THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2024

MODULE 3.04 – ENERGY RESOURCES OPTION

ADVANCED INTERNATIONAL TAXATION
(THEMATIC)

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 appropriate monetary currency, unless otherwise stated. Any monetary calculations should be made to the nearest whole unit of currency. 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. The government of Xantha approached Lucky Oil and Gas Exploration plc (Lucky Oil) for some technical services in relation to one of Xantha's oil and gas fields. Xantha requires Lucky Oil to provide seismic data acquisition, drilling and construction services on the oil and gas field. Lucky Oil requested a fee of £100 million for the seismic data services, and the following fees for drilling services:

   - £150 million for drilling the first 100 metres; then
   - £100 million per 50 metres up to a depth of 200 metres; then
   - £200 million per 50 metres thereafter.

   Should Lucky Oil undertake the job, it will encounter the following costs:

   - £35 million for the seismic studies;
   - £50 million for drilling the first 100 metres; then
   - £60 million per 50 metres up to a depth of 200 metres; then
   - £80 million per 50 metres after a 200-metre depth.

   Solicitors and tax experts have advised Xantha to sign a service contract with Lucky Oil for the provision of the services. The terms of the contract will be as follows;

   1) If the results of the seismic study suggest that oil and/or gas exists at a depth of less than 150 metres, Xantha will sign a pure service contract with Lucky Oil.

   2) If the data suggests that oil and/or gas exists at a depth greater than 150 metres, then a risk service contract will be signed.

   3) If oil and/or gas is then actually discovered at a depth of more than 100 metres, Lucky Oil will be entitled to recover its costs in addition to its fees. Lucky Oil will have to pay tax on its profits. Xantha charges corporate tax at a rate of 20%.

   You are required to:

   1) Discuss the characteristics of the two types of service contract, and offer examples of countries that use service contracts. (10)

   2) Calculate Lucky Oil's profits under each type of service contract, in the event that:

   a) A pure service contract is signed but results of the seismic study indicate no oil or gas. (3)

   b) A pure service contract is signed, and the seismic study results indicate the existence of oil and/or gas within a 150-metre depth. (4)

   c) A risk service contract is signed, the seismic study results indicate the existence of oil and/or gas, and Xantha and Lucky Oil agree on a drilling depth of up to 250 metres. (8)

   You may ignore any permanent establishment and/or withholding tax issues.

   Total (25)

2. "Establishing an oil and gas trading venture requires meticulous tax planning and structuring, alongside a fundamental grasp of the various financial instruments commonly employed by companies in this sector for the trading of oil and gas."

   You are required to discuss this statement, explaining the importance of tax planning and group structure relating to oil and gas trading, and the main derivatives used in the oil and gas trading business and their tax considerations. (25)

PART B

You are required to answer ONE question from this Part.

3. “In Wälde's (2003) view, the proprietorial regime allows mineral owners to dispose of their resources as they see fit, and to secure the maximum possible payment in return for granting companies access. Furthermore, Abdo (2014) contends that the main concern of the proprietor is not to allow free access to its land or sea.”

You are required to:

1) Discuss the main features of a proprietorial regime for the governance of mineral resources. (10)

2) To what extent do Production Sharing Agreements fit the description of a proprietorial regime? (10)

Total (20)

4. “The organisational framework employed for obtaining and retaining an oil and gas license within a particular nation can profoundly influence the handling of potential tax ramifications or expenses in a subsequent sale of the license to an external entity, or alternatively, to an affiliate or conglomerate entity for restructuring intentions.”

You are required to comment on this statement, and discuss the different items that need to be considered when assessing the tax impacts of an oil and gas licence sale. (20)

PART C

You are required to answer TWO questions from this Part.

5. In order to mitigate the risks of climate change, governments are introducing carbon pricing as a tool to reduce emissions.

   You are required to:

   1) **Discuss the mechanisms of carbon pricing, and its effectiveness as a climate change mitigation tool.** (7)

   2) **Discuss the potential benefits of taxation as an effective tool in achieving sustainable development.** (8)

   Total (15)

6. When taxing the revenue that arises from oil and gas production, some countries include ring-fencing provisions in their petroleum laws or in their exploration and production contracts. These ring-fencing provisions may have different scopes or objectives. They also have an impact on the taxation of oil and gas companies' profits and on government tax revenues.

   You are required to:

   1) **Explain the concept of ring-fencing in oil and gas contracts, and the different scopes of ring-fencing.** (5)

   2) **Discuss the impacts that ring-fencing may have on the taxation of oil and gas companies and on government tax revenues.** (10)

   Total (15)

7. At times, oil and gas firms may capitalise on the deductibility of interest expenses when acquiring assets or targeting companies with similar expertise. Under certain conditions, they may employ a debt push-down structure tailored to the jurisdiction in which the asset is being procured.

   You are required to discuss the concepts of interest deductibility and debt push-down, in the context of asset acquisition by oil and gas companies. (15)

8. The oil and gas sectors are marked by extended lead times and significant initial investment outlays. Consequently, there might be a significant accumulation of losses in the target jurisdiction, with uncertainty surrounding their future recoverability. Thoughtful deliberation and strategic planning regarding these matters may present tax planning avenues for leveraging these losses.

   You are required to explain how the use of an appropriate structure may lead to an optimisation of accumulated losses, and provide two examples from different countries. (15)