exemption schemes enable duty-free import of inputs required for export production. An Advance Licence is issued as a duty exemption scheme. A Duty Remission Scheme enables post export replenishment / remission of duty on inputs used in the export product. Duty remission schemes consist of (a) DFRC; (b) DEPB Scheme and Drawback. DFRC permits duty-free replenishment of inputs used in the export product. DEPB allows drawback of import charges on inputs used in the export product. The Drawback Scheme intends to neutralize the incidence of central taxes paid on inputs used in the manufacture of export goods.

Besides, there are other schemes in operation which are basically in the nature of reward schemes to reward high performing exporters. Target Plus, Served from India and Vishesh Krishi Upaj Yojana are reward schemes. Rewards are given on the basis of incremental exports / export turnover and such rewards have no linkage whatsoever with the duties and taxes borne on export goods.

FUNCTION AND POWER OF CUSTOMS AUTHORITIES

Custom is an Indirect Tax, with the increase of foreign trade; its importance has also increased. It is levied by the Central Government. To administer the system of this tax, Government has established the chain of officers. The Custom Commissioner is considered as the top authority for the administration of this system.

The Central Board of Excise and Customs is the supreme authority to regulate the various officers of this department. This Board was constituted in the year of 1963 under Central Boards of Revenue Act. One



Chairman and six Members are appointed by the Government in this Board, out of six members one member look after the administration of Central Excise Duty and one member is in charge of Custom Duty. Third member is responsible for financial matter and rests of the members are entrusted with different duties. This Board works under the finance minister.

FUNCTIONS AND POWERS OF BOARD

The main functions and powers of the Central Board of Excise and Customs are as under:-

- (1) The officers are appointed by the board according to the rules and officers have to work according to the instructions of the board.
- (2) The board sends the order, instruction and information to the officers regarding discharge of their duties. If any proceeding is pending in the court or before any appellate authority than the board will not intervene.
- (3) Work is distributed among all the members by the board.
- (4) The board can delegate its powers to the subordinate officer through notification.

OFFICERS OF CUSTOMS

To administer the system of Custom Duty following officers are appointed by the board:-

- (1) Chief Commissioners of Customs
- (2) Commissioner of Customs
- (3) Commissioner of Customs (Appeals)
- (4) Deputy Commissioner of Customs
- (5) Joint Commissioners of Customs
- (6) Assistant Commissioner of customs
- (7) Other officers appointed to administer the system.

FUNCTIONS AND POWERS OF CUSTOMS OFFICERS

- (1) Power of Investigation
- (2) Power of searching
- (3) Power to screen or X-ray bodies of suspected persons for detecting secreted
- (4) Power to arrest
- (5) Power to search premises
- (6) Power to inspect
- (7) Power to require production of order permitting clearance of goods imported by land.



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Class – B.Com III Year (Tax)

Subject – Various Central & Provincial Tax

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UNIT – III

M.P. EXCISE DUTY: GENERAL INTRODUCTION

For imposing and collecting the excise duty on intoxicated and narcotic items 'M.P. Excise Act' is applicable is the state. This act is based on 'Excise Act 1915.'

The M.P. Government impose excise duty on intoxicating items like country liquor, foreign liquor, Beer, Bhang etc. in various ways e.g. licence fee, permit fee, Duty on removal of intoxicated items from ware house. The Government of M.P. Collects revenue about 6,000 crores per annum through state excise duty. So state duty has second place in the state tax revenue after VAT.

OBJECT OF STATE EXCISE DUTY

The excise duties are levied with two objects in view. Firstly, to generate the revenues of the States and secondly to minimise the use of intoxicants and harmful shrub

ESTABLISHMENT AND CONTROL OF STATE EXCISE DUTY

The State Government may, by notification, for the whole or for any specified part of the Madhya

1. Appoint an officer, hereinafter referred to as the Excise Commissioner who, subject to such control as the State Government may direct, shall superintend the administration of Excise Department and the collection of the excise revenue.
2. Appoint officers of the Excise Department of such classes and with such designations, powers and duties as the State Government may think fit.
3. Delegate to the Chief Revenue authority or the Excise Commissioner all or any of its powers under this Act
4. Withdraw from any officer or person all or any of his powers under this Act;

Establishment of flying squads

The State Government may, by notification, establish flying squads for investigating into any case of alleged or suspected evasion of excise revenue or any case of alleged or suspected contravention of any of the provisions of this Act or the rules made there under and shall specify there in the area over which the flying squad shall exercise jurisdiction

IMPORTANT DEFINITIONS

Some important terms have been defined under section —

In this Act, unless there is anything repugnant in the subject or context.

1. **Beer-** "Baer" includes ale, stout, porter and all other fermented liquors usually made from malt;
2. **Bottle-** "Bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or other similar receptacle for the purpose of sale, and bottling includes re-bottling.



3. **Chief Revenue Authority-** "Chief Revenue Authority" means the authority declared by the State Governments to be the Chief Revenue Authority for the purposes of this Act;
4. **Excisable articles-** "Excisable article" means—
 - Any alcoholic liquor for human consumption; or
 - any intoxicating drug; or
 - opium and poppy straw.
5. **Excise Duty-** "Excise Duty" and "countervailing duty" means any such excise duty or countervailing duty, as the case may be, as is mentioned in entry 51 of list II in the Seventh Schedule to the Constitution;
6. **Excise Officer-** "Excise Officer" means a Collector or any officer or other person appointed or invested with powers under section 7;
7. **Excise Revenue-** "Excise revenue" means revenue derived or derivable from any duty, fee, tax, penalty, payment or confiscation imposed or ordered or agreed to under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs.
8. **Export-** "Export" means to take out of the State otherwise than across a Customs frontier as defined by the Central Government;
9. **Import-** "Import" (except in the phrase "import into India") means to bring in the State otherwise than across a customs frontier as defined by the Central Government;
10. **Intoxicant-** "Intoxicant" means any liquor or intoxicating drug; "Intoxicating drug" means—
 - the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa*), including all forms known as "bhang," "sindhi" or "ganja";
 - any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared there from; and
 - any other intoxicating or narcotic substance which the State Govt. may, by notification, declare to be an intoxicating drug.
11. **Liquor-** "Liquor" means intoxicating liquor, and includes spirits of wine, spirit, tan, beer, all liquid consisting of or containing alcohol, and any substance which the State Government may, by notification, declare to be liquor for the purposes of this Act;

IMPORT, EXPORT AND TRANSPORT RESTRICTION

1. Power to prohibit import, export or transport (Sec. 8)
2. Restriction on import, export or transport (Sec. 9)
3. Requirement of pass for import, export or transport (Sec. 10)
4. Passes for import, export or transport (Sec. 11)
5. Passes issued by other authorities may be deemed passes granted under this Act (Sec. 12)

The sanction shall be given by the State Government after payment of any duty to which it may be liable under this Act, or execution of a bond for such payment, the main provisions regarding Duty are as under

1. Duty on excisable Articles
2. Duty at different Rates –sub-Section (1)
3. Duty not imposed on liquors import outside India
4. Exemption for Duty
5. Enhancing or Reducing the Duty rate
6. Ways of levying such duty
7. Compliance of Conditions



PROVISIONS RELATING TO PASS

1. Requirement of pass for import, export or transport
2. Passes for import, export or transport
3. Passes issued by other authorities may be deemed passes granted under this Act.

MANUFACTURE OF INTOXICANTS

Main provisions relating to manufacture of intoxicants items are as under

1. Licence required for manufacture, etc., of intoxicants. (Sec. 13))
2. Exemption from licencing regarding Tari
3. Exemption for home consumption
4. Power to grant lease of right to manufacture, etc.
5. Exclusive privileges of manufacture sale etc. may be granted
6. Lessee's permission to draw
7. Manufacture and sale of liquor in Military Cantonments
8. Establishment or licensing of distilleries and warehouses
9. Payment of duty on removal from distillery, brewery or place of storage

Possession of Intoxicants

Provisions relating to possession of intoxicants are given under section 16 of the Act –

1. Limit of quantity for possession
2. Restriction on in excess of the limit
3. Prohibition

Sales of Intoxicants

Provisions relating to sale of intoxicants are discussed below-

1. Licence required for sale of intoxicant
2. Measurement and testing – Every person who manufactures or sells any intoxicant under a licence shall be bound for the following—
 - Use of prescribed measures, weights and
 - Testing
3. Prohibition of employment of male persons under the age of twenty-one years and of woman
4. Prohibition of sale of liquor intoxicating drug to persons under the age of twenty-one years).
5. Prohibition of Advertisements relating to liquor
6. Closing of shops for the sake of Public Peace

LICENCE, PERMIT AND PASS

Provisions regarding Licences, Permits and Passes are given under Sec. 28 to 33 of the M.P. Excise Act. These are –



1. Form and conditions of licence etc. (Sec. 28)
2. Payment of supervision charges (Sec. 28A)
3. Power to take security from licensee (Sec. 29)
4. Technical defects, irregularities and omissions (Sec.30)
5. Power to cancel or suspend licence, etc. (Sec. 31)
6. Compensation allowed
7. Recovery from ex-licence
8. Power to withdrawal licences (sec. 32)
9. Refund of fee paid in advance (sec. 32-3)
10. Surrender of licences (sec. 33)

Prescribed Licence Fees

The State Government hereby prescribes the annual Licence fee for F.L. Restaurant, Hotel, Civilian, Club and Commercial club licence from 1st April, 2012, as per table given below table —

No.	Type of Licence	Annual Licence Fee
1.	Restaurant or Public shops	Rs.
	a. City up to 10 lakh population	8,80,000
	b. City 5 lakh to 10 lakhs population	7,10,000
	c. City more than 3 lakhs but up to 5 Lakh population	6,20,000
	d. City 1 to 3 lakhs population	5,30,000
	e. District Head office population 40,000 to 1 Lakh	4,40,000
2.	Tourist Place	
	a. Category – A	3,30,000
	b. Category – B	2,80,000
	c. Category – C	2,60,000
3.	Heritage Hotel in rural area	1,70,000
4.	Resort Bar	4,40,000
5.	Hotel and Bars of M.P. Tourism Corporation	2,35,000

Payment of Licence Fee and Security Amount

In case an applicant is selected as licensee, he shall deposit security amount equal to 1/12th of the duty amount payable on the annual minimum guaranteed quantity within three days of being informed of his selection and that licence fee of the first month as an advance by 27th March

M.P. Excise Duty: Rates and Practical Problems

SIMPLIFIED TABLE FOR EXCISE RATES

Above mentioned Excise Rate schedule is complicated, here a simplified table is given to calculate state Excise Duty payable on intoxicants supplied from ware house.

Item	Excise Rate Applicable
------	------------------------



1	Country Liquor a. Plain country liquor b. Spiced country liquor	Rs. 92 per proof litre Rs. 92 per proof litre
2	Bhang a. Bhang Chota or Bhang Mithai licence holder b. Other licence holder or traders	Rs. 100 per Kilogram Rs. 300 per Kilogram
3	Wine a. Wine to Civilians b. Wine to Military (50% concessional rate) c. Wine manufacture in M.P.	Rs. 125 per proof litre Rs. 62.5 per proof litre (No duty payable) Nil
4	Beer a. Drought Beer to Civilians b. Drought Beer to Military (Concessional) c. Other Beer to Military	Rs. 20 per Bulk Litre Rs. 10 per Bulk Litre Rs. 115 per case or 40% or supply rate from ware house, whichever is more.
5	Foreign Liquor Brandy, Whisky, Rum, Zin etc. Ex- ware house supply rate or	
	Price range 1. Price up to Rs. 800 per case of (12 quart bottles)	Rs. 625 per case Or 120% or price whichever is higher
	2. Price range Rs. 801 to Rs. 1100	a. Rs. 975 per case Or b. 100% or price whichever is higher
	3. Price range is Rs. 1,101 to Rs. 1,600	a. Rs. 1,100 per case or b. 75% of price whichever is more
	4. Price range is Rs.1,601 to Rs. 2,800	a. Rs. 1,250 per case Or b. 50% of price whichever is more
	5. Price range is Rs. 2,801 to Rs. 4,000	a. Rs. 1,500 per case Or b. 45% of price whichever is more
	6. Price range is Rs. 4001 to Rs. 10,000	a. Rs. 1,850 per case or b. 25% of price whichever is more
	7. Price range is more than Rs. 10,000	a. Rs. 2,600 per case Or b. 22% of price whichever is more

Concessional Rates for Military Organization

1. In case of Rum - 30% of effective rates for civilians.
2. In case of other foreign country liquor - Brandy, Whisky, Zin, Vodka, Mixture etc. 50% of effective rate. III.
3. Beer or Malt - 50% of effective rate for civilians.

Some Important points considerable while computing excise duty payable or Collected



- Excise duty in case country liquor Rs. 92 per proof litre in same either plain or spiced.
- Bhang issued to Bhang-Ghota or Bhang Mithai is chargeable Rs. 100 per k.g., in other case Rs. 300 per k.g.
- Drought Beer duty rate for civilians is Rs. 20 per bulk litre supplied to license holder or Beer Bars. In case of military forces concessional rate 50%, i.e. Rs. 10 per bulk litre shall be applicable.
- Excise rate for wine Rs. 125 per proof litre and concessional rate for military 50% of thereof.
- Excise rate for foreign liquor shall be determined as per price range, as per following formula according to table given behind
 - a. Fixed duty rate as per price range
 - Or
 - b. Percentage rate on price actual Whichever is more.
- If supply rate price rate of foreign figure is not mentioned along with foreign liquor, it shall be assumed that price per case not more than Rs. 800 per case and Fixed Rs. 625 per case shall be applicable.
- In case of foreign liquor or beer supplyable supplied to military organisation concessional rate shall be
 - a. 30% for Rum
 - b. 50% for other - Brandy, Whisky, Zin, Beer etc.



UNIT IV

PROFESSIONAL TAX

Professional tax is a direct tax which is imposed by the State Govt. on such person who are working as employees, traders, contractors, transports, professionals etc from Rs. 1000 to Rs. 2500 per annum per person according to their earning or turnover or receipts. Collection from professional tax about 500 crores per year in the state. It is call also employment tax. It is collected on annual basis.

Main features or provision of professional tax act 1995 –

- 1) It tax is levied on employment, trade, profession or other such activity belonging to done by a person to earn his livelihood.
- 2) Employees, traders, contractors, transporters and professionals persons covered under professional tax.
- 3) Formers, unorganized sector, laborers, small traders, workers on daily wages are not liable to pay or not covered under this tax.
- 4) It is a direct tax. It is borne by the tax payer.
- 5) This tax is payable from Rs. 1000 to Rs. 2500 annual by different categories of persons as per entry of the professional tax schedule applicable to them. These are in all 10 main entries covering different categories of persons.
- 6) It is charged at annual basis according to nature of employment, professional are taxed on the base of practicing period.
- 7) Registration is compulsory for the persons covered under professional tax have to obtain registration. Income of employees need not to get registered but employer should be registered according to provisions of professional tax act.
- 8) If employers deduct professional tax monthly basis against their salaries then it should pay such amount within 10th of the next month. In other case (annual basis) it should pay on or before 30th September in financial year.
- 9) The state government has appointed various authorities under the VAT act to function as assessing authorities under the professional tax act.
- 10) Application for registration as employer is to be failed in Form-1 within 30 days of becoming liable to deduct professional tax from the employees.
- 11) Application for registration as a person is to be filed in Form-3 Sec.-8(3).
- 12) Apart from the employer the other persons furnish application for registration in prescribed Form-3, e-filling of application rule 3-A. Provide for e-filling of registration on the official web portal of the department are www.mptax.net and www.mptax.gov.in.
- 13) An application for obtaining a certificate of registration under sub section of Sec.-8 and should be signed by proper person.
- 14) Granting registration certificate in Form-2 by the professional tax assessing authority after satisfying with all the related documentation.
- 15) The employer or person holding a registration certificate shall display at his work place.



- 16) If any person want to any change in certificate the he should submit the application for amendment in it under Rule-3.
- 17) On receipt of an intimation under Rule-5 registration certificate may be cancelled by the tax authority after satisfying the reasons.
- 18) If a certificate of registration is lost, destroyed or defaced or becomes illegible, holder shall apply to tax authority for duplicate copy of registration certificate.
- 19) Where an employer or person liable to registration has willfully failed to only for such certificate within in the time tax assessing authority my impose penalty not exceeding Rs. 20 for each day for delay subject to a maximum of Rs. 2500.
- 20) Where a person liable to registration has given false information in application submitted to the tax authority my impose a penalty not exceeding Rs. 500.
- 21) Every employer has to be file a quarterly return in form 7 and annual return in Form-8 for professional tax u/s-9. Accompanied by a treasury challan in proof of payment of full amount of tax.
- 22) Where an employer has without reasonable cause failed to file such return with in the professional penalty not exceeding Rs. 20 for each day of delay.
- 23) Professional tax by other person is to be deposited before 30th Sep. or within 30 days of registration u/s-12 and annual return in form-9 is to be filed before 30th June of the next year.
- 24) A person has without reasonable cause failed to file such return within the prescribed period. Tax Assessing authority impose a penalty not exceeding Rs. 5 for each day of delay subject to a maximum of Rs. 500.
- 25) Where such employer or person fails to furnish return by the prescribed date or knowingly furnishes incomplete or incorrect return for any period of any year, he may be assessed annually to tax for such period.
- 26) If a person has furnished all the returns and has paid the tax due or if he has paid maximum tax of Rs. 2500 his assessment shall be deemed to be assessed.
- 27) In case of delayed payment of tax by an employer/person, if in lieu of penalty leviable u/s 13, an amount equal to the penalty has been paid alongwith the tax.
- 28) In case a notice for assessment issued by assessing authority and if employer/person fails to comply with term of notice, authority shall after such enquiry as it deems fit, may make best judgment assessment Sec.-11(3).
- 29) If any person has been under assessed or has not been assessed to tax the assessing authority may at any time within a period of 3 calendar years.
- 30) If any person fails without reasonable cause, assessing authority may impose upon him a penalty equal to 2% per month of the tax amount subject to maximum of 2/3 of tax amount.
- 31) Tax Recovery of professional Tax sec. 15 – By a notice in the prescribed form a copy at which shall be sent to the employer or person, at this last address known to the officer issuing the notice.
- 32) Any person making any payment in compliance with a notice issued u/s 15-A(1) shall be deemed to have made the payment under the authority of the employer or person and the treasury receipt. For such payment shall constitute a goods and sufficient discharge of the liability of such a person to the employees to extent of the amount specified in the receipt.
- 33) Authority may be taken for recovery at the arrears of tax, interest and penalty, if any due from the employer of person.
- 34) Provision relating to appeal. (Sec.17) – Appeal is to be filed within 30 days from the days of receipt of the impugned order. No appeal shall be entertained after the expiry of 30 days.
- 35) No appeal order shall be passed without giving the appellant a reasonable opportunity of hearing.
- 36) Revision (u/s-18) – The commission Professional Tax may or his own motion revise any order passed by any authority under this act – no order shall be revised after the expiry of 3 years passing date of impugned order.
- 37) No order shall be passed without giving the assessee reasonable opportunity of being heard.



Types of Persons Liable to Pay professional Tax

Persons liable to pay professional tax are classified in 10 categories from tax rate and basis of charging point of view.

Simply, the following types of person are covered under professional tax liability -

- 1) Employees and Employers.
- 2) Traders, Dealers.
- 3) Businessmen, industrialists.
- 4) Companies, Partnership firms, Co-operative Societies.
- 5) Legal practitioners
- 6) Medical practitioners.
- 7) Professionals – chartered Accountants, Company Secretaries etc.
- 8) Technical consultants Engineers, Architects
- 9) Contractors
- 10) Commission agents, Bookers Dalas
- 11) Insurance agents
- 12) Surveyors, loss assessors
- 13) Management consultant
- 14) Members of stock exchange
- 15) Estate agents and property brokers.
- 16) Whole time directors of the companies
- 17) Transporters
- 18) Banks, Insurance companies
- 19) Liquor Licences
- 20) Money Lenders
- 21) Service Providers
- 22) Video parlours
- 23) Hotel operators
- 24) Owners of services stations and
- 25) Such persons other above mentioned, who are engaged in any profession, trade calling employment.



Professional Tax in Case of Employees

Categories or Employees	Professional Tax
a. Employee whose annual salary or wages not more than Rs. 2,25,000	Nil
b. Employee whose annual salary between Rs. 2,25,001 to 3,00,000	1,500
c. Employee whose annual salary is Rs. 3,00,000 to 4,00,000	2,000
d. Employee whose annual salary is more than Rs. 4,00,000	2,500

Deduction and depositation of the tax

Though professional tax is charged on annual basis but in case of employee it will be deducted against his salary on average basis as the following manner-

- If annual salary up to Rs.2,25,000 – No tax, No deduction.
- If salary between Rs 2,25,001 to Rs. 3,00,000 – Rs. 125 per month.
- If salary between Rs 3,00,001 to Rs. 4,00,000 – First eleven month Rs. 166 per month and remaining Rs. 174 in twelfth month.
- If salary is more than Rs 4,00,000- First eleven month Rs. 208 per month and remaining Rs. 212 in twelfth month.

Exception: Payment by employee himself

Generally professional tax is deducted and deposited by the employer, but in the following situations an employee may deposit professional tax himself-

- If person is simultaneously in employment of more than one employer, he may furnish to his employer a certificate in Form declaring that he has been registered u/s 8 (2) and shall himself pay the professional tax.
- Similarly, if a person in employment is covered by any other one or more entries of Professional tax Schedule, he may furnish to his employer as certificate in Form 5 declaring that he has been registered u/s 8 (2) and shall himself pay the professional tax.

On submission of such declaration the employer shall not deduct professional tax from such employee – Sec. 4 (2).

Dealers, Traders, Shopkeepers Etc

Professional tax is levied on persons engaged in trading activities are liable to pay professional tax on the basis of their annual turnover or businessmen run by them.

During the year 2018-19 dealers liable to pay tax under the Madhya Pradesh GST Act, whose annual gross turnover.

- | | |
|-----------------------------------|-----------|
| (a) does not exceed Rs. 20,00,000 | Nil |
| (b) Exceeds rupees 20,00,000 | Rs. 2,500 |

Professionals and Practitioners

In this category the following professional or consultant covered as practitioners –

- Legal practitioners including solicitors and notary public
- Medical practitioners including medical consultants and dentists.
- Technical and Professional consultants including Architects, Engineers, R.C.C. Consultants, chartered Accountants, Actuaries and Management Consultants.
- Chief Agents, Principal Agents, Special Agents, insurance Agents, surveyors or Loss Assessors licensed under the insurance Act, 1938.
- All contractors
- Commission Agents, Dalas and Brokers other than Estate workers,

Now professionals and service providers are covered under GST therefore professional tax is charged according to their Gross annual receipts, as under-



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- (a) If Gross annual professional or service providing receipts are not more than Rs. 20 Lac.
Professional tax – Nil
- (b) If Gross annual professional or service providing receipts are more than Rs. 20 Lac.
Professional tax -Rs. 2,500



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Unit – V

Types of Assets

There are two kinds of assets

1. Movable
2. Immovable

According to the provisions of registration act only on the transfer of the immovable property registration becomes compulsory.

The following assets are included in the list of fixed assets

1. Land & building
2. Hereditary allowance
3. Rights to ways
4. Right to light
5. Right to ferries
6. Right to fisheries
7. Benefit arise from land
8. Things attached to the earth
9. Things attached with land permanently

Types of Immovable Assets

1. Agricultural land
Agricultural means a land which is used for the agricultural purposes. But so far as registration act is concerned a land which is used for agricultural purposes and for the allied activities of agricultural is also considered as agricultural land.
2. Non Agricultural Land
Non Agricultural land word is a very broad Non-Agricultural land means a land which is being used for some other purposes but which is related with the agricultural itself.
3. Residential, Commercial and industrial land
A land which is being used for the construction of structure is known as Residential, Commercial and industrial land.
4. House, flat and offices
Houses or Building is a immovable asset. As houses are constructed on the land which cannot be separated that' why according to Indian registration act it is considered as immovable assets

Meaning & Registration of Prakosth

This is a very well known fact that Urban population is increasing very rapidly and houses in the urban areas are not adequate due to this reason trend of high rise is increasing. This is also a kind of building. Though it is a kind of building inspite of that there are some specific rule and process are given for the sale and registration of it.

Meaning of Prakosth

Prakosth is a building or multistoried building which is constructed as an independent unit. In which entry corridor stairs parking, lift, garden, terrace are being used by the entire resident.

Measurement of Properties

To evaluate and register the immovable measurement is essential because on the basis of that measurement stamp duty is imposed.

Use of measurement of properties

Measurement is used in the registration for the following proposes

1. For mentioning in document
2. For determination of value of property
3. For determination of location or property
4. For calculating stamp duty



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5. For determination of different amount
6. For determination of land revenue and property tax
7. For determination of compensation
8. For division of property

Basis of measurement of various types of properties

The immovable properties are -

1. Agricultural land – Agricultural land is measured in hectare acre and bighas.
2. Residential Commercial Plots – Residential and Commercial plots are measured in sq. ft. and sq. mt.
3. Building & houses – Measurement of constructed buildings & houses is a cumbersome job. The property which is to be registered is measured on the basis of length and flows. For e.g., plinth area, carpet area, floor area, open area and compound wall.
4. Prakoshth or Flats – Measurement of prakoshth or flats is measured on the basis of different-different units.

Scale of conversion of measurement to metric system

1. In case of Plot, House and flat
1 sq.mt. = 10.76 sq.ft.
2. In case of Agricultural land
Hectare = 1,07,600 sq.ft or 10,000 sq.mt.
1 acre = 43,560 sq.ft
1 bigha = 27,233 sq.ft.

From the above the conversion shall be as under:

In case of plot or building.

Total square feet ÷ 10.76 square meters.

In case of agricultural land

$$\text{i) Bigha to Hectare} = \frac{\text{Total Bigha} \times 27,233}{1,07,600}$$

$$\text{ii) Acre to Hectare} = \frac{\text{Total Bigha} \times 43,560}{1,07,600}$$



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At the time of sale of Land, building, Plot, Flat and complex registration of these immovable properties are mandatory. For the registration of the sale provision of Registration Act 1908 becomes an applicable.

Main features of Registration Act 1908

The main features of Registration Act 1908 are as under –

1. Short title extend and Commencement
2. Objects of Act
3. Subject Matter
4. Documents of which registration is compulsory
5. Documents of which registration is not compulsory
6. Documents of which registration is optional

Process of Registration

To register the immovable property a State Government has established registration office at various levels. The work of registration is performed by the registrar, Deputy Registrar and by other assistant.

The process of registration are-

1. Preparation of contract deed
2. Preparation of Draft or document
3. Preparation of final document
4. Photographs and signature
5. Submission of document to registrar or sub-registrar
6. Completion of registration
7. Entry in the Registers of the Registration office
8. Delivery of registered document to purchasee

Registration Authorities

In every state a separate department of registration is working at various level. The detail of these officers is as under –

1. Inspector General of Registration
2. District registrar
3. Deputy Registrar
4. Registration Mohrrir
5. Record Keeper

Name transfer after Registration

After registration of immovable property the buyer will file an application to the municipal corporation in other departments for the name transfer. The meaning of name transfer is that buyer name will be recorded as the owner of the property by all the concerning departments.

Process of name transfer

1. Name transfer of Agricultural Land
 - a. Filing of an application for the transfer
 - b. Documents to be enclosed with application
 - c. Public notice
 - d. Transfer

Proforma of document

The following documents are submitted for the registration of immovable property

1. Agreement deed
2. Sale deed
3. Donations deed



4. Will
5. Transfer of Right deal
6. Power of Attorney
7. Appeal application
8. Other

Precautions regarding writing of document

Aforesaid documents are generally prepared by document writer in the prescribed manner. At the time of preparation of these documents the following points must be observed carefully.

1. To prepare in the prescribed proforma
2. Documents are prepared only in Hindi or English.
3. Essential information must be included
4. Inclusion of essential conditions
5. Prescribed stamp must be affixed
6. Signature and photograph

Guidelines for determination of Market Value

The liability of stamp duty is determined on the basis of value of property. At the time of transfer of immovable property value of stamp duty and registration fees is determined only on the basis of value of asset. For the purpose of registration of property to values are important.

1. Transaction value
2. Market value as per guideline

COMPUTATION OF STAMP DUTY AND REGISTRATION FEES

Stamp Duty -

Which was collected through sale of stamps. w.e.f 01-04-2016 E-stamping and E-Registration system is enforced in Madhya Pradesh.

Registration Fees -

Registration fees is collected in cash at the time of presentation of documents. Such duty is payable at prescribed rate (at present 0.8%) on registration value.

Rate of stamp Duty and Registration fees are decided and notified by state Government time to time for a particular financial registration.

Stamp duty rates for 2016-17 for Registration in Madhya Pradesh

Nature of Property	Stamp Duty	Panchayat Duty	Corporation Duty	Sub Duty	Total Rate
1) Rural Agricultural Land	5%	1%	-	0.5%	6.5%
2) Urban Agricultural Land	5%	1%	2%	0.5%	8.5%
3) Rural Residential Plot	5%	1%	-	0.5%	6.5%
4) Urban Residential Plot	5%	1%	2%	0.5%	8.5%
5) Rural House/Flat	5%	1%	-	0.5%	6.5%
6) Urban House/Building-Flat	5%	1%	2%	0.5%	8.5%

Add: Registration fees @ 0.8% on Registration value.

Considerable points while calculating stamp duty

The following points should be kept in view while calculating stamp duty and registration fees payable for registration of documents -

- 1) Firstly it will be decided whether the property is rural or urban. In case of urban property 2% corporation duty shall be payable additional.
- 2) Sub. Duty @0.5% is charged in case of agricultural land, building, flat and plot either rural or urban.



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- 3) Stamp Duty and Registration fees is calculated on registrable value of the property. Registrable value shall be decided as follows –
- a) Transaction value _____
OR
b) Value as per Guideline _____
Which ever is more
- 4) All type of duty and fees shall be calculated on Registrable value.
- 5) Fruit Trees on the land shall be also treated as immovable property and stamp duty payable there on but well or tube well on irrigated agricultural land shall not be value separately.
- 6) If transaction value is less than Guideline the actual consideration will be written in sale deed but stamp duty will charged according to valuation according to guideline.

Rules Regarding Valuation as per Guideline

The district collector declared guideline for valuation of the immovable properties relating to his district and sub districts. Guideline is renewal annually. Guideline issued and published for immovable properties from registration point of view in the following categories.

1) Agricultural Land:

Agricultural land classified in major two heads. Irrigated land and Non irrigated land. Rate of agricultural land is shown in the list area, village and sector wise scale of measurement is shown per Hectare (1,07,600 Sq. feet)

2) Non agricultural land, Plot etc.:

Guideline of Residential, commercial or other non agricultural land is declared as their situation. In a particular city or town guideline for market value on the basis of street, Mohalla, Colony or area wise. For Example guideline is declared for Palsia. Sector (Indore) is Rs. 70,000 per square meter while Rs. 30,000 for kalaninagar (Airport Road).

3) Constructed house, building, plot, shop etc.:

Guideline for constructed area is declare on the basis of nature and quality of construction. For example the following table shows the valuation of construction in Indore city as under.

Type of Building	Garder-Stone	RCC	Tin Shade	Kachha
I) Residential building	Rs. 9000 per sqm or Rs. 836 per sqm	Rs. 10000 per sqm or Rs. 929 per sqm	Rs. 7000 per sqm or Rs. 650 per sqm	Rs. 5000 per sqm or Rs. 465 per sqm
II) Commercial Construction	Shop Rs. 12000 per sqm or Rs. 1105 per sqm	Office Rs. 115000 per sqm or Rs. 1070 per sqm	Godown Rs. 11000 per sqm or Rs. 1022 per sqm	

Note: If the building is multistoried floors then the rebate shall be allowed in the following manner regarding above mentioned rates –

I) Residential building

First Floor	5%
Second Floor	10%
Third Floor	15%

II) Commercial Building

First Floor	25%
Second Floor	40%
Third Floor	50%



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Chart for calculation of Stamp Duty and Registration fees -

I) Value of Property

- a) Transaction Value
OR
b) Value as per Guideline } Which ever is more

II) Stamp Duty Payable

Value of property for Registration x Rate of duty (6.5% / 8.5%)

III) Registration fees and other charges

Value of property for Registration purpose x 0.8%