THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2026

MODULE 2.12 – SOUTH AFRICA OPTION

ADVANCED INTERNATIONAL TAXATION (JURISDICTION)

TIME ALLOWED – 3¼ HOURS

This exam paper has **three** parts: **Part A**, **Part B** and **Part C**.

You need to answer **five** questions in total. You will **not** receive marks for any additional answers.

You must answer:

- **Both** questions in **Part A** (25 marks each)
- **One** question from **Part B** (20 marks)
- **Two** questions from **Part C** (15 marks each)

Further instructions

- All workings should be made in South African Rand, unless otherwise stated. Any monetary calculations should be made to the nearest whole Rand. Any necessary time apportionments in your calculations should be made to the nearest whole month.
- You must provide appropriate line breaks between each question, and clearly indicate the start of each new question using the formatting tools available.
- Marks may be allocated for clarity of presentation of your answers.
- The time you spend answering questions should correspond broadly to the number of marks available for that question. You should therefore aim to spend approximately half of your time answering Part A, and the other half answering questions in Parts B and C.
- There is no separate reading time, so you can start typing your answers as soon as the exam begins. However, we recommend that you set aside some time to thoroughly read each question and plan each of your answers.

PART A

You are required to answer BOTH questions from this Part.

1. SACo, a South African tax resident company, is part of a large group of companies which, over the last few years, has been expanding rapidly offshore.

The group's offshore operations currently include a company incorporated in Country X (XCo), which is wholly held by a company incorporated in Country Y (YCo). YCo is in turn wholly held by a trust tax resident in Country Z (Z Trust), which has SACo as one of its beneficiaries.

XCo's income taxes are exceptionally low (an effective rate of 10%). XCo has rented an office in Country X and employs Person A, who performs administrative and accounting work using a computer. He takes instructions directly from the directors of XCo, who meet once a month.

Two of the directors are South African tax resident individuals and the remaining two are Country X tax resident individuals. Their meetings are sometimes held online, but more than half take place in South Africa (usually in the boardroom of the hotel where the Country X directors choose, on each occasion, to stay). Country X regards companies that are established in its territory as tax resident there.

YCo has only two directors, both of whom are resident in Country Y. All board meetings are held in-person in Country Y, which has a corporate tax rate of 25%. Other than the two directors, YCo has no staff or offices. Its sole functions are to extend interest-bearing loans to, and receive dividends from, the operating companies in which it has shareholdings.

Besides its holding in XCo, YCo also holds significant shareholdings in three operating companies outside Country Y (namely, a 40% interest in a Brazilian tax resident company, BrazCo; a 55% interest in a Colombian tax resident company, ColCo; and a 100% interest in another company resident in South Africa, OpCo. BrazCo, ColCo and OpCo own factories in their respective jurisdictions, which manufacture products for the local retail markets in Brazil and Colombia respectively. BrazCo sometimes buys goods from SACo to sell in Brazil; however, the volume of goods purchased from SACo is relatively insignificant in relation to its total sales.

Z Trust is subject to no tax on its income in Country Z. Occasionally, the Z Trust distributes dividends that it receives from YCo to SACo.

SACo consolidates the operating results of XCo, YCo, Z Trust, OpCo, BrazCo and Colco's operations into its annual financial statements.

Countries X, Y and Z have all concluded double tax agreements with South Africa, each following the latest version of the OECD Model Tax Convention.

You are required to:

1) **Discuss whether you would consider XCo, YCo, Z Trust, OpCo, BrazCo and ColCo to be controlled foreign companies (CFCs) for South African tax purposes.** (10)

2) **Outline, based on your answer to 1), what would be at risk of being attributed to SACo and, if applicable, how the percentage attribution would be determined. You are not required to determine the actual percentages.** (10)

3) **Identify any South African exchange control considerations that need to be considered, with regard to the current structure.** (5)

Total (25)

2. **You are required to address each of the following matters, regarding the relevance of the concept of source in the South African tax system:**

   1) **Provide two reasons why the concept of source remains relevant to South African tax law, and explain how the source of income is determined.** (4)

   2) **Explain how, in situations where a company that is tax resident in a country outside South Africa's double tax agreement (DTA) network generates interest and royalty income that is paid by a South African resident, the interest and royalty income may be taxed in South Africa. Comment on whether the non-resident will have an income tax registration liability in South Africa.**

      You may assume that the South African resident paying these amounts conducts no activities outside South Africa, and that the non-resident in receipt of interest and royalty income has no permanent establishment in South Africa. (7)

   3) **A South African tax resident company generates income through its employees rendering accounting services to a foreign client. The employees of the South African company all render their services exclusively from the South African company's premises in Johannesburg.**

      The foreign client has no South African presence, and operates in a country that does not have a DTA with South Africa. The foreign client applies a 10% withholding tax to the fees paid to the South African service provider, in accordance with the foreign client's domestic law.

      Explain the South African income tax treatment of the service fee income in the hands of the South African company, highlighting where the concept of source is relevant. (11)

   4) **How would your answer to 3) change if the foreign client were based in Eswatini, bearing in mind that a double tax agreement is in place between Eswatini and South Africa, based on the OECD Model Tax Convention?** (3)

Total (25)

PART B

You are required to answer ONE question from this Part.

3. John, a wealthy South African tax resident, established the Ocean View Trust in Jersey in 2024. He and his family are the sole beneficiaries of this discretionary Jersey tax resident trust. In 2024, John provided a R1 million interest-free loan to the trust, which it used to acquire the following shareholdings in three Jersey tax resident companies:

   - a 100% shareholding in ABCo;
   - a 49% shareholding in CDCo; and
   - a 9% shareholding in EFCo.

   The remaining shares in CDCo and EFCo were held by unrelated parties.

   During the 2026 year of assessment, all three companies paid dividends to the Ocean View Trust. The trust did not distribute these amounts to any beneficiaries during the year.

   You are required to discuss how John will be taxed in South Africa in the 2026 year of assessment, based on the facts presented, in consideration of the relevant South African tax law provisions regarding:

   1) attribution provisions; (5)

   2) exemption provisions; (5)

   3) transfer pricing provisions; and (5)

   4) donations tax provisions. (5)

   Total (20)

4. **You are required to answer the following questions in relation to the Multilateral Instrument (MLI), specifically the inclusion of the Principal Purpose Test (PPT) into South Africa's double tax agreement network and the co-existence of this test with South Africa's General Anti-Avoidance Rule (GAAR) legislation:**

   1) Explain, in detail, the type of transaction to which the GAAR, as contained in Part 11A of the Income Tax Act, applies? (10)

   2) What powers are legislated in favour of the Commissioner for the South African Revenue Service, in respect of a GAAR arrangement? What is the key material difference between the old GAAR (that which applied under section 103 of the Income Tax Act and the new GAAR)? (3)

   3) Comment on whether the GAAR legislation can be used to deny benefits afforded by a double tax agreement, and provide support for your position. Outline section 80J of the ITA and its purpose. (7)

   Total (20)

PART C

You are required to answer TWO questions from this Part.

5. You have been provided with a series of cases by colleagues at your VAT advisory firm.

1) MapleCo is a company established in Canada. It provides internet services, via satellite, to customers throughout the world, including in South Africa. The South African clients comprise individuals; third-party South African businesses; a South African subsidiary (SubCo) that is wholly owned by MapleCo; an associated South African company (ACo) in which MapleCo owns 65% of shares; and a South African branch of MapleCo (Branch SA).

   You are required to advise MapleCo as to whether any South African VAT implications exist in relation to the internet services provided to its customers and related entities in South Africa. (5)

2) Suxco SA is the wholly held South African subsidiary of Suxco US, a company incorporated in the United States, which manufactures vacuum cleaners for the retail market worldwide. In addition to its holding of Suxco SA, Suxco US maintains a separate branch in South Africa through which it sells the vacuum cleaners.

   Suxco SA renders assorted services to Suxco US, including marketing the vacuum cleaners to South African consumers and repairing the vacuum cleaners sold by Suxco US when they break. Suxco SA also provides accounting services to the South African branch of Suxco US, under an agreement between Suxco SA and Suxco US, with the services paid for by Suxco US.

   After receiving a number of complaints about the quality of repairs to the vacuum cleaners performed by Suxco SA, Suxco US hires a South African engineering firm to investigate the complaints. The engineering firm finds that the complaints are valid, and the managing director of Suxco US is visiting South Africa to hold discussions with staff at Suxco SA and the engineering firm.

   You are required to provide Suxco SA with an opinion regarding the South African VAT implications that will arise, in relation to the various transactions described. (5)

3) A South African company, Fastco, which sells fast food, is in need of additional capital to expand its successful retail business.

   Fastco has received paid advice from a tax advisory firm in the United Kingdom, regarding the best approach to raising the required funds on international markets. The UK tax advisers have suggested issuing shares for sales on foreign stock market and raising debts from foreign financiers.

   You are required to advise Fastco on whether it should account for VAT on the services supplied by non-resident advisers, on the basis that the relevant services constitute 'imported services'. (5)

Total (15)

6. Ethan, an engineer who is tax resident in South Africa, has taken up employment in Country P, which imposes no income tax and has no double tax agreement (DTA) with South Africa.

In the 2024 year of assessment, Ethan spent 180 continuous days working in Country P and earned a salary equivalent to R1,200,000.

In the 2025 year of assessment, he spent 190 continuous days working in country P and earned a salary equivalent to R1,500,000.

In the 2026 year of assessment, Ethan married Esther, a resident of Country Q, a neighbouring country to Country P. Country Q has a DTA with South Africa, based on the latest version of the OECD Model Tax Convention. Ethan decided to permanently relocate to Country Q, with the intention of never returning to South Africa. He successfully ceased his South African tax residency on 1 January 2026 by meeting all the necessary requirements with the South African Reserve Bank (SARB).

Before his departure and cessation of residency, his assets were as follows:

- a primary residence in Cape Town, recently valued at R3 million, that he bought in 2007 at a price of R1,500,000;
- an apartment in Country P, recently valued at R8 million, that he bought in 2024 for R4 million (denominated in the currency of Country P);
- listed shares on the Johannesburg Stock Exchange, with a market value of R500,000, that he bought in 2010 at a cost of R200,000;
- a portfolio of foreign shares listed on the London Stock Exchange, valued at R1 million, that he bought in 2011 at a cost of R400,000.
- a retirement annuity fund with an accumulated value of R2 million;
- a personal savings account in South Africa with a balance of R50,000; and
- a motor vehicle that he uses while in South Africa for personal use, which he bought in 2018 for R200,000 and is now valued at R10,000.

Ethan is also the beneficiary of a South African resident discretionary trust. The trust holds rental property in South Africa, that it bought in 2000 for R5million and which is now worth R10 million.

In the 2027 year of assessment Ethan plans to rent out his residence in South Africa, and he will receive distributions from the South African trust comprising the rental income that arises during the year. Ethan also wants to access his South African retirement annuity fund, as he finds the cost of living in his new country to be unexpectedly high.

Based on the information presented, you are required to describe the South African tax consequences for Ethan that will arise in:

1) the 2024 and 2025 tax years; (5)

2) 2026 tax year; and (8)

3) the 2027 tax year. (3)

For each tax year, you should consider whether Ethan will be entitled to any tax relief under the relevant DTA. You are not required to calculate the amount of Ethan's actual tax liability, but should describe the principles by which his tax liability would be calculated in those years.

Total (15)

7. **You are required to answer the following questions:**

   1) What triggers a liability for Dividends Tax? When is a cash settled dividend considered paid in the case of an unlisted company? (2)

   2) What constitutes a dividend, for Dividends Tax purposes? You should include details of any applicable definitions that may be relevant to this question. (5)

   3) Is an unlisted company that declares a cash dividend liable for Dividends Tax? What is required before a company is permitted to apply a reduced dividend rate, under a double tax agreement? (4)

   4) When a dividend consists of an asset in specie, what is the value of the dividend declared? (2)

   5) Identify two exemptions from Dividends Tax. (2)

Total (15)

8. **You are required to answer the following questions:**

   1) Under South African tax law, to whom do the Pillar Two mechanisms apply? Outline the test applied under South African tax law to determine whether the Pillar Two legislation applies. How is the applicable threshold measured under South African tax law? (4)

   2) Identify five types of entities that are specifically excluded from South Africa's Pillar Two legislation. (5)

   3) List the three Pillar Two taxing rules, identifying the order in which they are to be applied and specifying which of them have thus far been adopted by South Africa. (6)

Total (15)