

# THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2021

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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 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 to the nearest month and in Australian Dollars, unless otherwise stated.
- As you are using the online 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.
- 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. Mariana is a 48-year-old Australian resident in the current tax year ending 30 June 2021, and has earned consultant fees of \$250,000. For the past ten tax years she has lived and worked overseas as an IT expert consultant, and was considered a non-resident for tax purposes for those tax years spanning 2010 to 2020.

Mariana seeks advice on the Australian tax treatment of her income for the tax year ending 30 June 2021.

**You are required to advise Mariana on the tax treatment of each of her incomes as described below.**

- 1) **A lump sum payment received by Mariana, following the decision of an Australian court to award her a compensatory amount for loss of income and personal damages for loss of reputation. (10)**
- 2) **In the current year, Mariana queries whether some other classes of her income would be considered as taxable income, or exempt income for Australian tax purposes:**
  - a) **Profit from the sale of her investment property, situated in New Zealand, which she had held for three years. This asset disposal did not attract tax in New Zealand, as there is no broad based capital gains tax. Mariana also derived net rental income of NZ\$5,000 in the current tax year prior to the sale of her property, which was under the tax threshold and was therefore not taxed in New Zealand. (10)**
  - b) **Profit from the sale of an investment holding in a cryptocurrency, which was not bought with the intention of resale. (5)**

**You should explain any assumptions that you make, and ignore consideration of tax treaty interpretations between Australia and New Zealand.**

Total (25)

2. Aquarius Pty Ltd (Aquarius) is a modestly capitalised mining company which was incorporated on 1 August 2020, and commenced operations on 1 November 2020 to mine a green field development in Australia in which it holds a lease and hopes to exploit natural gas deposits in a basin area.

Aquarius formed a joint venture on 30 November 2020 with an established Australian private equity firm, Exploro Pty Ltd (Exploro), to examine the feasibility of the energy projects and to advise on business prospects. Under the terms of the joint venture, Exploro is responsible for all exploration expenses.

After Aquarius began its mining operations in November 2020, expenses totalling \$300,000 were paid for equipment, salaries, rental, marketing operations, mapping, surveys and licence applications.

Exploro has outlaid \$150,000 to collect geological information and identify other possible gas deposits in adjoining basins that have marketable quantities.

In addition, the board of directors of Aquarius has requested that the joint venture should explore the production of hydrogen and has outlaid costs of \$150,000 in August and September 2020 on feasibility reports, tax structuring options and logistics studies.

Aquarius's board of directors and Exploro's management team have sought your advice on the deductibility of the expenditures and cost outlays described.

**You are required to:**

- 1) **Advise Aquarius on how a joint venture arrangement is treated for tax purposes, and on the tax treatment of the \$300,000 expenses paid for equipment, salaries, rental, marketing, mapping, surveys and licence applications.** (10)
- 2) **Advise Exploro on the tax treatment of its \$150,000 business expenditure relating to the collection of geological information and identification of potential gas deposits.** (5)
- 3) **Advise Aquarius on the tax treatment of the \$150,000 cost outlay relating to the proposed hydrogen production.** (10)

Total (25)

**PART B**

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

3. Maxine is a sole trader hairdresser and has experienced a downturn in business due to recent poor economic conditions. She seeks your advice on the options available to her for offsetting business costs, and in particular is considering sub-leasing part of her small business premises and fixed equipment to another hairdresser, Fred. As the sub-lessee, Fred will retain his profits from services to his own clients. Maxine will incur a one off \$1,000 in legal costs in connection with the sub-leasing agreement.

The fortnightly income of \$500 which Maxine expects to earn from sub-leasing the premises and equipment is expected to cover approximately 50% of the \$1,000 monthly cost of fixed overheads for electricity and gas. Instead of paying the rental to Maxine directly, Fred will be asked to pay her total electricity and gas costs of \$1,000 per month; this bill is paid quarterly.

**You are required to briefly advise Maxine on the tax implications and treatment of sub-lease rental income from Fred, on whether this affects the usual business deductions for all gas and electricity, and on the tax treatment of her legal expenses.** (20)

4. Frankie, a retiree on a non-taxable pension, bought shares in Microchip Pty Ltd, a company listed on the Australian Securities Exchange, on 1 July 2020. He bought the shares in the expectation of making a profit and selling half of his shares within six months of the purchase. Frankie plans to sell the remaining half of the shares in one sale in August 2021, 13 months after the purchase. He is scheduled to receive fully franked dividends and a franking credit of \$300 prior to the sale.

**You are required to advise Frankie on the tax implications of each of his sales of Microchip shares, and on how the franked dividends are to be accounted for under the Australian tax system.** (20)

## PART C

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

5. A lawyer has recently started a new practice and collected \$48,000 in professional fees for the first quarter of the tax year, of which half derives from clients in Australia and the remaining half from online advice given to clients in Japan. The lawyer expects this to be typical of his quarterly level of income for the year, and seeks your advice on how the Australian Goods and Services Tax (GST) provisions should be applied to his practice income for billing purposes. The lawyer has also purchased a computer costing \$1,100 for his practice.

**You are required to help the lawyer understand the GST issues applicable to his practice income and purchases, and to provide general guidance on the application of the GST regime.** (15)

6. Middleco is considering the introduction of a workplace giving arrangement into its payroll operations, which will allow its employees to donate part of their salary to a charity.

**As an internal accountant at Middleco, you are required to send a communication to staff advising how the arrangements will work for tax purposes. In particular, your guidance should explain how tax deductible gift status works and whether any donations to overseas funds are deductible.** (15)

7. Energyco has introduced an incentive plan in which it pays for all middle managers' household energy costs up to a ceiling of \$2,000 per employee, per Fringe Benefits Tax (FBT) year. The gas and electricity accounts are submitted for reimbursement to Energyco by each participating manager, each FBT year.

**You are required to discuss the tax implications to Energyco of paying for its middle management employees' energy costs for one year. Is there any way in which the FBT costs to Energyco will be reduced if the \$2,000 ceiling is lowered?** (15)

8. Promoterco has been active in advertising and selling a scheme of arrangement which allows people to exploit the research and development (R&D) tax concessions under the Income Tax Assessment Act 1997. Promoterco charges a fee, calculated at 30% of any R&D tax offset that the client is expected to claim and achieve. Promoterco knows that a number of the resulting R&D claims have been exaggerated or false, and Promoterco has misconstrued a tax ruling.

The company is aware that Australia tax system has a Promoter Penalty regime.

**You are required to establish whether the Australian Tax Office (ATO) will apply the Promoter Penalty regime in this type of situation, briefly explain what action may be taken by the ATO under the law, and outline how any disputed ATO action can be quickly resolved.** (15)