

Question 1 (a)

Discuss whether Tariro is correct to say that Zee Cellular should not have deducted PAYE from his December salary given that he was yet to be paid the salary.

	Marks
The issue at hand is whether the December salary of \$3,400 has accrued to Tariro in the 2016 year of assessment.	1
According to case law, income is taxed at the earlier of receipt or accrual.	1
Accrual is discussed in court cases, and it was concluded as being the time the taxpayer becomes entitled to the income, – Lategan vs CIR	2
Although Zee Cellular was facing cashflow challenges Tariro was entitled to his gross salary in the month he rendered services to Zee Cellular.	1
Although payment has not yet been made, the income accrued in 2016 when the services were rendered, and shall therefore be taxed in the 2016 year of assessment.	1
Alternative	
Accrual is discussed in court cases, and it was concluded as being the time the amount becomes due and payable – Delfos	2
Although Zee Cellular was facing cashflow challenges the salary became due and payable in the month he rendered services to Zee Cellular.	1
Although payment has not yet been made, the income accrued in 2016 when the services were rendered, and shall therefore be taxed in the 2016 year of assessment.	1
Therefore, Zee Cellular was correct in deducting the PAYE relating to the December salary, as it was supposed to be remitted in December.	1
A student might also mention that only 3,000 was accrued and 400(allowance), mark them accordingly.	

Question 1 (b)

Discuss in terms of the Income Tax Act whether Tariro would be taxable on his salary and the allowance he received from Vodacell during the time he was seconded to Vodacell.

	Marks
The source of income from services rendered is where the services are rendered - Shein	2
Therefore, the true source of the Vodacell income is not Zimbabwe since the services were rendered outside Zimbabwe.	1
Alternative	
The source of income is the originating cause of the income which is where the services are rendered – Lever Bros and Unilever	2
The services were rendered in South Africa therefore the true source of the income is South Africa.	1
However, s12(c) of the income tax act stipulates that in the case where an ordinary resident earns income while temporarily absent from Zimbabwe, said income will be deemed to be from a source within Zimbabwe.	1
Temporary absence is a period of no more than 183 days in aggregate	1
Tariro was outside Zimbabwe for 123 days (30 + 31 + 31 + 31)	1
This means that the allowances granted to Tariro by Vodacell is deemed to be from a source within Zimbabwe.	1
This constitutes gross income in the hands of Tariro and will be taxable in Zimbabwe.	1
Vodacell did not give Tariro a salary as the required suggests, some students might mention this in their answers.	

Question 1 (c)

Draft a memo in which you advise Tariro, with reasons, on whether you are of the opinion that the board sitting fees he received should be subject to 20% withholding tax.

	Marks
Memo Format	1
Tariro is an employee as defined – 13 th Schedule	1
According to sec 36J, 20% should be withheld from payments to resident and non-resident non-executive directors who are not subject to PAYE.	2
According to the 13th schedule remuneration excludes – (b) directors fees if no other amounts constituting remuneration have been paid.	1
With reference to the 13 th schedule, Tariro’s board fees will be part of his remuneration package since he is also receiving other remuneration from Zee Cell.	1
This means that Tariro the board sitting fees are part of his employment income therefore subject to PAYE.	1
Since the board sitting fees are subject to PAYE they are automatically excluded from the provisions of S36J, therefore no withholding taxes should be levied.	1
Therefore Tariro’s opinion is wrong the board fees are part of his employment income and there are no withholding taxes.	1

Question 1 (d)

Calculate Tariro's taxable income and tax payable from his employment related activities for the 2016 year of assessment.			Marks
		\$	
1.1	Gross Salary (S8, gross income) [40,800+6,400+294]	47,494.00	2
	Transport Allowance (S8, gross income) [allow reasonable treatment]		1
	NSSA Contributions (S15(2), deduction)	- 294.00	
	December Salary	3,400.00	
1.2	Gross Monthly Allowance (S8, gross income)[500*4*1/0.9]	2,222.22	2
1.3	Motor vehicle Use Benefit (S8) [800*12]	9,600.00	1
	Fuel Allowance Benefit (S8) [200*1.25*60%*12]	1,800.00	2
1.4	Employer Contribution to NSSA (exempt)	-	1
1.5	Purchase of Motor Vehicle Benefit (S8) [7200-6000]	1,200.00	1
1.6	Board Sitting Fees (S8)	4,000.00	1
1.7	School Fees Benefit (S8)	12,000.00	1
1.8	Medical Expenses - [S16, prohibited deduction domestic expenses	-	1
1.9	Employer Contribution to Medical Aid (exempt)	-	1
	Taxable Income	78,022.22	
	Tax on first 60,000	14,580.00	1
	Tax on [78,022 - 60,000] * 35%	6,307.78	1
	Tax Credits:		
	Medical Expenses [8000*40%*50%]	- 1,600.00	2
	Tax Payable	19,287.78	
	AIDS Levy @ 3%	578.63	1
		19,866.41	
	PAYE Deducted	- 6,400.00	1
	SA Withholding Tax [2,000/0.9 * 10%]	- 222.22	1
	TAX PAYABLE/ REFUNDABLE	13,466.41	

Max

15

Question 1 (e)

With reference to Note 1.5 discuss the VAT consequences to Zee Cellular arising from the sale of the truck to Tariro.

	Marks
VAT is not charged on the sale of 2nd hand motor vehicles.	1
Thus, there would be no VAT arising from this transaction.	1
Given that the car was sold at below market value, a fringe benefit arises, and this is a deemed supply as per s17(3) of the VAT Act	1
The value of supply will be the value of the benefit for PAYE purposes i.e. \$1,200.	1
Output tax is charged on a fringe benefit depending on the class of the underlying item	1
Therefore, output tax is not charged on the benefit, as the underlying item is not a taxable supply – 2nd hand motor vehicle.	1
Alternative	
No output VAT is charged on the disposal, as input tax was denied given that it is a PMV	1

Question 1 (g)

		Marks
The Gatsi Trust	\$	
Rentals - Avondale property	50,000.00	1
Rentals – Residential property in Westgate	12,000.00	1
Dividends from Econet (net of 10% withholding tax)	6,000.00	1
Dividends from Econet (exempt)	- 6,000.00	1
Annuity – paid to Tanyaradzwa	- 2,400.00	1
Trustees fees [8100*75,000/81,000]	- 7,500.00	2
Donation to Chinyaradzo Children’s home	- 5,000.00	1
Distribution to Tariro – made from prior year income	-	1
	47,100.00	
Distribution to Tariro – vested right [47,100 * 30%]	- 14,130.00	2
Taxable Income	32,970.00	
Tax @ 25.75%	8,489.78	1
Dividends from Pipes Ltd (taxed @ 20%)[13000/85%*20%]	3,058.82	2
TOTAL TAX PAYABLE	11,548.60	
Tariro Gatsi	\$	
Distribution to Tariro	14,130.00	1
Taxable Income	14,130.00	
Tanyaradzwa	\$	
Annuity to Tanyaradzwa	2,400.00	1
Taxable Income	2,400.00	

Question 1 (h)

Calculate the Capital gains tax payable on the disposal of the Warren Park house by the Gatsi Trust.			Marks
		\$	
Proceeds		45,000.00	1
Recoupment (no capital allowances claimed)		-	0.5
GCA		45,000.00	
Deductions:			
Cost		-33,000.00	1
Inflation Allowance [33000*2.5%*4]		-3,300.00	2
Capital Allowances (no allowances claimed)		-	0.5
Capital Gain		8,700.00	
CGT @ 20%		1,740.00	1
			6

Question 1 (i)

Draft a memo in which you advise Tariro, on whether or not he will be required to deduct PAYE on the amounts payable to the following individuals:

- Bartenders;
- Managers;
- The fee that he pays himself

	Marks
Memo Format	1
Any resident or non-resident employer, who employs one or more members of whose gross pay, including benefits and allowances, exceeds USD300 per month is required to withhold PAYE from employees.	1
The bartenders are earning a total of \$290 per month, therefore Tariro is not required to deduct PAYE from them.	1
The managers are earning a total of \$470 per month, this amount is above the \$300 threshold.	1
Tariro will be required to deduct PAYE from the managers on the amounts payable to them.	1
The amount that Tariro pays himself will be considered trade and investments income, as he is a sole trader and not technically an employee.	1
Alternative	
The amount that Tariro pays himself is remuneration as defined and subject to PAYE.	1
However it falls below the \$300 threshold.	1
Therefore, PAYE will not be deducted on the \$100.	1

Question 1 (j)

Discuss the income tax consequences to Tariro's bottle store business of the transactions detailed in note 3.1 and note 3.2

		Marks
3.1	The assets shall be used for the purposes of trade and therefore are eligible for capital allowances per the 4 th schedule.	1
	The opening ITV is calculated by deducting a Notional Wear and Tear to the cost.	1
	The assets are going to be used for entertainment purposes. Since the business is of entertainment nature, entertainment prohibitions on claiming capital allowances do not apply.	1
	The chairs would be transferred at ITV calculated as follows:	
	Cost 500	1
	Capital Allowances [500*10%*2] (100)	1
	ITV 400	1
	The \$250 are the notional allowances the chairs would have claimed had they been claiming allowances all along.	
	In the bottle store's books the chairs will be claiming wear and tear.	1
	The TV would be transferred at ITV calculated as follows:	
	Cost 2,000	1
	Capital Allowances [2,000*10%*2] (400)	1
	ITV 1,600	1
	The \$1,000 are the notional allowances the TV would have claimed had they been claiming allowances all along.	
	In the bottle store's books the TV will be claiming wear and tear.	1
3.2	Income is included in gross income at the earlier of receipt or accrual.	1
	Tariro received the \$8,000 in December 2016, therefore its taxable in the 2016 year of assessment.	1
	S15(2)(cc), provides a deduction for expenditure not yet incurred.	2
	It states that a deduction can be allowed in respect of services to be rendered or goods to be delivered in a subsequent year, when the income has already accrued.	1
	Therefore Tariro can claim a deduction of \$5,600 in accordance with S15(2)(cc).	1

Question 1 (k)

Discuss with supporting calculations the capital gains tax consequences of the sale of commercial property which was being leased to the media company.	Marks
Capital gains tax arises on the disposal of specified assets. Specified assets are immovable property and marketable instruments.	1
The commercial property is an immovable property; thus, its sale would attract capital gains tax.	1
The capital gains tax would be calculated by subtracting s11 deductions from the gross capital amount.	1
The gross capital amount is the proceeds from the sale, less any amount included in gross income.	1
Thus, the gross capital amount would be $120k - 3,750 = 116,250$	1
S11(2)(a) allows for the deduction of the cost of the acquisition of a specified asset.	1
Thus, a deduction of \$50,000 would be allowed.	1
S11(5) stipulates that where a taxpayer as lessor of a property had been charged income tax under s8(1)(e) of the income tax act, the taxpayer shall be deemed to have incurred the amount included in their taxable income.	2
In this case Tariro would have had included in their taxable income and amount of \$20,000.	1
Inflation allowance is also deductible on this amount.	1
Thus, upon the subsequent sale of the commercial property, Tariro will be allowed a deduction of 20,000 as per s11 in the determination of capital gains tax payable.	1
Also allowable under s11(2)(c) are inflation allowances at a rate of 2.5% for each year on the cost of the specified asset and any improvements.	1
The inflation allowance in this case would amount to $2.5\% \times 4 \times 50,000$	1
Capital gains are charged at a rate of 20% on immovable property acquired after 1 February 2009, 20% tax would be charged on the disposal.	1