



FINAL EXAMINATION
NOVEMBER 2023

COURSE TITLE	CUSTOM DUTIES AND EXCISE DUTIES
COURSE CODE	ATAX4233
DATE/DAY	19 FEBRUARY 2024 / MONDAY
TIME/DURATION	02:00 PM - 05:00 PM / 03 Hour(s) 00 Minute(s)

INSTRUCTIONS TO CANDIDATES :

1. Please read the instruction under each section carefully.
2. Candidates are reminded not to bring into examination hall/room any form of written materials or electronic gadget except for stationery that is permitted by the Invigilator.
3. Students who are caught breaching the Examination Rules and Regulation will be charged with an academic dishonesty and if found guilty of the offence, the maximum penalty is expulsion from the University.

(This Question Paper consists of 5 Printed Pages including front page)

*****DO NOT OPEN THE QUESTION PAPER UNTIL YOU ARE TOLD TO DO SO*****

This question paper consists of FOUR (4) questions. Answer ALL questions in the answer booklet provided. [80 MARKS]

QUESTION 1 (20 Marks)

- a) Explain the following as described under Section 2 Customs Act, 1967.
- i. Customs duty (2 marks)
 - ii. Dutiable Goods (2 marks)
 - iii. In transit; (2 marks)
 - iv. Transshipment (2 marks)
 - v. Legal landing Place (2 marks)
- b) Describe Excise Duty as mentioned in Section 6, Excise Act, 1976. (6 marks)
- c) State FOUR (4) categories of licenses under Section 35 Excise Act 1976. (4 marks)

QUESTION 2 (20 Marks)

Mr Subromaniam is one of the company's directors that awarded dealer's license under Excise Act 1976. His business activities were granted by the Ministry of International Trade and Industry (MITI's) with import approved permit (AP).

In October 2023, he imported 1 container goods from China containing intoxicating Whisky of Remy Martin brand. The customs examination has found that there are 1,000 set boxes consisting whiskies of 500 ml and 15 ml perfume each. For every 500 ml bottle of whisky was combined with the 15 ml of perfume in one special plastic box. The unit price for the intoxicating whisky special package is RM300 each (nevertheless unit price for whisky only is confirmed at RM218 each).

The *customs value* is inclusion cost, insurance, and freight (CIF) values of the following: Freight on board (FOB) is given impliedly; cost of loading, unloading, and handling charges associated with transport of goods to the place of importation = RM 4,750; the cost of sea insurance = RM 8,450; and freight charges up to the place of importation RM = 1,800.

Required:

- i. Determine a proper classification on goods in the container by applying the six rules of classification with the chosen explanation, why you choose the chosen tariff codes? Your explanation must be hierarchical in order, starting with Rule 1 till Rule 6 of the classification rules. (Please refer to the extract of Custom Duties Order 2022 below the question). (6 marks)
- i) Calculate the customs tax on each item in the container that you have been decided as the true and proper classification. (14 marks)

EXCISE DUTY ORDER 2022 (EXTRACT)

Rule 1:

Quick references for relevant chapters. *General reference for Heading for combined or embedded items are:*

Section IV for prepared foodstuffs; beverages; spirits and vinegar; tobacco and manufactured tobacco substitutes

Chapter 22 for beverages, *spirit*, and vinegar

(Possible tariff code is under heading WHISKIES tariff code is 22083010 00/Import Rate is RM58/liter and excise duty at 22% ad valorem)

Section VI for products of the chemical or allied industries

Chapter 33 for essential oils and retinoids; *perfumery*, cosmetic or toilet preparations

(Possible tariff code is under heading PERFUMES AND TOILET WATERS tariff code is 3307 49 90 00/Import rates is NIL)

Section VII for plastics and articles thereof; rubber and articles thereof

Chapter 39 for *plastics* and articles thereof

(Possible tariff code is under heading BOXES/CASES/CRATES AND SIMILAR ARTICLES 3923 10 90 00/Import Rate is 20%)

Rule 2:

2(a) Any reference in a heading to an article shall include incomplete or unfinished article has the essential character of complete or finished article.

2(b) It also shall be taken to include a reference to goods consisting wholly or partly of such material or substance in the case where more than one material or substance

Rule 3:

When by application of Rule 2(b) or any other reason, goods are *prima facie* prevailed, the following classification shall be affected:

3(a) Heading which provide the most specific description shall be preferred than general one. However. If the combination or composite is purposely set up for retail sale, those headings are to be regarded as equally specific.

3(b): If rule 3(a) cannot apply, then the combination or composite of material or substance shall be classified as if they consisted the material or component which gives them their essential character.

3(c): If rule 3(a) or 3(b) cannot classified them, they shall be classified under the heading which occurs last in numerical order among those *equally merit* consideration

Rule 4:

If goods still cannot be classified in accordance with the above rules, they shall be classified under the heading appropriate to the goods to which they are most akin.

Rule 5:

Additional to the foregoing provision, the following rule shall apply in the case were,

5(a): camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and any other similar containers, specifically design fitted to the shaped to contain a specific article or set of articles, suitable for long-term use and presented always with such articles when of a kind normally sold therewith. However, this rule does not apply to containers which give the whole its essential characters; and

5(b): Subject to provision of rule 5(a), as far as packing material and packing container of a kind of normally used is concerned, this rule is not binding when such packing material or packing containers are clearly suitable for repetitive use.

Rule 6:

For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheadings Notes and, *mutatis mutandis*, to the above Rules, on the understanding that only Subheadings at the same level are comparable.

6(a): For the purpose of classification, it is aided by Explanatory Notes and other related documents issued or governed by World Customs Organization as a main source of reference.

6(c) Any dispute matters as to whether any goods are or are not included in a class of goods appearing in the Order, it shall be decided by the Director General of Customs.

QUESTION 3

(20 Marks)

- a) Describe what is the meaning of "custom valuation"? (5 marks)
- b) According to Agreement on Custom Valuation, there are **SIX (6)** methods of valuation accepted by World Custom Organisation. Explain briefly any **THREE (3)** of the methods. Give example for each method. (6 marks)
- c) Explain what is the meaning of "price actually paid or payable"? Give examples to support your answer. (4 marks)
- d) Importer A in country I purchased 10 metric tons of chemical fertilizers from Manufacturer B in country X and imported them into I. Both the commercial invoice and the contract of sale show that the price of the imported goods (10 metric tons of chemical fertilizers) is USD 3,000. The Letters of Credit (L/C) also shows that A Paid B USD 3,000 for 10 metric tons of chemical fertilizers.

A negotiated and contracted with B through an agent G. On behalf of A, G also arranged two shipping contracts of the goods; one is from B's factory to the port of country X and the other is from the port of country X to in country I. G paid a transportation company USD 110 for the former shipping contract. A paid directly another transportation company USD 500 for the latter shipping contract.

The buying agency agreement between A and G states that G acts for the account of A, G finds suppliers at the request of A, G negotiates purchase contracts for A, G arranges shipments of the goods purchased by A, and A pays G 3 % of the contract price of the goods for services performed by G. About the above importation of chemical fertilizers, A paid G USD 200 by telegraphic transfer (TT).

Required:

Determine the customs value of the 10-metric ton of chemical fertilizers? (5 marks)

QUESTION 4

(20 Marks)

A tribunal is an independent judicial body that is appointed by the Ministry of Finance. It becomes a smart-partnership approach between disputed parties and Royal Malaysia Customs to solve any challenge in the good faith and by using the provision of Section 141A – S 141AB Customs Act 1967, the decision made is as if held by the Session Court. The only way to avoid the Customs Appeal Tribunal (CAT) hearing is by applying for the Customs Ruling before any person making any importation.

Required:

Explain each of the following:

- i. **THREE (3)** categories of appeal (6 marks)
- ii. Composition of the Tribunal Panel members (3 marks)
- iii. Government right in term of its main pre-requisite and disputed parties' rights (5 marks)
- iv. Pay under protest as per Section 13, Customs Act 1967 (6 marks)

*** END OF QUESTION PAPER ***