Answers

Marks

1 JAK Consultancy Partnership

(a) A partnership is considered to be resident in Lesotho for a year of assessment if at any time during that year one of the partners is a Lesotho resident. 2

(b) Notional chargeable income of the partnership for the year ended 31 March 2013

	Lesotho source Business income M	Foreign source Property income M	Marks
Business income	450,900		½
Interest		25,020	½
Less: business expenses:			
Salaries	190,000		1
Pension contributions (150,000*13%)	19,500		1
Other expenses (60,000 – 24,600)	35,400		1
	(244,900)		
Chargeable business income	206,000		
Gain on disposal of assets (working)	135,700		W
Chargeable income	341,700	25,020	
Total chargeable income (342,000 + 25,020)		366,720	

Working: Gain on disposal of business assets

Asset	Adjusted cost base (ACB) M	Market value (MV) M	Gain/(loss) M	Marks
Building premises	180,000	250,000	70,000	½
Vehicles	280,300	310,000	30,000	½
Furniture and equipment	110,000	150,000	40,000	½
Sundry other assets	25,000	21,000	(4,000)	½
Gain	595,300	731,000	135,700	6

(c) Tax payable by each partner

Jacob: Resident and taxed on worldwide income

	M	Marks
Distributive share of partnership income:		
Lesotho source (341,700 – 135,700)*1/3)	68,667	1
Foreign source (25,020*1/3)	8,340	½
	77,007	
Salary	50,000	½
Gross income	127,007	
Less expenses:		
Pension contribution (50,000*7%)	(3,500)	½
Share of trading loss (24,600*1/3)	(8,200)	½
Chargeable income	115,307	
Tax payable:		
M48,744*22%	10,724	
M66,563*35%	23,297	
	34,021	½
Less: personal tax credit	(5,755)	½
Net tax payable	28,266	

Amanda: Resident and taxed on worldwide income

	M	Marks
Distributive share of partnership income:		
Lesotho source (341,700*1/3)	113,900	1
Foreign source (25,020*1/3)	8,340	½
	122,240	
Salary	50,000	½
Gross income	172,240	
Less expenses:		
Pension contribution (50,000*7%)	(3,500)	½
Share of trading loss (24,600*1/3)	(8,200)	½
Chargeable income	160,540	
Tax payable:		
M48,744*22%	10,724	
M111,796*35%	39,129	
	49,853	½
Less: personal tax credit	(5,755)	½
Net tax payable	44,098	

Kenny: Resident non-resident and taxed on Lesotho source income only

	M	
Distributive share of partnership income:		
Lesotho source (341,700*1/3)	113,900	1
Foreign source	0	½
Salary	50,000	½
Severance payment (40,000 – 1,500)	38,500	1
Gross income	202,400	
Less expenses:		
Pension contribution (not deductible)	(0)	1
Share of trading loss (24,600*1/3)	(8,200)	½
Chargeable income	194,200	
Tax payable:		
M48,744*22%	10,724	
M145,456*35%	50,910	
	61,634	1
Less: personal tax credit	(5,755)	½
Net tax payable	55,879	14

Tutorial note: *Pension contribution is not tax deductible to Kenny because he is not a resident partner.*

(d) The basis on which Jacob and Amanda have decided to continue the partnership is not tax efficient for Amanda because her continuing ownership or interest in the partnership after the change is less than 50%. 2

As a consequence of this lack of continuity of ownership, she has been subject to tax on the gains arising from the deemed disposal of the business assets. 1

Tutorial note: *Jacob is not subject to this charge to tax on the gains arising from the deemed disposal of assets because his continuing interest after the change in the partnership composition is more than 50%. To avoid such a charge, an interest of 50% or more must be held in the new partnership for at least 12 months after the change.* 3

25

Marks

2 PKT Couriers Ltd

(a) Depreciation allowance claimable for the year ended 31 October 2013

	M	Marks
Furniture and equipment:		
Adjusted cost base (ACB) at 1 November 2012	600,000	
+ ½ previous year acquisitions	6,000	1
	606,000	
Less: disposal proceeds	(606,200)	½
Closing balance	(200)	
Motor vehicles:		
ACB at 1 November 2012	1,500,400	
+ ½ current year acquisitions (70,000 + 90,000)	80,000	2
	1,580,400	
Depreciation at 25%	(395,100)	½
Closing balance	1,185,300	4

Tutorial notes:
1. *Where the consideration received on disposal exceeds the closing pool balance, the excess is treated as part of business income*
2. *A motor vehicle acquired on hire purchase agreement should be charged depreciation on the ACB, which is the actual cost of M70,000 in this case.*

(b) Where a portion of shares is redeemed other than on a pro-rata basis, the gain on redemption is treated as a dividend. Therefore, it is subject to advance corporation tax (ACT). 2

(c) Advance corporation tax (ACT) payable for the year ended 31 October 2013

	M	Marks
Deemed dividend:		
Selling price (5,000*4·5)	22,500	1
Adjusted cost base (ACB) (5,000*3)	(15,000)	1
Deemed dividend	7,500	
Dividends paid during the year	50,200	½
Less: Lesotho source dividends received	(25,000)	1
Total dividends subject to ACT	32,700	
ACT (32,700*25/75)	10,900	½
		4

Tutorial note: *ACT is deemed to have been paid first out of qualified income which in this case is the Lesotho source dividends.*

Marks

(d) Corporation tax payable for the year ended 31 October 2013

	Business income M	Property income M	Marks
Turnover	2,743,750		½
Excess disposal proceeds of business assets	200		1
	2,743,950		
Lesotho source dividends (exempt)		0	½
Foreign source dividends (260,000+78,000)		338,000	½
Lesotho source interest (30,000*100/90)		33,333	1
Foreign source interest (55,000+8,250)		63,250	½
Less allowable expenses:			
Staff costs (500,600 – 6,500)	494,100		1½
Additional deduction for approved training costs (6,500*25%)	1,625		1
Advertising (35,200 – 8,000)	27,200		1½
Motor vehicles cost (130,000 – 12,000)	118,000		1
Depreciation (as in (a) above)	395,100		½
Interest on hire purchase (working 1)	945		W
Sundry expenses	41,000		½
	(1,077,970)		
Chargeable income	1,665,980	434,583	
Total chargeable income		2,100,563	
Tax payable at 25%		525,141	½
Less: income tax instalment paid		(150,000)	½
Foreign tax credit (working 2)		(86,250)	W
Local withholding tax		(3,333)	½
ACT (as in (c) above)		(10,900)	½
Net tax payable		274,658	

The due date for submission of the tax return is on or before 31 January 2014. 1

Workings:

1. **Hire purchase interest on motor vehicle**

	M	Marks
Deposit	12,000	½
Instalments (1,800*36)	64,800	½
Hire purchase price	76,800	
Cash price	(70,000)	½
Hire purchase interest	6,800	
Interest per month (6,800/36)	189	½
Tax deductible interest (189*5)	945	½

2. **Foreign tax credit**

Average Lesotho tax credit rate $= \frac{525,141}{2,100,563} = 25\%$ ½

Foreign income	Amount M	Tax paid abroad M	Average Lesotho tax M	Foreign credit available M	Marks
Dividends	338,000	78,000	84,500	78,000	1
Interest	63,250	8,250	15,813	8,250	1
				86,250	18

(e) A deduction for a donation made to support sports organisations is only deductible if it is of M1,000 or more and is paid to the Lesotho Sports and Recreation Commission (who will then distribute it to the organisation/individual specified by the donor). Although PKT Couriers Ltd's donations exceed M1,000, they were not made in the prescribed manner (i.e. directly to the organisation concerned and not via the Commission). 2

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Marks

3 Lazarus Computers Ltd

(a) Value added tax (VAT) for September 2013

	M	Marks
Output VAT		
Sales (172,900*14/114)	21,233	½
Second-hand goods (5,500 – 3,900)*14/114)	196	1
Software (1,300*14/114)	160	1
Hire purchase sale (8,000*14/114)	982	1
	22,571	
Input VAT		
Sales returns (undocumented)	0	½
Opening stock ((13,390 + 20,385)*14/114) (two months only)	4,148	1
Purchases (30,000*14/114)	3,684	½
Rent (3,500*14/114)	430	½
Insurance (exempt)	0	½
Miscellaneous ((20,400 – 1,500)*14/114)	2,321	1
	10,583	
VAT payable (22,571 – 10,583)	11,988	½
		8

(b) **(i)** The value of the supply for second-hand goods is the difference between the consideration received for the supply (the sales price) and the cost to the vendor of acquiring the second-hand goods used for the supply. 2

(ii) The value of the supply for goods purchased under a hire purchase agreement is the fair market value of the supply and the time of the supply is when the hire purchase contract commences. So the full cash value is immediately chargeable to output tax. 2

(iii) A vendor is obliged to keep proper records of their transactions, so in the case of sales returns, credit notes must be issued. Without the necessary documentation (credit notes), no input tax can be claimed. 1

(c) The due date for payment of VAT for the September period is on or before 20 October 2013. 1

If the return is not submitted until 1 November 2013, the penalty for late submission will be M470 (15,672*3%). 1

2

15

4 Kao Diamonds Ltd and Moiloa

(a) **(i)** **Fringe benefits tax payable by Kao Diamonds Ltd**

	M	Marks
Housing fringe benefit (1,500 – 500)*12)	12,000	1
Car fringe benefit (380,000*15%) – (600*12)	49,800	1½
Utilities fringe benefits (1,600*12)	19,200	½
Meals (exempt)	0	½
Superannuation fund contributions (not excessive)	0	½
Taxable value	81,000	
Taxable amount (81,000/0·65)	124,615	½
Fringe benefits tax (124,615*35%)	43,615	½
		5

(ii) Kao Diamonds Ltd (as employer) must file a return of fringe benefits for each period of three months, i.e. the quarters ending 30 June, 30 September, 31 December and 31 March. 1

The return must be filed and the tax due paid on or before the 14th day following the end of each quarter. 1

2

		Marks

(b) (i) Moiloa's net disposable income

(1) Based on the initial offer

	M	
Basic salary	660,000	½
Car running costs allowance (2,500*12)	30,000	½
Gross income	690,000	
Less: pension contribution	(36,000)	1
Chargeable income	654,000	
Less: tax payable (working 1)	(216,809)	W
Net pay	437,191	

(2) Based on the final offer

	M	
Basic salary	660,000	½
Housing allowance (660,000*10%)	66,000	½
Car allowance (660,000*5%)	33,000	½
Gross income	759,000	
Less: pension contribution (as above)	(36,000)	½
Chargeable income	723,000	
Less: tax payable (working 2)	(240,959)	W
Net income	482,041	

Workings

1. Tax payable based on the initial offer

	M	
Chargeable income	654,000	
Tax payable:		
M48,744*22%	10,724	
M605,256*35%	211,840	
	222,564	½
Less: personal tax credit	(5,755)	½
Tax payable	216,809	

2. Tax payable based on the final offer

	M	
Chargeable income	723,000	
Tax payable:		
M48,744*22%	10,724	
M674,256*35%	235,990	
	246,714	½
Less: personal tax credit	(5,755)	½
	240,959	6

(ii) The final offer will give Moiloa an increase in net disposable income of M44,850 (482,041 – 437,191) at current tax rates, so would appear to be the better option. ½

However, out of this he will have to pay for his car's running costs, which based on the allowance offered by Kao Diamonds Ltd could amount to M30,000 per annum. Also, at some time in the future, he will need to replace the car and fund the purchase of a new vehicle, whereas if he had taken the initial offer, he would have had the option of generating cash now through the sale of his own car. 1½

2

15

Marks

5 Classic Furnitures Pty

(a) Residence

A company is a tax resident of Lesotho if it meets any one of the following conditions:

- it is incorporated or formed under the laws of Lesotho; 1
- it has its management and control in Lesotho; 1
- it undertakes the majority of its operations in Lesotho. 1

Classic Furnitures Pty is treated as a resident because for the purpose of the final test, the branch of a non-resident company is treated as a separate person and the majority of its operations are undertaken in Lesotho (even though the place of incorporation, management and control are outside Lesotho). 2

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(b) The LRA is justified in charging additional tax on Classic Furnitures Pty because Classic Furniture Pty as the resident branch of a non-resident company is subject to tax on its repatriated profits, in addition to the tax due on its chargeable income. Such repatriated profits are treated as being made out of the branch's income regardless of how they are treated in the financial records. 2

Additional tax payable:

	M	
Income after tax (450,000 – 112,500)	337,500	½
Reinvested profits in Lesotho (337,500*80%)	(270,000)	1
	67,500	
Tax payable on repatriated income (67,500*25%)	16,875	½
		4

(c) **(i)** An objection to an amended assessment may be filed with the Commissioner up to four years after the service of the notice of the original assessment or within 60 days after service of notice of the amended assessment, whichever is later. 2

The objection must be presented in writing and specify in detail the grounds upon which it is made. 2

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(ii) The tax assessed by the amended assessment remains due and payable, even if an objection is lodged. Therefore, the additional tax must be paid (as normal) within 30 days after the service of the notice of assessment regardless of the dispute. 2

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