

Taxation and Revenue Law
Examination March 2013
Examiner's Comments

Question 1

Part A

This question was not particularly well answered by students. For reasons unknown, a number of students sought to argue (not very well) that the monies of \$10,000 embezzled by John Smith was income. It was clearly not income.

Also the better view must be that the table and chairs provided by Kids Toy to John Smith was a fringe benefit to a former employee not an ETP.

Part B

Some students lost marks by not explaining clearly and precisely the issue in *Carden's* case and how it arose. Only about 50% of the students referred to section 101A and the manner in which it operated.

Question 2

Part A

This question was reasonably well answered. However despite students stating the alcohol was supplied in the course of employment a lot of students went on to consider sections 6-5 and 15-2 rather than FBT.

Also the compensation payment was for the injury and therefore capital, albeit it was calculated by reference to loss of income; *California Oil Products*.

Part B

This was well answered. In particular students made a real effort to explain in simple but accurate terms the criteria to be satisfied under the continuity of ownership test and same business test.

Question 3

Part A

Most students answered this question reasonably well but were confused as to how to treat the 50% private use.

Under Division 40 the private use is initially ignored in working out the capital allowance but once the capital allowance is calculated, the deduction is halved (assuming 50% private use), but the closing adjustable value (on which the next year's deduction is calculated on) is not affected.

Part B

This part was generally well answered with most students referring to Division 149, Division 108 (composite assets) and the K6 event.

Question 4

Part A

This question was generally well answered. Most students received high marks and correctly calculated the debits and credits to the franking account.

Part B

Students answered this question reasonably well although a number of students failed to refer to the two reasons why initial repairs are not deductible ie., because they effect an improvement (and therefore capital) and section 25-10 is concerned to allow deductions only to the taxpayer who used the item to produce his assessable income.

Question 5

Part A

This question was reasonably well answered. Again a number of students in respect of item (2) referred to the secretaries having to include the value of the hamper in their assessable income by virtue of sections 6-5 or 15-2 but completely overlooked FBT.

Some students overlooked the exceptions provided for in Division 118 where a personal use asset cost \$10,000 or less, and a collectable cost \$500 or less.

Part B

Surprisingly a number of students had great difficulty in expressing when an individual was a foreign resident. In other words the students were able to list out the criteria for a person to be an Australian resident, but often incorrectly expressed how these criteria were relevant to establishing that a person was a foreign resident.

Dated: 13 March 2013