Solution

CANDIDATE	MARKER	(a)	(b)	(c)	(d)	(e)	TOTAL
		10	10	8	9	3	40

a. With reference to the information under initiative 1 being undertaken by Construco, discuss with supporting calculations, where relevant, the capital gains tax (CGT) implications of the following: I. The sale of the 40% equity stake by the Indian Consortium in 2010. Assume that the Capital Gains Tax legislation has not changed between 2010 and 2016. II. The sale by Construco of the 40% equity stake to Thinkworks in 2016	10	
PART I		
Capital Gains Tax implications arise where there is a disposal of a specified asset	1	
The sale of shares by the Indian consortium are a disposal of a specified asset by the consortium and therefore there shall be capital gains tax consequences to the consortium.	1	
Shares are specified assets as defined. Specified assets are either immovable property or marketable securities. Shares are marketable securities.	1	
The shares were acquired before February 2009 and therefore the CGT will be calculated by applying 5% to the gross proceeds from the disposal.	1	
CGT = [5% x \$500,000] = \$25,000	1	
The source of the gross capital amount is Zimbabwe as the shares are for an entity incorporated in Zimbabwe although the consortium is Indian with a Zimbabwean office.	1	
Part II		
The disposal of the same shares by Constructo to Thinkworks is another disposal of specified assets with CGT consequences to Constructo.	1	
Since Constructo acquired the securities after Feb 2009, the CGT is computed by applying 20% to the capital gain that is arrived at after excluding from the gross capital amount any gross income items and after allowing deductions specified in s11(2) including but not limited to the cost of acquiring the asset and the inflation allowances at a rate of 2.5% p.a. including the years of purchase and that of disposal.	1	
Calculation of CGT: Proceeds from disposal 550,000 Cost s11(2)(a) 500,000 Inflation allowance [500,000 x 7 x 2.5%] s11(2)(c) 87,500 (587,500) Capital Loss (**37,500)**	 1 1	
TOTAL	10	

b. Calculate the Capital Gains Tax Act for Construco of the transactions detailed under initiative 3.			10	
Recoupment:				
Disposal Proceeds		130,000	1	
ITV [$70,000]- [70,000 x 2.5% (w&t) x 6 years]		(59,500)	1	
Potential Recoupment		**70,500**		
Limited to capital allowances granted		**10,500**	1	
The property was acquired after 2009 and therefore the CGT is calculated as follows:				
Proceeds		180,000	1	
Recoupment		(10,500)		
		169,500		
Cost	110,000		1	
Inflation allowance [2.5% x 7 x 110,000]	19,250		1	
Capital allowances	(10,500)		1	
		(118,750)		
Capital Gain		**50,750**		
Roll Over Relief [150,000/180,000 x 50,750]		(42,292)	2	
CGT at [20% x 50,750]		8,458	1	
TOTAL			**10**	**10**

UNISA Test 2 – Solution

	Marks	
c. Discuss and calculate the tax implications in terms of the Income Tax Act for Utanda of the sale of the earthmoving equipment to Construco for the 2016 year of assessment. *You may assume that the 30% markup ordinarily charged by Utanda is also generally accepted by ZIMRA for similar types of transactions.*	**8**	
- S98B is applicable to controlled transactions between associates. Therefore, the two key matters are that the transaction should be a controlled transaction and that it should have been between associates as defined.	**1**	
- Mr Gatsi controls both Utanda and Construco, in accordance with s2B of The Income Tax Act as he holds majority of voting rights in both entities	**1**	
- With reference to s2A of the Income Tax Act, Construco and Utanda are associates	**1**	
- The 35th schedule paragraph 1 describes uncontrolled transactions as any transactions between independent persons	**1**	
- Given that Utanda and Construco are associates, they are not independent, and thus the sale of the equipment between them was a controlled transaction	**1**	
- S98B states that taxable income from controlled transactions between associates be determined by referring to conditions that would have been present in transactions between independent persons	**1**	
- S98B para(1) determines that the taxable income for controlled transactions between associates shall be determined with reference to the arm's length principle.	**1**	
- Based on the information in given the transfer price could be calculated using the cost plus method.	**1**	
- A comparable transaction would be the sale of the same equipment at the normal mark-up of 30%, which is accepted by ZIMRA.	**1**	
- The selling price after applying the mark-up would be calculated as follows: (105k + 3k) * 1.3 = $140,400	**1**	
- Thus, $140,400 is what would be included in the gross income of Utanda as it is higher than the $120,000 applied in the transaction and therefore curbing potential avoidance of $20,000.	**1**	

	Marks	
d. Write a memo to Mr. Gatsi in which you provide him with advice on the Income Tax Implications of the benefits he has been offered in terms of his revised contract offer. Your advice should also recommend which option is most tax efficient to take where applicable	**9**	
MEMORANDUM		
TO: MR GATSI		
FROM: TAXPLANNERS TRAINEE	**1**	
RE: EMPLOYMENT CONTRACT AMENDMENTS		
With regards to the matters you referred to me, please see below:		
a. Motor vehicle benefit - S8(1)(f) includes fringe benefits in gross income		
<u>Option 1</u> - A fringe benefit arises when an employee has private use of a company motor vehicle and the value is determined by reference to the engine capacity and the time that the benefit is enjoyed.	**1**	
- A vehicle with an engine capacity above 3,000cc has a deemed value of $9.6k p.a. Or $800 per month	**1**	
- Given that the Mercedes has an engine capacity of 4,500cc, $800 would be included in your gross income for each month you are in possession of the vehicle	**1**	
- The vehicle will then be sold to you after 5 years, which would attract income tax on the difference between the selling price and the market value	**1**	
- As a concession for elderly persons, an exemption would be granted to you on the benefit received from the sale since at that time the vehicle is sold to you, you will be an elderly person (at least 55 years old)	**1**	
- The running costs shall not be allowable deductions since they are not incurred for the purposes of trade.	**1**	
<u>Option 2</u> - In the case of a loan granted to an employee, the benefit is arrived at by deducting the interest payable on the loan from 5% + LIBOR (5% + LIBOR – interest paid)	**1**	
- Assuming LIBOR is 1%, the benefit to be included as part of your gross income would be: (1% + 5% - 0%) x 60k	**1**	

= $3.6k		
- Thus $3.6k would be included in your gross income	**1**	
- The running costs shall not be deductible as they are not for the purposes of trade.	**1**	
- With regards to the vehicle, I would advise that you take the loan as the amount to be included as part of your gross income is lower than in the case of using it as a company vehicle.	**1**	

	Marks	
e. Advise Mr. Gatsi on the Income tax implications of the pension receipts accruing to his wife for the 2016 year of assessment	**3**	
- In terms of s8(1)(r) of The Income Tax Act, any amount received as a lump sum from a pension fund is fully taxable.	**1**	
- The amount received at her highest marginal tax rate.	**1**	
- The $500 is included in her gross income upon receipt	**1**	
- After attaining the age of 55, the $500 monthly receipts will be exempt as per the 3rd schedule.	**1**	