



# Examiner's report

## P6 Advanced Taxation (ZAF)

### June 2013

#### General Comments

The examination consisted of two compulsory questions Question 1 for 35 marks and Question 2 for 25 marks. Candidates had to then select any two of the three questions in Section B each for 20 marks. The examination required mainly discussion and advice with some computation.

There were observable gaps in knowledge from the answers given as highlighted below.

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 most candidates attempted the required number of questions.

#### Specific Comments

##### Question One

This was unsatisfactorily answered. Candidates did not identify the dividends tax implications. Some candidates treated the close corporation as a partnership. Most candidates did not identify the practical problem of trying to sell a member's interest in a close corporation to a corporate entity (as close corporations may, generally, only be held by natural persons). Many candidates failed to answer the question fully by not identifying the cash to be paid to the holder of the member's interest.

Many candidates use the phrase "corporate rules" whenever a question appears to involve two companies. As these types of transactions are particular and have specific qualifying criteria, the application was incorrect.

Very few candidates understood from part (v) that the acquiring company would hold a shareholding and not the intangible asset. Most discussed the intangible without considering the shareholding, whereas others appeared to assume that consolidated financial statements would resolve any issues. Neither of these options answered the issue.

Few candidates could affect the necessary changes to their preceding calculations in the later parts or omitted all real analysis.

This question was typically answered with vague statements that were either not relevant or insufficiently applied to the facts.

##### Question Two

Candidates kept on applying financial accounting approaches to finance leases instead of the taxation treatment although this was a popular topic in the past. Such erroneous treatment left the comparison meaningless.

Many candidates failed to supply the cash summary and so omitted a large component of the mark scheme. The conclusions reached by candidates in this question were unsatisfactory.

##### Question Three

This was particularly less performed question. Candidates failed to identify the 6 week maximum application of the subsistence allowance. Candidates also did not appear to understand the facts as provided, instead applying the fringe benefit provisions. In addition, incorrect terminology was regularly applied (allowances and advances

called fringe benefits etc). The VAT aspects were either excluded by candidates or erroneously applied. Finally, many candidates only discussed a few of the benefits offered by the employer rather than all the benefits.

#### **Question Four**

This question had four requirements.

Requirement (a): this was generally answered satisfactorily identifying the difference between a testamentary trust and an *inter vivos* trust. Some candidate switched the meanings and, while they lost the mark in this part, their explanation of the classification was carried to the later parts.

Requirement (b): Candidates were able to identify the difference between discretionary and vesting trusts. However, few could distinguish between the concepts of “vesting” versus “distribution”. Many simply did not address this aspect.

Requirements (c) and (d): Candidates seemed to confuse these two requirements and there was significant repetition between these parts. The practical considerations for part (c) seemed to escape the candidates. Having been presented with an elderly taxpayer in poor health, most suggested the creation of an inter vivos trust (which would require immediate recognition of capital gains on disposal of the assets to the trust) rather than the creation of a testamentary trust. Some candidates did not understand the implications of the creation of a testamentary trust.

With respect to requirement (d) and the application of the anti-avoidance rules, candidates failed to recognise that the trust would be in favour of grandchildren and not children (therefore one of the anti-avoidance rules was not relevant). There was significant repetition in this part from part (c) and also within this part regarding the estate duty implications.

#### **Question Five**

Question 5 addressed three different aspects: (a) identification of qualifying micro business; (b) application of the ring-fencing of losses for certain trades for natural persons; (c) the application of deemed capital treatment to the disposal of shares.

Requirement (a):

It was clear that many candidates didn't understand about the turnover tax regime (despite the supplied tax tables in the appendix). Many candidates that did identify the turnover tax regime applied the tables only where the trade was in excess of the R1 million thresholds. In addition, many candidates confused the small business regime with the micro business regime or were not able to identify multiple trades for a single taxpayer.

Requirement (b):

Most candidates did identify that the provision concerning the ring-fencing of losses applied, but were unable to express how the provision applied. In addition many failed to discuss the future implications or the manner in which the taxpayer can argue for the ring-fencing to not apply.

Requirement (c):

Most candidates did identify the application of the deemed capital treatment and showed the capital gains tax calculation but did not discuss the transition from revenue to capital treatment (namely the reversal of the revenue consequences). Many candidates simply applied capital treatment for both holdings sold despite the portfolio being clearly listed as being of a speculative nature. This shows candidates' lack of fundamental knowledge.

#### **General**



Performance on this paper was much lower than in prior years. The practical aspects of the paper appear to have been missed by most candidates.

Those candidates who passed this paper did provide better answers than have been presented in the past and may account further for better performance.