



Examiners' report

P6 Advanced Taxation (ZAF)

December 2007

The examination contained two compulsory questions (Question 1 for 37 marks and Question 2 for 25 marks). Candidates had to then elect any two of the three questions in Section B (each for 19 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. This was 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.

Too many candidates continue to display their answers poorly. Each question should be started on a new page and candidates must give more thought to the layout and organisation of 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 only one candidate did not attempt the required four questions.

Marks available in respect of professional skills

Marks were available for professional skills in questions 1 and 2. In order to earn these marks candidates first had to satisfy the requirement in relation to the format of the document requested. Further marks were then available for the clarity of the answer, including the ease with which it could be marked and the degree to which the conclusions reached followed logically from the explanations and calculations provided. These latter marks were more likely to be earned by those candidates who thought about the manner in which they intended to satisfy the requirement such that there was a sense of purpose and a coherency to their answers.

Section A – compulsory questions

Question 1

This 37-mark question was broken into two issues. Part (a) tested candidates firstly on the completion of a taxable income calculation from the start of the tax period to date of death, and secondly required a discussion on the application of estate duty. Part (b) examined candidates on their knowledge of the immediate and subsequent tax implications following the creation of an *inter vivos* trust by donation of assets.

Part (a) (i) – calculation of taxable income to date of death - common mistakes included:

- No exclusions being applied
- Subsequent sales values (i.e. proceeds obtained by the estate on sale of the assets the deceased owned at date of death) used in this calculation instead of the market value at date of death.
- No apportionment of the primary rebate

Part (a) (ii) – discussion of estate duty

- Candidates should not be using out of date legislation (e.g. referring to an Estate Duty abatement of R1.5 million). The dates in this question would have used R2.5 million as the abatement, just as estates after 1 March 2007 will be using R3.5 million as the Estate Duty abatement.

Part (b) required candidates, in a letter to the client, to explain the *consequences* of the *inter vivos* trust as proposed by the client. Many candidates deviated from the required by writing extensively on the advantages

and disadvantages of trusts; how the trust should be structured; etc. These added discussions earned no marks as the structure of the trust had been supplied in the question and the candidates' task was to discuss the income tax consequences.

Unsuccessful candidates should aim to improve their detailed reading of the question and required.

The greatest error was error by omission. If candidates do not write sufficient relevant information, the marker is unable to find additional marks to award.

Some candidates did not appear to understand the difference between capital gains tax at death versus estate duty. While there are similarities, these implications are governed by different Acts.

Question 2

This question required candidates to prepare a memorandum for the Financial Director of a company concerning the VAT and Income Tax implications for a transaction for which three options existed.

This should have been a straightforward question for the well prepared student. Candidates demonstrated a significant lack of understanding of the basic provisions that were considered. Furthermore, the connected person rules within the Income Tax Act were confused with those from the VAT Act by candidates.

Many of the candidates referred to the Income Tax effects using amounts that included the VAT that they had isolated in their earlier paragraphs. Clearly the amounts discussed in the Income Tax section of the memorandum should exclude VAT.

Some candidates omitted to answer parts (b) and (c) of the question.

A number of candidates treated the lease of the land as a finance lease instead of an operating lease. This would have also influenced the solution they provided in part (b) of the question (where attempted).

The layout adopted by candidates could also have been more appropriate (i.e. heading up the portion of the answer concerning VAT and then the same for income tax). Candidates' answers frequently appear as a stream of consciousness.

Section B – elect two of the following three questions

Question 3

This 19 mark question assessed candidates on the deferment of recoupments and capital gains on the disposal and replacement of an allowance asset. Approximately half the candidates that wrote attempted this question.

Most candidates that attempted this question fared poorly. Most candidates were unaware of the capital gains and normal tax provisions that were relevant (namely paragraph 66 of the 8th Schedule and section 8(4) (e)).

Presentation styles adopted by candidates in this question were often inappropriate.

Candidates also did not read the question. The taxpayer involved was a natural person and not a company. The appropriate capital gains tax inclusion was therefore 25% and not 50%.

Question 4

This 19 mark question addressed the capital gains tax consequences of emigration as well as the concept of residence. Almost every candidate that wrote attempted this question.

Candidates appeared to identify the written principles, but frequently could not translate those principles into the necessary supporting calculations.

Candidates frequently omit subsequent parts to a question (e.g. part (b) and (c) to this question).

The written answers submitted do not go far enough in answering the relevant principles. However, the information that was supplied was largely correct and appropriately short (i.e. candidates did not unnecessarily repeat points). It was the omission of relevant issues that cost candidates marks.

Question 5

This 19 mark question required employment package structuring advice. Just over half the candidates that wrote attempted this question.

Candidates did not handle this question well. There seemed to be much confusion between what was required by part (a) and part (b) of the question. Very few candidates even attempted to demonstrate an after tax cash position to compare disposable incomes of the offers.