

## THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2019

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### MODULE 2.01 – AUSTRALIA OPTION

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#### ADVANCED INTERNATIONAL TAXATION (JURISDICTION)

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TIME ALLOWED – 3¼ HOURS

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

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

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 to the nearest month and in Australian Dollars, 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 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.
- 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 BOTH questions from this Part.**

1. The following amounts have been received by clients of your firm, all of whom are Australian residents, in the 2018-19 tax year.

You are required to consider whether each amount is to be treated as assessable income, non-assessable non-exempt income, or exempt income, with reference where relevant to the Income Tax Assessment Act 1997, Income Tax Assessment Act 1936 or appropriate case law.

- 1) **\$12,000 received by an unidentified informer who has given evidence to a Royal Commission into organised crime in Australia.** (3)
- 2) **\$400,000 won in a New South Wales lottery.** (3)
- 3) **\$20,000 received as an honorarium by the president of a public authority.** (3)
- 4) **\$8,000 in Age Pension received by a 73-year-old man.** (3)
- 5) **\$9,000 in Disability Support Pension received by a 37-year-old woman.** (3)
- 6) **A car, valued at \$45,000, provided to an employee by her employer. The employee uses the car for work purposes during the week and for private purposes at weekends. During the week it is left at the employer's premises. The weekend use saves the employee \$2,500 per year in personal expenditure.** (4)
- 7) **A capital gain of \$100,000 made by a trade union from the sale of vacant land. The land was acquired in 1987 for the purpose of erecting new union premises.** (3)
- 8) **Annual maintenance payments of \$15,000 received by a woman from her former husband.** (3)

Total (25)

2. The following expenses were each incurred by Australian resident taxpayers during the 2018/2019 tax year.

**You are required to explain to what extent, if any, each item is deductible for income tax purposes. Provide brief reasons and/or references to applicable sections of the income tax legislation, to support each answer as necessary.**

- 1) **Subscription to a club which a self-employed taxpayer used to entertain business acquaintances.** (3)
  - 2) **Parking fines paid by a courier company.** (3)
  - 3) **A discount allowed by a merchant on selling his book debts to a finance company on the winding-up of his business.** (3)
  - 4) **A bonus due to an employee, but paid directly to a charitable institution at the request of the employee.** (3)
  - 5) **Bank interest paid in respect of an overdraft secured on a taxpayer's private home and used in her business to purchase additional manufacturing plant.** (3)
  - 6) **Expenditure incurred by a company in bringing a new employee from overseas to take up a position with the company in Australia.** (3)
  - 7) **Legal costs incurred by a wholesale merchant in discharging a mortgage over storage buildings, which had been used as security for a loan for the purpose of financing his business activities.** (4)
  - 8) **A donation made to a cancer charity by a cancer sufferer.** (3)
- Total (25)

**PART B**

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

3. The head of the federal treasury of a newly formed country has recently briefed you that the country's government intends to introduce a tax on fringe benefits, starting on 1 July 2019. She has learned that Australia has taxed this type of benefit since 1987.

**You are required to write a letter to the head of the federal treasury, explaining the key elements of the tax and its complexities. In particular, you should provide your thoughts as to whether the tax can be introduced in a simpler form and, if so, how?**  
(20)

4.

- 1) **Assuming in each case that the supplier is correctly registered for Goods and Services Tax (GST), you are required to explain how the following supplies will be treated by the supplier for GST purposes.**

- the sale of fruit by a grocer;
- the sale of books by a newsagent;
- the provision of advice by a bank regarding a loan facility;
- the export of raw minerals by a mining company;
- the sale of a new residential home by a builder;
- the lease of city office premises;
- the provision of a medical consultation by a doctor; and
- the provision of an education course delivered by a school.

**In each case, you are required to apply the relevant law and explain the reason why the supply is to be treated in that particular way under GST law.**  
(16)

- 2) **Explain the GST treatment in respect of the sale of a business as a “going concern”. Your answer should refer in detail to the conditions that must be satisfied in order for that treatment to be applied. What is the rationale for according that treatment to the sale?**  
(4)

Total (20)

**PART C**

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

5. **One of your clients, a newly formed small company, has sought your explanation on how a partnership and its partners are taxed in Australia on partnership income.**

**You are required to consider how salaries, drawings and interest paid to or by a partner are to be treated, using examples to illustrate specific points. (15)**

6. **A political party in Australia has proposed taxing all distributions from discretionary trusts at a minimum of 30%, with the exception of certain 'farm trusts'.**

**You are required to consider this proposal, and evaluate whether you think this policy is technically feasible and where any problems may lie for Australian taxpayers. (15)**

7.

1) **You are required to explain what is meant by 'dividend imputation', and how the Australian version works. Illustrate your answer with examples. (10)**

2) **If the government were to deny refunds of excess imputation credits, what would this entail in practical terms? What would be the advantages and disadvantages of such a policy? Explain your reasoning. (5)**

Total (15)

8. **You are required to explain how Australia taxes non-residents on income and capital gains earned in or from Australia. You should consider all relevant matters, including withholding tax and capital gains tax. You may ignore double taxation agreements. (15)**