Examiner's report

P6 Advanced Taxation (ZAF)
June 2014

ACCA

General Comments

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

There were observable gaps in candidates' knowledge based on the answers given. These are highlighted more fully below.

Candidates' 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 arising.

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

Candidates are reminded that no part of their answer should contain their own name.

Specific Comments

Question One

This question dealt with the correct identification of an independent contractor versus an employee in relation to the withholding tax duty for employers. The question further addressed tax risk mitigation and restraint of trade payments.

In part (i), many candidates did not address the additional implications / considerations for the employer once they had concluded that Mrs Kumalo was an employee and thus her the employer should have withheld employee's tax. The result was that 6-7 marks out of 19 (max) were omitted. Of further concern was the tendency of some candidates to simply reiterate the facts from the question. Such answers received no marks whereas application of the facts to the law received appropriate credit.

In part (ii), many candidates failed to consider the disclosure implications and recovery of employee's tax.

In part (iii), many candidates focussed only on the tax implications of the deduction for the restraint of trade payment and not the further withholding implications and duties of the employer.

<u>Professional marks</u>: Most candidates used an appropriate report format (although a handful presented their answer in a letter format). However, the effectiveness and logical flow of the communication was generally unsatisfactory. Many candidates had no structure to their answers and calculations carried no descriptions rendering them impossible to follow.

Question Two

This question involved two capital gains tax queries: Query 1 involved depreciable expenditure incurred both before and after valuation date; and Query 2 involve unquantified amounts in the disposal proceeds.

Query 1 - Many candidates did not use the second TABC formula (despite this being supplied in the tax rates at the front of the paper). This is a significant gap in candidates' knowledge, which should be rectified. Many candidates did not apply any TABC calculations despite the asset being a pre-valuation date asset (acquired prior to 1 October 2001).

Query 2 - Most candidates failed to correctly identify that the additional proceeds were unquantified amounts. Again, this is an area of weakness to be addressed. Some candidates assumed, in error, that because the payment was based on production targets that a suspensive condition existed and deferred the date of disposal. Candidates must be aware of the difference between a suspensive and resolutive condition for the purposes of disposals for capital gains tax.

Question Three

The answers to question 3 were fairly generic from most candidates. Candidates tended to examine all taxpayers in isolation without reference to the economic impact on the family as a whole. For example, the first option (i) given in the question was the donation of all of John's assets to his wife. While the tax implications to John were few (and mostly identified by candidates), the more pressing issue was that this option was a simple deferment of the tax liability and did not reduce the tax to be incurred when looking at the family unit as a whole. The question requirement stated: "Where relevant, include reference to the tax positions of his wife and children and identify the most beneficial option(s)". This should have led candidates to consider the tax position of the family as a whole.

Option (iv) given in the question represented a well-used estate plan. Very few candidates considered the issue of control of the assets (or loss thereof) and so simply assumed that this option was an impermissible avoidance arrangement. This was not the case.

Candidates performed poorly with respect to the splitting of the property into usufruct and bare dominium. Candidates then did not extend their thinking into the determination of the values at donation and again at death and the impact overall for the family.

Question Four

This question concerned both VAT and income tax, however many candidates addressed only the VAT implications without considering the income tax implications.

Part (a)(i) addressed three options for financing a new building through purchase (non-vendor and vendor) or lease. Many candidates incorrectly applied an instalment credit agreement principle to the lease in error. For those candidates that did address the income tax implications in their answers, there was considerable confusion as to the application of the building allowance provisions.

Part (a) (ii) was relatively well answered and most candidates identified the amounts to be included in the lessor's gross income. However, many candidates missed the relief that can be obtained by the lessor for the full inclusion of the leasehold improvement in the lessor's gross income.

Part (b) of the question addressed the VAT implications of the sale of goods by a branch of a South African company (VAT vendor) operating outside of South Africa. Critical to this discussion was the differing treatment of dependent versus independent branches. Most candidates identified the implications for an independent branch but did not address the dependent branch scenario.

Question Five

The question considered offshore and onshore investment and its impact. Very few candidates chose this optional question.

Those candidates that did attempt this question assumed its purpose was for them to provide financial advice. The question simply asked for the tax issues pertaining to the investment proposals and not for financial advice. As a result, candidates did not address the income and capital aspects of each of the classes of asset and the differing tax implications of investing in South Africa versus investing offshore.