



THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

Specimen Examination Paper

PAPER I

PRINCIPLES OF INTERNATIONAL TAXATION

TIME ALLOWED - 3 HOURS

Candidates should answer any **four** out of seven questions.
Each question will carry equal marks.
Start each answer on a fresh sheet.
Marks are specifically allocated for good presentation.

1. "It is generally and widely assumed that no state will enforce – directly or indirectly – a tax debt due to another state...[but]...the rule is not as absolute as it is sometimes thought to be." Baker, *The Transnational Enforcement of Tax Liabilities*, [1993] BTR 313

In the light of this statement, you are required to examine, with reference to decided cases, the scope and application of this rule. (25)

2. Child's Play Ltd (CP Ltd) manufactures toys in the state of Alphaland. It believes that there is a considerable demand for its toys in the state of Betaland, and it is keen to exploit this market by selling its toys in Betaland. Accordingly, CP Ltd has approached a retail toy company based in Betaland, Toys Abound Ltd (TA Ltd).

Nothing has yet been agreed between the companies, but there have been discussions about how the sale of CP Ltd's toys in Betaland might be facilitated by TA Ltd. It has been suggested that TA Ltd might set up an advertising campaign for CP Ltd's toys in Betaland (financed by CP Ltd), encourage its staff to promote CP Ltd's toys, and keep a stock of CP Ltd's toys in Betaland. For its part, CP Ltd is keen to maintain some control by insisting that all orders be processed in Alphaland, and that one of its directors is sent to TA Ltd's premises in order to oversee the carrying out of the above activities by TA Ltd.

NOTE: The double taxation convention entered into by Alphaland and Betaland follows the present OECD Model Tax Convention on Income and on Capital.

You are required to respond to the managing director of CP Ltd who is concerned that this arrangement may give rise to liability to tax in Betaland and seeks your advice. He also inquires whether it might be simpler and more tax efficient to conduct CP Ltd's business in Betaland electronically.

(25)

3. You have been consulted by the Minister of Finance of a newly created state. The Minister is keen to bolster the public revenues of the state, and to do so, principally, through the medium of taxation. Hence, he seeks your advice, in particular, about the various ways in which a state may establish jurisdiction to tax natural and juridical persons, and about the consequences where more than one state can establish the right to tax either the same taxpayer or the same income.

You are required to prepare a memorandum advising the Minister on these issues.

(25)

4. "The use of the arm's length principle may be regarded as a rational response to the manipulation of transfer prices by multinational enterprises. However, its efficacy has been undermined by the methods that have been developed to determine the arm's length price, which are often difficult to apply or inconsistently applied in practice."

You are required to discuss the statement above.

(25)

5. **You are required to answer 1), 2) and 3) below.**
- 1) **What do you consider to be the nature and purpose of double taxation conventions?** (10)
 - 2) **Identify the external aids which might be employed to assist in the interpretation of double taxation conventions and assess the relative weight that may be attached to them.** (10)
 - 3) **Explain the significance of Article 3(2) of the OECD Model to the interpretation of double taxation conventions.** (5)
- Total (25)

6. "The work of the OECD on harmful tax practices is concerned with establishing effective exchange of information and transparency for tax purposes on a global level so that tax administrations can prevent and detect violations of the civil and criminal tax laws..."

{Jeffrey Owens, OECD 2000}

You are required to trace the recent work of the OECD in relation to harmful tax competition and harmful tax practices, and assess to what extent the goals identified in the above statement have been achieved. (25)

7. 1) "The diversity of national tax systems encourages international tax avoidance and militates against efforts to control it." (13)
- You are required to discuss the statement above.** (13)
- 2) Happan is a state in which many companies are based. In recent years, some of these companies, influenced by the greater globalisation of business, decided to expand and develop their respective enterprises overseas by setting up foreign subsidiaries. These subsidiaries have proved to be very successful and are now earning, in some cases, substantial profits.
- The Happan Revenue Authority is fearful that, first, such profits will not be remitted as dividends to the parent company shareholders resident in Happan and so escape tax in Happan, and, secondly, that such profits may be made available to the parent companies in other guises e.g. through loans made by the subsidiary companies to the parent companies.
- You are required to advise the Happan Revenue Authority on possible solutions to these concerns which they might adopt in their domestic law.** (12)

Total (25)