

THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2024

MODULE 1

PRINCIPLES OF INTERNATIONAL TAXATION

TIME ALLOWED – 3½ HOURS

This exam paper has **two** parts: **Part A** and **Part B**.

You need to answer **four** questions in total. You will **not** receive marks for any additional answers.

You must answer:

- **At least two** questions in **Part A** (25 marks each)
- **At least one** question from **Part B** (25 marks each)

You should therefore answer either three questions in Part A and one question in Part B; or two questions in Part A and two questions in Part B.

Further instructions

- You must use the 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 a quarter of your time answering each of your four selected questions.
- 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 AT LEAST TWO questions from this Part.

1. "Whilst double tax agreements (DTAs) may remain in force for many years, there are instances in which contracting states may seek to either suspend certain provisions within specific DTAs in their network or indeed terminate an entire DTA that they have entered into."

You are required to critically evaluate this statement.

(25)

2. "Double tax agreements (DTAs) have to be interpreted in light of an increasingly growing web of soft law and hard law, making the tax system more complex than the plain and simple language of DTAs would otherwise suggest."

You are required to critically evaluate this statement.

(25)

3. "A move towards a multilateral tax agreement (MTA) concluded by some or all countries is preferable to maintaining the current bilateral network of double tax agreements."

You are required to critically evaluate this statement.

(25)

4. You are required to prepare a report discussing the boundary between exchange of information requests that are likely to be classified as being 'foreseeably relevant' and those that are likely to be perceived as 'fishing expeditions'. (25)

5. You are required to prepare a report explaining:

1) the factors influencing a country's decision to impose withholding taxes (WHTs) on passive income earned by non-residents; and (12)

2) the reasons why countries might adjust the application of WHTs under their domestic law when considering WHTs within a double tax agreement context, particularly in relation to any conditions for reductions or exemptions from taxation in the source state. (13)

Your report should include references to relevant OECD Model Tax Convention 2017 provisions and the Commentary, where applicable. Total (25)

PART B

You are required to answer AT LEAST ONE question from this Part.

6. Denis and Emma are employed as marketing managers by Gallant Inc who have been employed due to their creative flair. Gallant Inc is a tax resident of Harmonia and carries on a publishing business. Both Denis and Emma reside and work year round in Iveria and both are tax resident of Iveria. Denis and Emma only travel from Iveria to Harmonia once a year for a team building retreat held over the course of one weekend. Each receives an annual salary of \$200,000 from Gallant Inc.

Denis and Emma have been granted non-transferable stock options as recognition of their demonstrated ability to integrate imaginative storytelling into Gallant Inc's most recent and very successful advertising campaigns. These options are valued at \$30,000 for Dennis and \$50,000 for Emma and must be exercised whilst Denis and Emma are employed by Gallant Inc.

Denis is nearing retirement age in Iveria, a fact known to Gallant Inc. Meanwhile, Emma is considering a move abroad to Konia to join Luminous Corp., a competitor of Gallant Inc, although she has not yet resigned from Gallant Inc. due to ongoing negotiations over a non-compete agreement. This agreement would limit her ability to work with Gallant Inc's competitors in Harmonia and Iveria for six months post-employment.

Harmonia, Iveria, and Konia have all entered into double tax agreements that mirror the OECD Model Tax Convention 2017.

You are required to prepare a report, detailing the respective taxing rights of Harmonia, Iveria and Konia in relation to:

- 1) **Denis and Emma's salaries and stock options; and** (12)
2) **Any compensation that Emma might receive from the non-compete agreement with Gallant Inc.** (13)

Total (25)

7. Magnolia is a country rich in natural resources. Its government has been recently approached by an international tax consultancy (ITC) firm, which has suggested that the Magnolian government should review how it taxes non-residents on profits generated in connection with the exploration and exploitation of its natural resources.

The ITC firm considers there to be scope for Magnolia to review the operation of the permanent establishment (PE) article in at least some of its double tax agreements (DTAs), and to reduce the PE threshold to one month in a twelve-month period for activities related to the exploration and exploitation of natural resources.

The government of Magnolia holds DTAs with a wide range of countries, 25 of which are the resident states of persons who engage in natural resource activity in Magnolia for varying lengths of time. All of Magnolia's DTAs mirror the wording of the OECD Model Tax Convention 2017.

You are required to draft a memo detailing the key factors which the government of Magnolia should evaluate, when deciding whether to introduce into its DTA network a measure that would reduce the PE threshold for activities related to the exploration and exploitation of natural resources to one month in a twelve-month period. (25)