Answer-to-Question-_1_

1)

based on the infoamtion propovided it is intended that only the management operations would be trasnfered to Singapore.

This may not be sufficent to change the residancy staus of the compnay as it is also incorporated in Australia and this is one of the key items that determsin residency.

Further thought should be given to ensure that changeing only the senior management would be sufficent for the company to be considered non resident.

Given that the incorporation of the entity is likely to remin in austrlia the compnay would still betaxed on its world wide income and teherefore be subject to the normal rules for the assessment of income tax and s8-1 for deductions.

Costs incurred in changing the constitution and residenacy of the copnay may be considered capital expenses rather than decutions under s8-1, and therefore be decutible over 5 years under Sub Div 40 -I s 40 -880 black hole expenses.

2)

The ATO can impose administarive penalties or even prosecute tax apayers that take advantage of tax havens, whcih are broadly a country that offers low ot nil tax rates to non residents

Gernaal anti avoidance provisions are applicable where teh foloowing occur:

-there is a scheme
-a tax beneift
-scheme was entered into for the dominent purposes of obtaining a tax benenfit
-ATO can make a comepnsating adjustment

Based on the infomraiton provided it is likley that the change in the company's tax residancy status would result in the general anti avoidance ruls being applicable as the dominent purpose for the cahnge in the residancy of the company is to obatin a furture tax benefit.

The Board can obtain greater administrative certainty by applying to the ATO for a private ruling to determine what the tax consequences would be.

3) There mauy be CGT consequences for the Grandes business if it sucessfully changes it place of residency.

CGT events I1 and I2 apply if any indivudal, company or trust ceases to be Autralian resident - s 104 - 160(1). It will apply to all buiness assets that teh tax payer owns , except TARP and the business asssets of the permananet establishment as these remain subject to CGT regarless of the resdency of the taxpayer.s104-160(3)

The event happens when the company ceases to be resident and the gains and losses need to be calcuated on each individual CGT asset.

Answer-to-Question-__2_

1)Provide a caluclation of taxble income clamable for the current year.

Xena is an Autralian Resident for tax purposes and as such she is taxed on her world wide income.

Income a) Salaryincluded under S6-1 work related expenses - assumptions total will be allowble decutions under s8-1 b) Trust Distributions 12,000 as ordinary income C)Rental The loss made from the rental property will be ring fenced and not availble to offset against other income as The Net loss can be carreied to forwad to be offset against incomem from the same activity in the future. e)Private health insurance and premiumsMedicare levey sureachre will not be applciable as she has her own medical incsurance		100,000 (3,000) 12,000 NIL Nil (10,000) 4,285 38,000	1 2 8 5		

f) Superannualation contributions- as the contribution cap has not been exceeded Zena is entitled to full dection for the contributions under s290-150 g) Fully Franked Dividends The gross value of dividends is inlcuded in the income tax calculation $3000 *30/70 = $1,285 Total included franking credit - d) Share Sales This is GCT event A1 for the disposal of shares (see table below) b) Trsut Corpus - payable out of capital as such subject to statutory income Total income less dedcution Tax is therefore 0-18200 18201 - 45,000 *16% 45001 - 135,000 *30% 135001 - 146,285 *37% **total income tax** Medicare Levy 2% - 146,285*2% - Note medicare levey surcahrge isnot applicable as held private medical for the entire year. **TOtal tax** less franking credit offset **TOtal Tax due**	5,000 146,285 NIl 4,288 27,000 11,284 **42,572** 2,925.7 **45,497.70** (1,285) **44,212.70**		

CGT		**Overall Profit/Gain**			
Event A1 is triggered for the sale of shares					
Sale of shares in **Public Co** for a profit of $8,000, purcahsed 15 years ago	8,000				
Held for over 12 months a 50% disount is available on the profit under s115-15	(4,000)	**4,000**			
<u>Total Gain for Public Co</u>					
<u>Sale of short term speculative shares</u>- Net profit. Assumed shares are not held for more than 12 months and therefore 50% discount is not available.	30,000	**30,000**			
Total Gain for short term holdings					
<u>Sale of long term shares in the tax year</u>- Assuption is these are different shares than those held in Publico Sold for 10,000 purcahsed for 2,000 in 2010 Profit	8,000				
Held for over 12 months a 50% disount is available on the profit under s115-15	(4,000)	**4,000**			
		38,000			

Total Gain for Public Co Total Gain					

2) the applicable rules and laws that govern offsets are in 563-10 (item 40) and refundable offets are in ss 67-23,ss 67-25 ss 67-30.

the refundable offsets that are avaialble to Xena are the franking tax offset an the zone offset for living in an isolated area.

Answer-to-Question-_4__

1) Veda's Loan - assumption is that this ia perosnal loan to purchase her own car and it will not be owned by the company.

Fringe Benefits Tax (FBT) will be applicable on the Loan to Veda during the year under s136(1) as a beenfit is provided otthe employee by the employer.

FBT is payable by the employer at a rate 47% on the grossed up value of the benefit provided to the employee.

No further income tax is due in the hands of the employee.

A loan fringe benefit arises if an employer makes a loan to the employee or allows a debt due to remain outstanding after the due date for payment has passed. the loan exissts as long as the debt remains unpaid. s 16

As Vida's loan is below the market rate there will be a Fringe benefit.

The taxable value of the beneift will be the difference between the interest rates payable by Veda and the statuory rates which is 8.77% for 24 -25.

However, it is worth noting that if it is determeind that the loan has been put inplace as a reimbursemtn of compnay expesnes as ultimately she requires the care for owrk as a traevelling sales person then there will be no FBT as adanvnces to employess to meet business expesnzes in to eb incurred with in 6 months are exempt from FBT.

Veda's Car allowance

car allowance as this is paid in cash this will form part of Veda's assessable income unde s6-5 assuming this is not a reimbursement of costs.

2) Ramesh

Living away from home allowance

an allowance paid by the employer to the employee for non dedcutible expenses incurred by the employee due to the requiremtns to live away from their normal residence is a living away from homr fringe benefit - s30.

normal place of residence is defined in 136(1) as the employees usual lpace of residence if in Austalia. Given it can be conlcuded that Ramesh would normally be resident in Perth, this is likley to be a Livining away from home allowance.

The taxable value of this allowance is the amount of the beenfit (s 31B) unless:

•the employee maintains a hoem in Australia in which they usaully reside; or
•the employee is working on a fly in fly out/drive in /drive out basis.

In those situations, provided that relevant conditiosna are met the taxable value of the beneifti is reduced by any expemt accomodation component and eny exempt food component.

the value will need to be grossed up as a type 2 expenses (assiming no GST is recovered by the company and then 47% tax will be applicable.

Foreign Source Dividends.

Assuming Ramesh is resident in the AUstralia. The fact that he has a two year visa suggests that this is a the case and his main residence is in Perth. As such he will be Australian resident for tax purposes and taxed on his world wide income including the dividends.

If the dividends come with a foeign tax credit, this may be available as offset and he will be able to deduct the overseas tax paid against his income tax liabilty in Australia.

Answer-to-Question-_5__

1)

Tatrumis already registered for GST already as such it will be required to charge 10% GST on the sales it makes during the year and it can claim a dedcution for an GST incurred on purchases of goods and services for the purpose of its business.

We are told that prodcuts totally $500,000 have been solde and purchases of $100,00 have been made.

Ausco Family Trust(Trust) is an Australian resident trust as the trusteee is resdeint in Australia.

The Trust is not currently registered for GST however it has made supplies, the rental of a warehouse. The total income for the year is $150,000. As the trust is carrying on an enterpriseie the rental of commerical property which is a taxabbe supply for GST puproses and the property is in australia, ie the indirect tax zone a GST registration is requried.

The GST regsitration threhold is $75,000 and the trust should register when its annual turnover exceeded this as such it appears that they may be late to register for GST as the value of the annula tunrover has already exceeded this.

Grouping

It may be possible for the Trust and Tatrum to form a GST group if the grouping conditions are met. As the Trust owns a controlling interest in Tatum (70%) this is possible.

This means that effectively Tatrum and Trust are treated as one entity for GST purposes. Any transactions between group memebrs are ignored.

Previously when forming a group a written notification was required to the ATO but this is not longer the case.

2)

A trust is subject to the same rules for GST purposes as anu other buiness carrying on a an enterprise. s9-5

Assuming that grouping is available to the Trust and Tatum the transactions would be treated in the following way:

a) Tatum sold prodcuts totally $500,000 incurred purchases of $100,000.

The group would be required to charge GST on the sales of the products assuming they are not GST free products or input taxed supplies.

As such GST of 50,000 ie 10% would be applicable.

The GST incurred on the purchases again assumeing GST was charged would be recoverable if it has been incurred for the purpose of making taxable suplies.

As such 10,000 would be avialable to recover.

b) the rental of the commerical ware house would be subject to GST at 10% as its commerical premises. However, if the trust and Tatrum are in a group the supply by the trust to tatrum would be ignored and no GST needs to the accounted for. only GST on supplies to third parties will be applicable.

c) Purcahse of office equiptment by the trust. GST incurred on the purchase of the office equiment would be recoverable provided it was incurred for use in its enterprise activites.

Answer-to-Question-__7_

Mediclear

You are required to advice the partnership on the tax law treament of the business activity loss and whther the partners can calim it in the current year.

T he partnership has made profit in relation to the sale of prosthetics to hospitals.

It has made a loss of 12,000 in respect of the horse breadding business also under taken by the partner ship.

The partnership comprises of 3 partners to individuals and one company

Partnerships are governed under DIV 5 of PtIII ITAA 1936. Partnerships are required to submit a partnership tax return, however the indivdual partners are taxed on their share of the income from the partnership.

It appears that the paretnship is undertaking two business income streams the prosthetic services and the horse breeding business.

It would appear that the prosthetic services business is the more susessful as a taxable income of $180,000 has been gerneated.

We would need to understand if the horse breeding business has been undertaken as a business or a hobby, there is gudiance available under ruling TR 2008/2 that sets out what is important when consdiereding if a bredding business is in fact a business. The factors include, but are not limited to:

- quality and number of horses
- regullay selling stock
- mares are being serviced regulaly
- maintain horsees which are appriopiate for breeeding

Based on the limited information available it appears that there has been some income generated ie 60,000 and as such it may be consdired that the activites are of a business nature.

Given both of these activites seem to to be undertaken in a business like way it would be possible to include the loss in the net income of the partnership in this year making this 186,000.

If the loss is however, not considered to be from a business undertaking and more of a hobby then the loss will not be avaialable in the current year and can be carried forward to be offset against other furture profits from the same actvitty.