



# Examiners' report

## P6 Advanced Taxation (ZAF)

### June 2009

#### **General Comments**

The examination consisted of two compulsory questions (Question 1 for 29 marks and Question 2 for 31 marks). Candidates had to then elect any two of the three questions in Section B (each for 20 marks). The examination required mainly discussion and advice with some computation as well.

The performance of candidates overall, however, was disappointing with a large number appearing to be unprepared for the examination.

The poor performance of many candidates was once again exacerbated by a clear failure to carefully read the content and requirements of questions. Some of the poor performance can be attributed to candidates not showing workings for their answers.

Candidate answers to discussion questions tend to be repetitive and indicate that candidates have not fully grasped or considered all of the issues on the topic.

The paper did not appear to cause any time constraint difficulties as all the candidates attempted the necessary questions.

#### **Specific Comments**

#### **SECTION A – Compulsory**

##### **Question One**

Question 1 required candidates to provide client advice in the form of a letter regarding the tax implications for both parties to a transaction. The transaction concerned was either the sale/acquisition of a property from a company or the sale/purchase of the shares of the company holding the property.

Many candidates failed to identify that the question required discussion of all tax effects and not merely income tax effects. Such candidates therefore omitted discussion on the VAT and Securities Transfer Tax.

Part (a) - For the sale of the property from the company, only one candidate identified that the property could be sold as a going concern for VAT purposes (provided the necessary conditions were met) and therefore that VAT would be levied at 0%. Candidates also confuse the terms "exempt" and "zero-rated" which have differing overall VAT effects.

The income tax side of the transaction was generally well answered for this part. However candidates often stop their answers short of the logical conclusion to a discussion of capital gains tax.

Part (b) – Few candidates identified the Securities Transfer Tax effects. Also many failed to state that there were no VAT effects on the disposal of the shares.

On the income tax side, most candidates failed to consider the disposal of the loan account and again the logical conclusion to the income tax discussion.

Part (c) – Most candidates did not discuss the creation of the base cost of the asset as a tax effect on the acquisition of the property.

Part (d) – Again the creation of base cost discussion was omitted by most candidates as was the discussion of the future impact of income arising from the property and dividends declared from the company.

Part (e) – This part required summary and conclusion. Most candidates failed to contrast the acquisition types and the impact for the acquiring party (to whom they were required to communicate). Most future income implications were omitted in this part. Whilst most reached a conclusion, few provided support for such conclusion.

### **Question Two**

This question addressed a variety of issues.

Part (a) concerned foreign exchange and related trading stock implications. Candidates appeared unprepared for this part. In addition, most candidates discussed the tax implications arising in the prior year of assessment and not the year of assessment specified in the required. This part was performed poorly with candidates making adjustments to trading stock (per accounting) rather than the foreign exchange provisions. In addition, many candidates applied old legislation as regards translation of the foreign exchange gains and losses.

Part (b) – Candidates confused accounting and tax treatments. Some candidates successfully identified the requirements of section 11(i) and the limitation on claiming a deduction. Fewer candidates continued the discussion to include the capital gains effect (and again failed to conclude the capital gains tax discussion).

Part (c) – This part identified many students confusion between accounting and tax on one hand and suspensive sales versus finance leases for tax on the other. Most marks were lost as a result of candidates discussing incorrect or inappropriate provisions.

Parts (d) and (e) – There was a clear indication that only some of the candidates were aware (or had studied) the implications of section 8B and its related provisions.

Part (f) – Candidates identified that there was an issue but appeared unaware of the requirements of disclosure to the South African Revenue Services.

## **SECTION B – ELECT TWO OF THE FOLLOWING THREE QUESTIONS**

### **Question Three**

This question addressed retirement lump sums from retirement funds and employers. Very few candidates attempted this question. Candidates on occasion confused the employer lump sum with the retirement fund lump sum between parts.

Parts (a) and (b) carried discussion on new retirement benefit legislation. Of those candidates that attempted this question many tried to apply old (and inappropriate) legislation. As a result, many candidates performed poorly in this part. In addition, very few identified the implications that service outside the Republic had on the taxable portion of the lump sum. In part (b) the candidates discussed the lump sum but most failed to continue the discussion for the implications that a pension annuity carries.

Part (c) and (d) concerned the employee and employer tax effects of the employer granted lump sum. These parts were better handled than parts (a) and (b).

### **Question Four**

Those candidates that elected question 3 did not elect question 4 as all candidates attempted question 5 (see below). Question 4 concerned a change of residence and the implications for particular income streams.

Many students attempted to deem the taxpayer to be resident in terms of the physical presence test. This was inappropriate as the test does not apply in a year in which the person had been ordinarily resident for part of the

year of assessment. As the taxpayer had been ordinarily resident and had then emigrated, ordinary residence had ceased during the year of assessment.

This common candidate error caused the loss of many marks. However, some candidates did continue with a discussion of source where appropriate.

There was a clear weakness as regards the implications of section 6quat deductions and rebates as well as the application of section 35 (royalties paid to non-residents).

#### **Question Five**

Of the elective questions, this was the best handled by the candidates.

In part (a) the common omission by candidates was the transfer duty implication. Results varied in this part, with most candidates losing marks by omission rather than an obvious lack of knowledge.

Part (b)'s most common omission was the comment that capital gains tax does not apply on the donation of local currency.

Part (c) – Some candidates erroneously applied section 7 to this scenario.

Parts (c) and (d) were contrasted by the fact that section 7 applied in part (d) and did not in part (c). However, candidates generally scored well in parts (c) and (d) successfully identifying the conduit pipe principle for trusts. Some failed to identify the loss of the dividend exemption where such dividends are paid in the form of an annuity. Of those candidates that did successfully identify the loss of the dividend exemption, only one continued the discussion to the application of section 10(1)(i) for such taxable dividends.