

## THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2019

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### MODULE 1

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#### PRINCIPLES OF INTERNATIONAL TAXATION

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TIME ALLOWED – 3¼ HOURS

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This exam paper has **two** parts: **Part A** and **Part B**.

You need to answer **four** questions in total.

You must answer:

- **At least two** questions in **Part A** (25 marks each)
- **At least one** question from **Part B** (25 marks each)

#### Further instructions

- All workings should be made to the nearest month and you must use the appropriate monetary currency, unless otherwise stated.
- Start each answer on a new page and clearly indicate which question you are answering. If you are using the on-screen method to complete your exam, 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 first 15 minutes of the exam is reading time. You will be allowed to annotate the question paper during this time; however, you will **not** be permitted to start writing or typing your answer. The Presiding Officer will inform you when you can start answering the questions.

**PART A**

**You are required to answer AT LEAST TWO questions from this Part.**

1. **Evaluate the current position regarding the ‘separate legal entity’ principle, and the attribution of profits methodology, through the lens of the permanent establishment (PE) concept.** (25)
2. **Recent developments arising from globalisation, digitalisation and increased tax competition present challenges to the corporate income tax. What are the implications of these developments for the future of the corporate income tax?** (25)
3. **When interpreting a double taxation agreement (DTA), where a term is not defined in the DTA itself, should the parties look first to the context or to the domestic meaning? What does ‘context’ mean in such circumstances?** (25)
4. **What is the difference between ‘tax competition’ and ‘harmful tax competition’?** (25)
5. **What is the BEPS approach to tackling treaty shopping, and how does it differ from earlier approaches?** (25)

## PART B

**You are required to answer AT LEAST ONE question from this Part.**

6. Marai Ltd (Marai) is incorporated in Mostland and is an aircraft operator. In exercising its jurisdiction to tax, Mostland determines corporate tax residence on the basis of the place of incorporation. Marai's directors are based in Novaland, and Marai also sells retail airline tickets through an agent in Novaland. The tickets relate exclusively to three different categories of flight, all of which operate entirely within three countries: Mostland, Novaland and Otherland.

Marai also advertises the products of several suppliers of luxury goods in magazines which it supplies on its aircraft. It receives advertising fees from these suppliers.

Mostland and Novaland have a double taxation agreement (DTA) in exact accordance with the OECD Model Tax Convention 2017.

**You are required to prepare a report, addressing the issues in the context of international tax policy and determining whether Mostland or Novaland has the primary taxing right for profits which arise from the sale of tickets by Marai's agent in Novaland and those derived from the advertising fees.** (25)

7. AzCo is incorporated in Country A and is treated as an opaque entity under Country A's domestic law. AzCo has a wholly owned subsidiary in Country B, Bibin, which is treated as transparent by the authorities of Country A and as opaque by Country B's authorities.

AzCo has recently granted a loan to Bibin. The loan was organised in Country B. Bibin has paid AzCo interest of \$900,000. Country B does not apply withholding tax to interest payments. To date, Country A has not required AzCo to include the interest income in its Country A tax return, while Country B has allowed Bibin a deduction for interest payments in these circumstances.

Countries A and B are both OECD members and are major trading partners. It is anticipated that there will continue to be many transactions of the type outlined above occurring between taxpayers in the two countries.

AzCo and Bibin have been advised by their respective tax consultants that transactions such as the type outlined above may no longer be treated in the same way in the future, and that Countries A and B are seeking advice as to how such transactions should be treated.

**You are required to prepare a report that outlines how the above type of transaction should be treated, to ensure that Countries A and B act consistently with BEPS Action 2. Your report should include a discussion of developments in this area, and how best Countries A and B could ensure that their domestic and tax treaty rules do not create any unforeseen tax consequences.** (25)