# Examiner's report

## P6 Advanced Taxation (ZAF)
## June 2010

**General Comments**
The examination consisted of two compulsory questions (Question 1 for 35 marks and Question 2 for 25 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.

There were observable gaps in knowledge based on the answered supplied. These are highlighted below. Some of the poor performance can be attributed to candidates not showing workings for their answers.

Candidate answers to discussion questions, in some cases, tended to be repetitive and indicate that those candidates had 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**

**Question One**
This Question 1 required candidates to provide client advice in the form of a letter.

The letter had to address three issues, namely:
1. Finance lease implications for a lessor;
2. Instalment sale implications for the seller; and
3. The elective provision section 9D(13) for controlled foreign companies.

Part (a) – Candidates confused the implications of (i) a finance lease versus a suspensive sale arrangement; and (ii) the lessor versus the lessee. Many candidates also leapt to the capital gains tax implications at the end of the lease before (or at all) considering the recoupment / loss provisions that may apply. For the lease instalments to be received, most candidates omitted reference to the appropriate portion of VAT being excluded therefrom. In addition, the cost of the asset for the purposes of the allowance provision was not discussed with reference to the requirement in terms of Interpretation Note 47 of excluding the residual value. Some candidates made an incorrect assumption that the lease was an operating lease – and lost most marks as a result.

Part (b) – The instalment sale was generally well handled, but there were a few key omissions from the candidates' discussions, namely the finance income on a yield to maturity basis (section 24J) and the debtors allowance applicable in terms of section 24.

Part (c) – Most candidates correctly identified that an election may take place in terms of section 9D(13) but then proceeded to only address the tax implications if that election was made. The question required that the answer address whether or not the taxpayer should make the election, necessitating a discussion of both aspects. Many candidates did not understand any aspect of this topic and it represented a key gap in knowledge.

**Question Two**
This question addressed the topic of trusts.

Part (a) considered the South African income tax implications of distributions made and income retained by the Trust. Many candidates chose to discuss irrelevant information, such as the original contribution / donation of the assets to the Trust. As the question was only concerned with the distributions and income retained, this was irrelevant.

The discussion in this part was often too brief and should ideally have been split into discussion for each donor / beneficiary and the Trust itself.

Parts (b) and (c) addressed the issue of a change of trustees resulting in the change of the place of effective management of the trust itself from the Isle of Man to South Africa. Part (b) required a discussion of the consequences of the change. Many candidates discussed various aspects which had no bearing on the tax consequences of the change.

Part (c) was aimed at the disclosure requirements and professional ethics. Most candidates scored the mark for stating that disclosure was necessary but went no further.

**Question Three**

This question addressed the turnover tax applicable to micro business. This legislation was promulgated in Act 60 of 2008 with effect from 1 March 2009. While new, it is highly applicable to a 2010 year of assessment and furthermore to candidates in this exam sitting. This part was poorly handled and was an observable gap in candidates' knowledge.

Many candidates seemed aware of the R1 million turnover qualifying limit to the tax but could not apply the legislation. Many others confused micro business with small business corporations.

**Question Four**

Part (a) of this question concerned the VAT aspects of the disposal of a business either by sale of the individual assets (including the stock) both before and after deregistration and the disposal of the entire business unit as a going concern.

Part (b) concerned the income tax implications of the sale of the assets. Most candidates only addressed the capital gains aspect, thereby omitting discussion on the sale of inventory and the other aspects of the disposal of assets, namely recoupments or losses.

Part (c) provided a brief discussion of whether or not the taxpayer should be registered as an employer. Most candidates scored well here but most omitted to state that the qualifying criteria for the identification of these employees were the payment of "remuneration" as defined.

**Question Five**

This question addressed (in two parts) the part disposal of a share caused by the receipt of a capital distribution by the shareholder. Most candidates successfully identified that part of the distribution that was a dividend (and therefore not a capital distribution) but seemed to have no knowledge of what to do with the balance of the distribution.

Part (b) was concerned with the combined effect of the transitional rules concerning capital distributions between 1 October 2001 and 1 October 2007 with later capital distributions and the impact on the final disposal of the shares. This part was poorly handled.
. The most omitted point was 'discounts given for goods sold which applies to all'