Answer-to-Question-_1_

Mariana is a Australian resident in the current tax year ending 30 June 2021. As such, in the current tax year ending 30 June 2021, she has to pay Australian tax on her worldwide income whether derived in or out of Australia, subject to certain exceptions: ss 6-5(2) and 6-10(4) ITAA 1997.

1) With reference to the case FCT v Dixon (1952), an amount paid as compensation generally acquires the character of that for which it is substituted. In Mariana's case, the lump sum compensation payment received can be splitted into two parts, (i) compensation on personal damages for loss of reputation and (ii) compensation on loss of income.

For the compensation on personal damages for loss of reputation,

with reference to case FCT v Sydney Refractive Surgery Centre Pty Ltd (2008), defamation damages received was held to be capital and not income because it was awarded for the harm to her reputation not for lost of profit. Thus, it is not assessable income.

For the Compensation on loss of income, even it was received as a lump soum, it is a substitue for income according to ordinary concepts with reference to case FCT v Inkster (1989). As such, it is assessable.

2a)

<u>Profit from the sale of investment property in New Zealand</u>

Australian tax residents are assessable on their worldwide capital gains. On the basis that the tax treatis ignore, Mariana

is liable for CGT on her worldwide capital gain.

It is noted that certain capital gains made by Australian resident on assets owned in foreign jurisdictions will be exempt from tax in Australia, in particular the gains derived on an asset that is not taxable Australia property and is used wholly or mainly for the purpose of producing foreign income in carrying on a business at or through a PE or the company in a foreign country. However, this exemption does not likely to apply in Mariana's case.

In addition, according to ss855-45 and ss855-50, when an individual, company or trust becomes a resident, they are deemed to have acquired all their assets at the time of becoming a resident. They are deemed to have acquired these assets for their market value at the time they became a resident. Therefore, the investment property of Mariana is deemed to have acquired for market value at the time she becomes Australian resident in the current tax year and the capital gain accrued before becoming Australian resident is quarantined from CGT. As the property is sold within 12 months of becoming resident, CGT discount is not available.

As such, the capital gain on the sales of investment property is subject to CGT, but the amount accrued before tax year 2021 is quarantined and no CGT discount is available.

Net rental income in the current tax year

As Australian resident who has pay Australia tax on its worldwide incoem, the rental income derived by Mariana in the current tax year is an ordinary income and is assessable to tax.

2b)

The investment holding in cryptocurrency is not bought with the intention of resale. As such, it is not an ordinary income and should be subject to CGT. As an Australian resident, the profit of Mariana for the sale so investment holdings in cryptocurrency is subject to CGT and a CGT discount of 50% is allowed.

---------DO-NOT-EDIT-THIS-DIVIDER----------

Answer-to-Question-__2_

1)

Tax treatment of joint venture arrangement

A joint venture is generally understood to mean an association of 2 or more persons acting together for a specific commercial purpose.

In Australia, under joint venture arrangement, each venturer will lodge a separate tax return and may adopt a different tax treatment for the income and expenses referable to each share of the joint venture business. Also, each venturer may have different purpose in participating in the project and this can lead to different tax outcomes under income tax laws.

In addition, joint venturers can assign their interests in the arrangement and it does not necessarily lead to a dissolution or reformation of joint venture driving CGT implications like partnership.

Tax treatment on the expense

The $300,000 expenses include expenses of capital nature and should be considered separately.

Salaries, rental, marketing operatons, mapping and surveys expenses were likely to be incurred in producing assessable income or necessarily incurred in carrying on a business for the purpose of gaining or producing assessable income and satify the postive limbs in s8-1(1) of ITAA. Thus, they are deductible expenses.

However, expenses paid for equitpment and licence applications are capital in nature. According to s8-1(2), an outgoing of capital or of a capital nature is not deductible. However, a deduction is allowed for expenditure on depreciating assets and certain capital works. As such, these expenses should be deducted as a capital allowance.

2) Assumed the $150,000 business expenditure relating to the collecting of geological informatin is incurred after the commencement ofoperations. This expenditure is mining capital expenditure as defined under s40-860, incurred in carrying on mining operations and in preparing a site for those operations. Thus, it should be pooled and written off under Subdiv 40-I on the basis of the effective life of the project

3) The $150,000 cost outlay were incurred by Aquarius before the operation of the Joint venture. With reference to case Softwood Pulp & Paper Ltd v FCT (1976), expenditure incurred in feasibility studies is generally not deductible under s 8-1 as it is incurred to soon. As such, the $150,000 cost incurred before income-earning activity is not deductible under s8-1(1).

However, it is a capital expenditure incurred before the commencement of a business activities and may be deductible under s40-880. To be deductible under s40-880, the capital expenditure must be incurred in relation to a business that is proposed to be carried on by any entity. Given the joint venture is in operation in the tax year 2020, it is likely that Aquarius will have sufficient supporting to demonstrate the commitment of some substance to commence the business and a sufficient identity about the proposed business.

As such, the $150,000 incurred by Aquarus is not deductible under s8-1(1) but it is deductible under s40-880.

---------DO-NOT-EDIT-THIS-DIVIDER----------

Answer-to-Question-__3_

Sub-lease rental income from Fred

The sub-lease rental income from Fred is an income from property (i.e. rent) and is an ordinary income that is subject to tax with reference to s6-5(1) ITAA.

According to s6-5(4), in working out whether a taxpayer has derived an amount of ordinary income and when it was derived, the taxpayer is taken to have received the amount when it is applied or dealt with in any way on the taxpayer's behalf or as the taxpayer directs. In the case, although Fred will not pay the rental to Maxine directly, he will be asked to pay the rental in the form of paying the total electricity and gas cost for Maxine. As such, Maxine is taken to have received teh rental and thus

subject to tax.

Deductions for all gas and electricity

Under s8-1(1), an expense is deductible to the extent that it is incurred in gaining or producing assessable income. In Maxine's case, although the gas and electricity are settled by Fred, they are incurred for Maxine's hairdressing business and deriving assessable income from the sub-leasing arrangement with Fred. On the basis that the expenses are incurred for gaining assessable income, they should be deductible according to s8-1(1).

Tax treatment of legal expenses

The one-off legal expenses incurred are liekly of capital nature and thus not deductible under s8-1. However, it may deductible over 5 years under s40-880.

---------DO-NOT-EDIT-THIS-DIVIDER----------

Answer-to-Question-__5_

GST is a consumption tax on certain supplies (taxable supplies and taxable importations). The liability for GST generally rests with the supplier of a taxable supply and the rate of GST is 10%. For a lawyer, his provision services in Australia is generally a taxable supply. Assume the lawyer is GST registered, his GST implications are as follows:

Professional fees dervies from client in Australia

The professional fee for his provision of services to his client in Australia is a taxable supply and it is subject to GST at a rate of 10%. The GST liability should be computed by $48000 x 1/2 x 1/11. The lawyer is liable to issue a tax invoice to the client if the client requests a tax invoice (s 29-70)

Professional fees derives from online advice to client in Japan

The provision of services to client outside Australia is an export of services as the recipient is not in Australia at the time and the use and enjoyment of the supply is outside Australia. Thus, it is GST-free. For GST-free supplies, the supplier can claim input tax credit.

Cost of purchasing a computer

The lawyer is entitled to an input tax credit for its purchase of computer assuming the lawyer holds a valid tax invoice for the purchase. The input tax credit allowed is $100 ($1100 x 1/11) and it can used to offset the GST laibilty on the taxable supplies.

If the lawyer is not GST registered, he cannot claim the input tax credits.

---------DO-NOT-EDIT-THIS-DIVIDER----------

Answer-to-Question-_7__

Benefits provided by an employer to current, prospective or former employees in connection with their current, prospective or past employment is subject to FBT.

The reimbursement of gas and electricity costs of the employee by Energyco is paid with reference to the gas and electricity account submitted. It is not based on an estimation. Thus, it is an expense payment fringe benefit not an allowance and therefore Energyco is liable to pay FBT for the reimbursement.

If the celling is lowered to $1,000, the FBT can be exempted.