THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2026

MODULE 2.01 – AUSTRALIA 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 Australian Dollars, unless otherwise stated. Any monetary calculations should be made to the nearest whole Australian Dollar. 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. Your clients. Alice and Hugh, are siblings who were born in Australia and are now aged in their fifties. Alice had roles in Australian TV series and films, before being spotted by a Hollywood talent agent. Hugh was a public servant, and made contributions to a Commonwealth Superannuation Scheme (CSS) pension. They jointly bought a house in Sydney, Australia, 25 years ago, which was then valued at $1 million and at which they resided.

   When Alice started to become successful as a film actor ten years ago, she incorporated a company in Australia (AusArtists Pty Ltd) as the 100% shareholder to manage her career and receive the payments for her acting roles. Alice has a contract with the company. The registered office was the Sydney house, and a study (comprising 10% of the floor area) was used to run the company's business. Hugh helped with the company management as a director alongside Alice.

   Eight Australian tax years ago, Alice moved to the United States and rented an apartment in Los Angeles. She sought roles in movies and had some success. She scored a lead role in a major movie and her career commitments meant that she spent most of the year in the US, only returning to Australia to visit family members for two to three weeks per year. During this period, she closed her Australian bank accounts.

   Six years ago, Alice's movie roles increased to a level where she was earning significant income, which was paid by several movie studios to AusArtists Pty Ltd. Hugh resigned from his public service job, while remaining a contributing member of the CSS, and occasionally making voluntary contributions. He moved to the US, working full time for AusArtists Pty Ltd. Alice and Hugh rented out the Sydney house through a real estate agent.

   Four years ago, Alice and Hugh each bought houses in Los Angeles. Hugh closed all his Australian bank accounts, except for one in which he held just enough funds to cover his visits to Australia. In the last year he reached his preservation age and withdrew his superannuation as a lump sum, ceasing to be a member of the CSS. Alice and Hugh managed AusArtists Pty Ltd from the US.

   Two years ago, Alice became a highly sought-after actor in major movie productions in the US. For both that year and the current one she did not visit Australia at all but had holidays for two or three weeks each year in locations other than Australia. Alice signed a five-year contract with a single studio.

   A few months ago, Alice and Hugh applied for US citizenship (which is still being processed); they intend to be dual citizens of both countries. In the current tax year, they sold the Sydney house for $3 million. Hugh spent three months in Australia during the period of the house sale and settlement.

   As a tax expert in Australia, you are required to advise Alice and Hugh on the following matters in the current tax year:

   1) **The current tax residency status of each of Alice, Hugh and AusArtists Pty Ltd, and the likely timing of when any change of residency for each of these occurred.** (15)

   2) **The capital gains tax implications of the sale of the Sydney property, including how any taxable gain would be affected by the business/rental use of the property and the owners' residency status.** (5)

   3) **Whether the Personal Services Income rules apply to the income of AusArtists Pty Ltd, and on what basis.** (5)

   You may disregard the US-Australia double tax agreement.

   Total (25)

2. Sammy Investments Pty Ltd was incorporated in Australia 20 years ago, with Samantha Smith as the 80% shareholder and Samantha's husband, Bill, owning the remaining 20% shareholding. They are the only directors.

The company owns ten commercial and residential properties, eight of which are rented on the open market, with the other two being Samantha' s residence and holiday home. One of the commercial rented properties was located overseas, in Vanuatu, and was sold during the latest tax year resulting in a capital loss.

The company also has term deposits and shareholdings in listed companies, in Australian and overseas stock exchanges, all on an arm's length and portfolio basis. It receives income in the form of interest and dividends. Sometimes it sells shares and makes capital gains and losses. In the last tax year Sammy Investments Pty Ltd had recorded gross income of $20 million, all passive income, and including dividends from Australian shares, all being fully franked.

During the most recent tax year the company received dividends from sources in various other countries from which no withholding tax had been deducted, or in some cases had withholding tax of 10% or 15% of the dividend deducted. The foreign tax authorities which deducted the withholding tax have provided Sammy Investments Pty Ltd with statements detailing this.

Two years ago, the company made a loan to Bill of $1 million repayable over ten years at a simple interest rate of 5% per annum. To date Bill has made no payments of interest or capital, and there is no loan document. In the current tax year, the company passed a resolution to forgive the loan.

During the last tax year, the company provided Samantha with a leased car for company business with a monthly value of $1,000. Samantha has not kept a logbook, but estimates that 20% of its use was for her private travel. Halfway through the year Samantha lost her driving licence and the company transferred the lease to Samantha's son.

During the last tax year, the company also incurred $100,000 in legal advice on how it could be restructured. The advice recommended as follows:

a) Sammy Investments Pty Ltd retain the investment properties;
b) a family trust be created to hold the two private properties; and
c) a new company be incorporated to conduct the other income-generating activities.

The advice recommended this restructure in order to maximise profitability from each income stream.

As their tax adviser, you are required to inform Samantha Smith, Bill Smith and Sammy Investments Pty Ltd on the following tax issues:

1) How the capital gains and losses, and the dividends from overseas sources, will be treated for Australian Income Tax purposes. (10)

2) How the Income Tax and Fringe Benefits Tax rules may apply to the loan made by the company to Bill and the provision of the leased motor vehicle. (10)

3) Whether the company's legal fees in relation to the proposed new structure are deductible for Income Tax purposes, and on what basis. (5)

Total (25)

PART B

You are required to answer ONE question from this Part.

3. Big Group has worldwide operations in over 100 entities, including a wholly owned Australian subsidiary, Big Pty Ltd, the only group entity in Australia. The group files consolidated accounts in another country, which is a Pillar Two signatory and with which Australia has a Qualifying Competent Authority Agreement.

Most of the members of Big Group are companies, but four of them are:

a) a pension fund, with net revenue of €10 million;
b) a charitable foundation, with net revenue of €20 million;
c) a joint venture (one-third owned by the Big Group), with net revenue of €60 million; and
d) a permanent establishment in Jurisdiction X. It is 20% owned by Big Group's ultimate parent entity, 20% by Big Pty Ltd and 20% by a Big Group wholly owned subsidiary incorporated in Jurisdiction X, with net revenues of €20 million. The remaining 40% is owned by unrelated investors in Jurisdiction X.

In the last four tax years Big Group had consolidated revenue (after exclusions) equivalent to:

Year 1	€400 million (for a six-month period)
Year 2	€700 million
Year 3	€700 million
Year 4	€800 million

Based on the information presented, you are required to advise Big Pty Ltd on the application of the law in Australia implementing the OECD's Pillar Two rules. Your advice should specifically explain the following:

1) Which entities are considered members of Big Group for Pillar Two purposes, and is Big Group an applicable MNE group on the basis of the GloBE threshold? (10)

2) Which entity may be required to lodge a GloBE Information Return, and will any other new returns or forms need to be filed by Big Pty Ltd? (5)

3) Whether Big Pty Ltd will be penalised for any late filing as they adapt their computer systems and train staff to comply with the new law? (5)

You may assume that all the entities' tax years start after the OECD Pillar Two law's effective start date in Australia and in other relevant countries. Safe harbours may be ignored.

Total (20)

4. G Pty Ltd is trustee of the inter vivos (living) Gibson Family Trust, which runs a substantial trading business and investment portfolio for the benefit of the Gibson children and grandchildren.

The beneficiaries of the trust are A (aged 50), B (aged 45), C (aged 40), D (aged 15) and E (aged 10). A and B are the shareholders and directors of G Pty Ltd. All the beneficiaries are residents of Australia except for C. All the trust's income is Australian sourced.

The trust deed stipulates that the trust income must be calculated in accordance with the prevailing tax laws, and that the trustee has discretion as to distributions. During the most recent tax year, the following information has been provided:

a) The business operated by the trust made net trading income of $8 million, received franked dividends of $1 million (to which franking credits of $300,000 were attached) and made a net capital gain after discount of $1 million.

b) On 25 June the trustee made a resolution to distribute $2 million to each of the adult beneficiaries and $500,000 to each of the minor beneficiaries.

c) On 26 June the trustee made a resolution to stream the dividends to Beneficiary A and the capital gain to Beneficiary B in their distributions.

d) Beneficiary B made a capital loss in his own right of $1 million.

You are required to:

1) Calculate the trust's net income for the most recent tax year. (5)

2) Advise on how the distributions will be taxed in the hands of the beneficiaries. (10)

3) Advise on whether, and how, any of the trust income may be taxed in the hands of the trustee. (5)

Total (20)

PART C

You are required to answer TWO questions from this Part.

5. John Smart owns a company incorporated in Australia, AustSmart Pty Ltd, which owns 100% of the paid-up capital of two foreign companies, HavenCo and InvestCo. Both HavenCo and InvestCo are resident in a country that is not a listed country or a section 404 country, and neither is Part X Australian resident.

   In the current year, InvestCo earned business income which is not considered tainted income. InvestCo is not a foreign permanent establishment of AustSmart Pty Ltd.

   HavenCo has the following income (converted to Australian dollars) in the current tax year:

   1) Rent from InvestCo of $100,000;

   2) Services income from InvestCo of $100,000; and

   3) Dividends of $300,000 from a broad share portfolio.

   As a tax adviser, you are required to explain to John Smart and AustSmart Pty Ltd the Income Tax consequences of Australia's Controlled Foreign Company (CFC) rules on the above entities and their income. (15)

6. Mechanix Pty Ltd is an Australian resident company which manufactures fibreglass boats with inboard motors. It records a turnover of approximately $5 million per year and has been registered for the Goods and Services Tax (GST) for many years.

   Mechanix Pty Ltd had previously only made domestic sales, but has recently begun marketing its products internationally and has received several orders from individuals in the Asia-Pacific region, with 50% of buyers intending to use them as private leisure boats and the remaining 50% for fishing or tourism operations. Mechanix Pty Ltd has fulfilled the orders on the basis of full payment from the customer upon receipt of the invoice.

   The number of orders has expanded to such a degree that Mechanix Pty Ltd is considering setting up wholly owned subsidiaries in Thailand and Fiji, to which they will export the boats for no consideration, for on-selling to customers.

   You are required to explain the application of Australia's GST laws to Mechanix Pty Ltd in relation to the recent and proposed overseas sales, including the conditions for any exemptions. (15)

7. Flying Dutchman Co. is a Dutch-British company, headquartered in Amsterdam, which has proposed investing $1 billion in Australia to develop a gold mine. It has incorporated a company in Australia, Digger Pty Ltd, to exploit the mine, and intends to fund Digger Pty Ltd through the following mix of equity and debt:

   1) Equity in the form of $200 million in $1 ordinary shares in Digger Pty Ltd, which will be wholly acquired in cash by Flying Dutchman Co.

   2) Debt from an unsecured loan of $800 million from a subsidiary in an unlisted country in which interest income is not taxable. The unlisted country subsidiary will be incorporated specifically for this purpose, and will borrow the funds on the general market at an annual 2% interest rate, before lending it on to Digger Pty Ltd at an annual rate of 10%. According to Flying Dutchman Co., the difference in the two rates represents the risk carried by the unlisted country subsidiary.

   In its first year of operation Digger Pty Ltd is expected to have Earnings Before Interest, Taxes, Depreciation and Amortisation (EBITDA) of $120 million and an interest expense of $80 million.

   You are required to advise Flying Dutchman Co. on whether the above arrangement will likely be acceptable to the Australian Taxation Office, and any objections or limitations that may arise.

   You should ignore any tax treaty issues.

   (15)

8. Dr Jim Jackson operates a large clinic through a company, Jim's Medical Pty Ltd, in which he is the sole shareholder and director. The company has turnover of $10 million and Jim is looking for ways to reduce the company's tax bill.

Jim has some ideas for using AI to improve patient treatment. He recently noticed an advert in a medical journal about a tax firm that specialises in research and development (R&D) claims relating to the medical profession.

Jim met with Mr X of the tax firm and was given details of the R&D tax incentives. Mr X advised Jim that expenditure in this area will yield a refundable tax offset of 18.5% above the company's income tax rate that, after allowing for Mr X's fee, will be cash positive for the company. Mr X claims that he has already provided similar advice to a number of other medical practices during the last three years.

Mr X advised that Jim's company can self-assess its claim for the incentive. The only requirement is that the company must register the R&D activities with the relevant government agencies. Mr X has offered to examine the company's existing expenses, many of which he claims should qualify as R&D expenses. He has also advised that the R&D costs can include very high contract payments to Jim as a medical researcher.

Based on the information presented, you are required to advise Jim on the following:

1) **Whether the proposal by Mr X is likely to fall under the promoter penalty provisions, and on what basis.** (10)

2) **Whether the proposal by Mr X is likely to fall under the General Anti-Avoidance Rules (GAAR), and on what basis.** (5)

Total (15)