Answers

Note: ACCA does not require candidates to quote section numbers or other statutory or case references as part of their answers. Where such references are shown below [in square brackets] they are given for information purposes only.

	Marks
1 Mrs Rina Janse van Rensberg	
(a) The two tests are:	
Ordinarily resident (the legal subjective test); or	½
Physical presence (the objective test).	½
Essentially the test for a person being ordinarily resident rests on a number of subjective factors, such as place of economic and family interests. Case law provides the criteria that the place of ordinary residence is the place	½
to which a person would return from their wanderings despite absences of long or short duration.	1
The physical presence test is only used where a person is not ordinarily resident during a year of assessment. It deems a person to be resident where that person has spent:	
More than 91 days in South Africa in the current year of assessment; AND	½
More than 91 days in South Africa in each of the five preceding years of assessment; AND	½
In aggregate has spent more than 915 days in South Africa over the preceding five years of assessment.	½
The tests do not apply where a person is deemed exclusively resident of another country by virtue of a double tax agreement.	1
	5

(b) Employees tax withheld and paid

	R	R	Marks
Cash salary R4,000 x 12		48,000	½
Fee earned for training delivered – R5,000 x 100 days		500,000	½
Tablet device would not be taken into account by her employer.			
Mobile phone – fringe benefit arises as it is not used mainly (i.e. more than 50%) for business purposes		13,000	½
No objective evidence of percentage use and so no reduction.			
Sub-total		561,000	
Contribution to retirement annuity fund:			
Actual – R60,000 limited to greater of:			½
R1,750; or			½
R3,500 – R0; or			½
15% x R561,000 (being 15% of non-retirement funding income) = R84,150		(60,000)	1
		501,000	
Add net travel allowance:			
Allowance received – R5,000 x 12	60,000		½
Business kilometres for both options is 5,000.			½
Option 1: Actual costs			
Wear & tear (limited to) R480,000/7 years	68,571		1
Fuel	25,000		½
Other costs	1,500		½
Total costs	95,071		
Reduction R95,071 x 5,000 kms/20,000 kms	23,768		1
Option 2: Deemed costs			
Fixed cost per km: R119,683/20,000 kms	598·4 cents		1
Fuel rate	133·6 cents		½
Maintenance rate (none incurred as maintenance plan exists)			
	732·0 cents		
Reduction: R7·320 x 5,000 kms	36,600		½
Best reduction is therefore option 2	(36,600)		
Net allowance inclusion		23,400	½
Net subsistence allowance inclusion			
Days allowance received (70) x rate (R350)	24,500		½
No record of expenses kept, therefore use deemed rate of R303 x 70 days	(21,210)	3,290	½
Balance of remuneration		527,690	
Tax on R527,690 per the tables		145,002	½
Less primary rebate for persons under 65		(11,440)	½
Less medical contribution rebate:			
[R460 (member plus first dependant) + R154 (next dependant)] x 12 months		(7,368)	1½
Employees tax withheld and paid to SARS		126,194	
			14

			Marks
(c) Normal tax liability			
	R	R	
Remuneration before RAF contribution (from above)		561,000	½
Wear & tear on tablet device (permitted for employed persons) – R8,900/3 x 10/12		(2,472)	1
		558,528	
Contribution to retirement annuity fund:			
Actual – R60,000 limited to greater of:			½
R1,750; or			½
R3,500 – R0; or			½
15% x R558,528 (being 15% of non-retirement funding income) = R83,779		(60,000)	1
		498,528	
Add net travel allowance (from above)		23,400	½
Add net subsistence allowance (from above)		3,290	½
Investment income			
Foreign dividends	13,000		½
Reduced by general foreign dividend exemption 25/40 x R13,000	(8,125)	4,875	½
		530,093	
Less medical deduction:			
Employee contributions R3,000 x 12	36,000		½
Reduced by 4 x rebate 4 x R7,368 (see above)	(29,472)		1
Qualifying contributions	6,528		
Add other qualifying medical expenses:			
Costs incurred	28,000		½
Qualifying medical costs	34,528		
The qualifying costs are not reduced as Rina has a disabled dependant		(34,528)	1
Taxable income		495,565	
Tax per the tables		132,795	½
Less rebate (primary only as less than 65 years of age)		(11,440)	½
Less medical rebate		(7,368)	½
Total normal tax		113,987	
Less employees tax		(126,194)	½
Refund due		(12,207)	
			11
			30

2 Science Co Ltd

(a)

- A company, as a non-natural person, is considered to be resident for income tax purposes where it is incorporated, formed, established or has its place of effective management in South Africa.
- The tests of incorporation, formation or establishment are simple, objective, fact based tests and easily determinable from the records of the company.
- The test for 'place of effective management' is more subjective, but is still based on an analysis of the facts related to the operations and decision-making powers within the company. Essentially, the South African Revenue Service (SARS) considers the 'day-to-day' decision-making powers to be decisive as regards the identification of the place of effective management.
- There is no definition for 'day-to-day decision-making powers' and so it remains a debatable point.
- These tests are all overridden if the company is deemed to be exclusively resident of another country by virtue of the application of a double tax agreement.

Note to marker: *1 mark for each point, maximum of 3 available for this part.* **3**

		R	R	*Marks*
(b)				
(i)	Sales		25,000,000	½
	Cash value of suspensive sale arrangements: R2,350,000 x 100/114 x 5 arrangements		10,307,018	1
	Finance charges earned: [(R2,350,000 less deposit R150,000) x 5 arrangements x 1·08%]		118,800	1½
	[**Tutorial note:** *The suspensive sales are instalment credit agreements for VAT purposes. As a result the VAT output is recognised on the sale based on the cash cost. There is no VAT on the finance charges as this is a financial service and therefore an exempt supply.*]			
	Debtors allowance (R2,350,000 – 150,000 – 50,000) x 100/114 x 17%		(320,614)	1
(ii)	Cost of sales		(21,000,000)	½
(iii)	Allowance on machine to be replaced: R2,000,000 x 20% (fourth and final year of allowance)		(400,000)	½
	Recoupment:			
	Selling price	2,100,000		½
	Limited to cost price	2,000,000		½
	Less tax value (40%:2010; 20%:2011; 20%:2012; 20% (above):2013)	0		½
	Recoupment to be deferred	2,000,000		
	Capital gain or capital loss:			
	Proceeds	2,100,000		½
	Less recoupment	(2,000,000)		½
		100,000		
	Less base cost:			
	Expenditure less allowances permitted (2,000,000 – 2,000,000)	0		1
	Capital gain to be deferred	100,000		
	Allowance on replacement machine: R4,000,000 x 40%		(1,600,000)	½
	Recognised portion of recoupment of old machine: 40% x R2,000,000		800,000	½
(iv)	Current insurance premium (1 December 2012) provides cover extending more than six months after the end of the year of assessment and must be allocated to the correct period: R350,000 x 4/12		(116,667)	½
	Similarly the amount incurred in the prior year would have to be spread over the appropriate year of assessment: R310,000 x 8/12		(206,667)	½
(v)	Current year doubtful debts allowance: R1,500,000 x 25%		(375,000)	½
	Reversal of prior year doubtful debts allowance: (R1,300,000 – R10,000 (amount not previously in gross income)) x 25%		322,500	½
	Bad debts written off (allowance): R170,000 – R10,000 (not previously in income)		(160,000)	1
(vi)	Other tax deductible expenses – given		(2,500,000)	½
(viii) & (ix)	Expenditure pertaining to research and development (as defined): R2,000,000 technical staff salaries + R500,000 other expenditure plus R450,000 capital expenditure = 2,950,000			
	Allowance permitted: 100% of expenditure		(2,950,000)	1½
	Further allowance permitted (as R&D projects approved by the Minister of Science and Technology) 50% x R2,950,000		(1,475,000)	1
(x)	Marketing is excluded from the scope of R&D and therefore does not qualify for R&D specific deductions. However, the marketing expenditure is still in the production of income and not of a capital nature and is therefore deductible in terms of the general deduction.		(350,000)	½
(vii)	Assessed revenue loss brought forward		(650,000)	½
(iii)	Capital gain from deferral to be recognised: 40% x R100,000	40,000		½
&	Sum of current year capital gains and capital losses	40,000		
(vii)	*Less* assessed capital loss brought forward	(35,000)		½
	Net capital gain	5,000		
	Taxable capital gain inclusion 66·6% x R5,000		3,330	½
	Taxable income		4,447,700	
				18

		Marks
(c) An estimate of taxable income must be made for the second provisional payment as the taxable income exceeds R1,000,000.		1
The estimate must be at least 80% of the final tax liability to avoid any underestimate penalties.		1
The payment and return would be due on 31 March 2013.		½
	R	
80% of taxable income (as calculated in (a) above)	3,558,160	½
Tax per standard company rate (28%)	996,285	½
Less the first provisional payment	(500,000)	½
Amount due for the second provisional payment	496,285	
		4
		25

3 Joan Ogilvy

(a) (i)

	R	R	
Sales price net of VAT R650,000 x 100/114	570,175		1
Reduced by the recoupment			
Selling price (R570,175) limited to cost (R430,000)			
Less tax value (R203,055 – see below)	(226,945)	343,230	1
Base cost:			
Acquisition cost	430,000		½
Reduced by allowances claimed:			
R430,000/72 months (6 years) x 38 months	(226,945)	203,055	1
Capital gain		140,175	
Small business asset or interest exclusion:			
Limited to R900,000 for the life of a natural person			1
Capital gain to be disregarded		(140,175)	½
Capital gain to be aggregated with other gains and losses		0	
			5

(ii) The capital loss for the deposit forfeited (being the amount of the deposit) is disregarded as the deposit was to acquire an asset which was not to be used wholly and exclusively for business purposes. 1

(iii) The capital gain arising from the lottery winnings is to be excluded from the capital gains and capital losses to be aggregated [paragraph 60 of the 8th Schedule]. 1

(b) Joan Ogilvy

Betty's Bay house donated to husband

A spousal roll-over provision will apply. Joan will be deemed to dispose of the house at its base cost (yielding neither a capital gain nor a capital loss). 1

Jeff will be deemed to have acquired the property on the same date as Joan, applied the same use and incurred the same expenditure. 1

			Marks
Jeff Ogilvy			
	R	R	
Proceeds		3,500,000	½
Base cost:			
Valuation date value:			
20% x (Proceeds less post-valuation date exp)			
20% x (R3,500,000 – R700,000 – R105,000)	539,000		1
Time apportioned base cost:			
B = R100,000 + R57,000	157,000		1
A = R700,000	700,000		½
R = R3,500,000 – R105,000 (selling costs)	3,395,000		1
Therefore: P = R x B/(B + A) =	621,955		1
N =	7		½
T =	12		½
Time apportioned base cost:			
Y = B + ((P – B) x N)/(T + N)	328,299		1
Choose 20% of proceeds net of post-valuation date expenditure		(539,000)	1
Post-valuation date expenditure: R105,000 + R700,000		(805,000)	1
Capital gain to be aggregated with other gains and losses		2,156,000	
			11

(c) In the absence of the assumption that Jeff had sold the property with a capital intent, the short time span between the donation and disposal might indicate that Jeff had acquired the property from Joan with the intent to sell (i.e. a scheme of profit-making) and as a result the proceeds on disposal would be added to gross income. 1 1

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Tutorial note: *It is submitted that as the property would have been acquired for no consideration but would not be held by year end, the SARS practice of adding the item to opening stock would not apply.*

4 African Products and Accommodation (Pty) Ltd

(a) A branch is considered to be independent for value-added tax (VAT) purposes where:

It is separately identifiable (either by geographical location or by the nature of its activities); 1
and it maintains a separate system of accounting. 1

If these conditions are met, the branch may be registered separately as a VAT vendor, but the legal entity (the company) must remain registered for VAT, irrespective of the level of its activity. 1

3

		Input R	Output R	*Marks*
(b)				
(i)	Acquisitions from non-VAT vendors (no VAT input as no VAT charged on new goods) – R500,000 x 60%	0		1
	Acquisitions from VAT vendors (input claimed) – R500,000 x 40% x 14%	28,000		½
(ii)	Goods dispatched to Botswana branch – as the branch is independent, the goods dispatched are considered an 'export' and as a result the goods are zero-rated).		0	1
	The goods dispatched to the dependent branches are not 'supplies' and no VAT arises.		0	1
(iii)	The Botswana branch sales are not considered supplies for the company as the supply took place when the goods were dispatched to the branch.		0	1
	Sales by the South African branches R1,900,000 x 14/114		233,333	½
(iv)	First delivery vehicle is not an instalment sale agreement as the period is less than 12 months.			½
	As the invoices are only issued each month for the amount due that month, the VAT is only claimed as each invoice is issued/payment is made. R20,000 x 2 x 14/114	4,912		1
	Second delivery vehicle is an instalment sale agreement. VAT is based on the cash cost (excluding finance charges) – R480,000 x 14/114 The full VAT input is claimed on delivery.	58,947		1
(v)	Bad debts written off result in reversal of the output VAT – R80,000 x 14/114	9,825		1
(vi)	Rentals for use of premises during the VAT period – R150,000 x 14/114	18,421		½
	In terms of the time of supply rules, the rental service for the R20,000 payment was rendered in March and the VAT input would have been claimed in that VAT period (irrespective of payment date).	0		1
		120,105	233,333	
				10

(c) A VAT payment must be made of R55,229 ½

The VAT return must be filed by the last business day of the month following the end of the VAT period. ½

Payment (if due) must be made by the same date. ½

Payment means that the amount must have been cleared in the SARS bank account. ½

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5 Theoretical questions

(a) Governments collect taxes generally to fund its expenditure. The expenditure is used for the government administration and benefits offered to citizens and residents. 1 1

2

(b) Income Tax (including Donations Tax, Dividends Tax, Capital Gains Tax, etc)
Value-added Tax
Securities Transfer Tax
Transfer Duty
Estate Duty
Customs and Excise

Note to marker: *A maximum of 2 may be given with each valid tax type scoring a half mark. Stating taxes housed in the Income Tax Act score a maximum of 1 mark.* 2

		Marks
(c)	Direct taxes are those taxes imposed on a person, such as income tax.	1
	Indirect taxes are those taxes imposed on transactions, such as value-added tax.	1
		2

Note to marker: *Half a mark is allocated to each of the taxes offered as an example. This half mark is available to other appropriate taxes besides income tax and value-added tax.*

(d)	Tax avoidance is the minimisation of the tax liability through legal means, for example, always choosing the most tax efficient method.	1
	Tax evasion is illegal and includes, for example, the non-disclosure of income in an attempt to fraudulently reduce the tax liability.	1
		2
(e)	Every natural person who:	
	Provides advice to another person in respect of a Tax Act; or	1
	Completes or assists in completing a document to be submitted to SARS by another person in terms of a Tax Act	1
	[Drawn from s.240 of the Tax Administration Act 28 of 2011]	2
		10