THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

December 2020

MODULE 3.04 – UPSTREAM OIL AND GAS 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 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 to the nearest month and in appropriate monetary currency, unless otherwise stated.
- As you are using the online method to complete your exam, 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. In the upstream oil and gas industry, international oil and gas companies enter into various agreements with host countries such as concession agreements, Production Sharing Contracts (PSCs) and service contracts. The structures of fiscal regimes associated with each of these types of agreement also vary.

   1) You are required to explain the similarities and differences between the main types of international oil and gas agreements mentioned above. (9)

   International oil and gas agreements have historically used a number of fiscal instruments, including export duties, VAT and other indirect taxes, to enhance the tax revenues of host governments.

   2) You are required to discuss export duties, VAT and other indirect taxes in the context of international oil and gas agreements, and their impacts on the host government's tax take. (16)

   Total (25)

2. Multinational projects in upstream oil and gas can involve transactions between several related parties, including specialist services and intercompany financing. The dissemination of transfer pricing principles and local rules throughout countries worldwide creates risks and opportunities for the oil and gas companies, which need to be properly considered for their potential tax impacts.

   You are required to comment on the paragraph above, and discuss the importance of the transfer pricing principles and rules to countries and oil and gas companies. Your answer should cover the impact on related transactions seen in the oil and gas sector. (25)

PART B

You are required to answer ONE question from this Part.

3. United States federal income tax applies, under the Internal Revenue Code (26 USC 1986), to upstream oil and gas activities at standard corporate rates.

   1) **You are required to discuss the features of the federal tax as applied to the exploration and production of oil and gas in the United States.** (16)

   The United States' federal oil and gas tax regime offers a number of tax incentives to companies.

   2) **You are required to discuss these incentives.** (4)

Total (20)

4.

   1) **You are required to discuss the idea behind ring fencing provisions, and what impacts they have on the taxation of oil and gas companies and on government revenues.** (8)

   2) **Please give examples of ring fencing provisions or regimes for different countries, and how they apply.** (12)

Total (20)

PART C

You are required to answer TWO questions from this Part.

5. The OECD Model Tax Convention defines a permanent establishment as 'a fixed place of business through which the business of an enterprise is carried on'. This may include a place of management, branch, office, factory, workshop, mine, oil or gas well, quarry, or any other place in which natural resources are extracted.

   1) **You are required to discuss the tax aspects and features of an oil and gas permanent establishment.** (6)

   A number of significant tax issues should be considered in relation to contracting services. These issues include permanent establishments and their interaction with rules such as local content, employment taxes, withholding taxes, and the related terms of contracts.

   2) **You are required to discuss these issues as they relate to oil and gas operations.** (9)

   Total (15)

6. The decommissioning of oil and gas facilities consists of returning a site to its original state as it existed prior to drilling. The shutdown of an installation, while unavoidable at the end of the economic extraction of the site's reserves, is therefore an important consideration for oil and gas companies.

   1) **You are required to explain how the decommissioning costs of oil and gas installations are generally treated for tax purposes.** (5)

   The utilisation of intellectual property and other intangible assets can include the provision of technology and high value services, such as drilling methods, information technology, and geological or geophysical analysis.

   2) **You are required to discuss how expenses relating to intellectual property, incurred by oil and gas companies, are treated for tax purposes.** (5)

   Profit repatriation is the ability of a company to send foreign-earned profits or financial assets back to its home country in hard currency (such as US dollar, euro or pound sterling), after meeting the host nation's tax obligations.

   3) **You are required to discuss alternative structures for profit repatriation from operation countries to the company's home country, and their tax impacts in the context of the oil and gas industry.** (5)

   Total (15)

7. Oil and gas companies will sometimes take advantage of the deductibility of interest expenses when purchasing assets or target companies with the same area of expertise. In some circumstances they will utilise a debt push-down structure, applied to the jurisdiction in which the asset is being acquired.

   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. It is a common practice for an oil and gas company to enter into an agreement with the government that is then later transferred, in part or in full, to another company. This transfer can occur in different ways, directly or indirectly, and the various options will have differing tax consequences that need to be considered before the transaction takes place.

   You are required to discuss the principal tax consequences that should be considered in the transfer of an oil and gas contract between two parties, and the possible tax optimisation options available. (15)