



Examiners' report

P6 Advanced Taxation (ZAF)

December 2008

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

The overall performance of candidates continued to disappoint with a large number of candidates' being unprepared for the examination.

Clearly, candidates are not reading the question contents and requirements. Candidates are failing to show workings for their answers.

Candidates' response to discursive questions was repetitive and indicated the issues on the topic were not fully understood.

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

Section A – compulsory questions

Question 1

This 31-mark question was split into a number of issues related to trusts, attribution and disposals by donation. Part (a) tested candidates on the conduit pipe principle related to distributions from a trust. Part (b) tested knowledge of sections 7(5) and 7(8) as well as the applicability of exemption provisions. Part (c) examined the taxability of amounts in the trust referring to amounts not attributable to other taxpayers. Part (d) considered a disposal by donation from a parent to major children. Finally part (e) addressed the implications of a disposal of a donated asset by the trust.

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. Many candidates make the mistake of writing copious irrelevant information (while correct does not score any marks if it does not answer the question set).

Some candidates continued to confuse the different Acts.

Question 2

This question required candidates to prepare briefing notes in anticipation of a meeting on various issues.

The most common problem was candidates writing any fact they knew instead of relevant facts. The candidates did not focus their answers to the core issues.

The briefing notes should have appeared mainly as discussion points rather than calculations. Many supplied calculations that did not carry marks instead of a discussion of the principles.

Candidates clearly had difficulty in reconciling the accounting and tax treatments for finance leases and in addition confuse the suspensive sale with a finance lease.

Some candidates included multiple answers in the hope that at least one answer was correct. Answers of this nature should be strongly discouraged as they waste valuable time and show clearly that the candidate is unprepared. .

Other weaknesses include:

- (a) Section 24J
- (b) The order of events for capital gains versus recoupments and allowances (or omitting discussion of recoupments and allowances).
- (c) Leasehold improvements require revision.

Section B – elect two of the following three questions

Question 3

This 20 mark question assessed candidates on the definition of 'resident' in part (a) and the source and income tax implications for royalties earned by a non-resident.

This question was poorly performed. Candidates were unable to identify when the ordinarily resident test versus the physical presence test was used. The knowledge of the source principles and the implications for royalties earned from a South African source by a non-resident for non-SA usage appears non-existent.

Question 4

All candidates attempted this question. This 20 mark question addressed VAT and income tax consequences of certain transactions (some of which involved employees).

Candidates were confusing income tax and VAT principles. In addition, candidates struggled to identify the issues in this question.

Candidates continued to repeat points unnecessarily.

Question 5

A few candidates attempted this 20 mark question.

Part (a) of this question considered two transactions. The first was the purchase of an asset from a connected person. The question goes to the new connected person rule in section 23J. Candidates' failed to understand this new legislation. Transaction two concerned leasehold improvements and related issues. Answers for this question were not satisfactory.

Part (b) addressed the anti-avoidance provision concerning assessed losses (section 103(2)). This part was not well handled and candidates seem to have battled with anti-avoidance legislation.