



THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

May 2006

PAPER I

PRINCIPLES OF INTERNATIONAL TAXATION

TIME ALLOWED – 3 HOURS

- You should answer any **FOUR** out of seven questions.
- Each question carries equal marks.
- Start each answer on a new sheet of paper.
- Marks are specifically allocated for presentation.

1. **You are required to critically assess the contribution of the OECD, in particular its Committee on Fiscal Affairs, to the establishment and development of principles of international tax law.** (25)

2. **With reference to Article 5 of the OECD Model Tax Convention on Income and on Capital and the related Commentary, you are required to explain in what circumstances a permanent establishment may be found to exist and highlight any problems of interpretation to which this Article may give rise.** (25)

3. “The level attributed to treaty obligations, as incorporated in domestic law, determines whether derogations therefrom are unconstitutional or not. In the end, the choice is between giving priority either to a State’s international obligations, or to the sovereignty of decision of a country’s elected representatives.”

[OECD Treaty Override Report, 1989, paragraph 14.]

With regard to the propositions contained in this extract, you are required to consider each of the following:

- 1) **The nature and status of double taxation conventions; and**
- 2) **The circumstances in which the provisions of a double taxation convention may be subject to treaty override; and**
- 3) **The ways in which a State, which is a party to a double taxation convention, may react to a determination by the other contracting state(s) to override provisions in that convention.** (25)

4. **You are required to discuss the ‘connecting factors’ which are commonly used by States to establish jurisdiction to tax the profits of multinational enterprises, and indicate how the adoption of these factors may give rise to double taxation.** (25)

5. “The mutual agreement procedure set out in Article 25 of the OECD Model Tax Convention on Income and on Capital is unable to guarantee a satisfactory resolution of transfer pricing disputes. States and taxpayers should seek, therefore, to place increasing reliance on advance pricing agreements.”

In the light of this statement, you are required to critically examine the aforesaid mutual agreement procedure, and explore the advantages and disadvantages of advance pricing agreements. (25)

6. **You are required to analyse the concept of ‘non-discrimination’ as expounded in Article 24 of the OECD Model Tax Convention on Income and on Capital.** (25)

7. “Effective information exchange is essential for countries to maintain sovereignty over the application and enforcement of their tax laws and to ensure the correct application of tax conventions.”

[Bill McCloskey, Chair, OECD Committee on Fiscal Affairs.]

You are required to discuss the statement above. (25)