THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

December 2023

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. Oil and gas resources were recently discovered in a developing country, whose tax authority has limited resources and expertise in energy resources taxation. The country is new to fossil fuel resources and has never previously had a petroleum fiscal regime.

   You have been approached by an agent who seeks to use your expertise to help the country build a new petroleum fiscal regime.

   You are required to:

   1) Discuss the different types of petroleum fiscal regime. (21)

   2) Recommend, with justification and based on the country's situation, a suitable fiscal regime to the agent. (4)

   Total (25)

2. A multinational energy company operates in multiple countries where it extracts and exports oil and gas resources.

   You are required to explain, in detail, how transfer pricing regulations apply to the company's intercompany transactions, particularly in determining arm's length pricing for payments made to host countries. Discuss the challenges and strategies involved in ensuring compliance with international tax standards, including the OECD Transfer Pricing Guidelines, in the energy resources sector. (25)

PART B

You are required to answer ONE question from this Part.

3. In order to abate climate change risks, governments have introduced fiscal measures aimed at reducing emissions and promoting renewable energy sources.

You are required:

1) Critically discuss how Emission Trading Schemes (ETS) and carbon pricing function. (16)

2) Discuss the impacts of ETS and carbon pricing in mitigating climate change risks. (4)

Total (20)

4. An energy company based in one country conducts exploration and drilling activities in several foreign jurisdictions.

You are required to analyse the implications of tax treaties on the company's determination of a permanent establishment (PE) in the various host countries. Discuss how the definition and interpretation of PE clauses in tax treaties affect the company's tax liability and compliance obligations, providing examples from the energy sector. (20)

PART C

You are required to answer TWO questions from this Part.

5. The global transition to net zero is expected to result in the early closure of oil and gas fields, and possibly leave some oil and gas resources stranded. This situation may accelerate the planned decommissioning of oil and gas assets.

You are required to:

1) Discuss the tax implications associated with decommissioning oil and gas assets. (10)

2) Discuss the financial implications of such scenarios for the oil and gas industry and its stakeholders, and the tax implications for governments transitioning to net zero. (5)

Total (15)

6. The tax due diligence procedure is regularly a key feature in the context of an intended transaction. The goal of tax due diligence is to identify the tax-related opportunities and risks of a proposed transaction, and to gain new knowledge which facilitates the selection of an optimal transaction structure from a tax perspective.

In an oil and gas acquisition transaction, the buyer should review key information during the tax due diligence process. Information may be provided in a physical data room or an online data room, and the buyer can request specific documentation to be added to the data room.

You are required to outline ten key issues that should be reviewed during the tax due diligence process by the buyer or its representatives. (15)

7. A global renewable energy project requires substantial financing, and the company involved is considering various debt and equity structures involving multiple jurisdictions.

You are required to explain the concept of thin capitalisation rules and their relevance to the financing choices of international energy projects. Discuss how different countries' thin capitalisation rules can affect the deductibility of interest expenses and overall project economics, and propose strategies to optimise the capital structure. (15)

8. Your company has assigned you the task of contributing to a tax review for a forthcoming bidding round involving a new venture opportunity.

You are required to outline and elaborate upon the primary tax-related considerations and assessments which you would make, regarding both the opportunity and the analysis of the financial model. (15)