

Tax Technician

Knowledge Competency Assessment

June 2015

Paper 1: Solution

Instructions to Candidates

1. This competency assessment paper consists of two questions.
2. Answer each question in a separate answer book.

Question	Topic	Marks	Answer Book
1	Individuals	35	BLUE
2	Various – Advisory	65	GREEN

Total marks: 100

Time: 4 hours plus ½ hour reading time

The marks specified are an indication of the expected length and detail of your response.

3. Enter your examination number on the cover of each answer book as well as on all answer sheets.
4. Your name must not appear anywhere in the answer books.
5. Answers may not be written in pencil and correction pens (Tippex) may not be used.
6. Answer the questions using effective presentation and pay particular attention to the use of concise language, clarity of explanation and logical argument. Marks will be awarded for these aspects of your response.
7. It is your responsibility to ensure that all answer books are handed in to the invigilator before leaving the examination room, as answer books handed in thereafter will not be marked.

Question 1

35 marks

Suggested Solution

QUESTION 1			
Item	Reason / Calculation	Effect on Taxable Income	Marks
Gross Income			
Salary: SABC	par (c) special inclusion R116 000 x 9	1 044 000	1
Restraint of trade: SABC	par (cA) special inclusion	200 000	1
Voluntary award (ring)	par (i) fringe benefit - included at cost as specifically purchased	14 500	1
Income: Idols	par (c) special inclusion	780 000	0.5
Income: Other organisations	par (c) special inclusion	230 000	0.5
Bursary: Monash	Included in gross income - not capital in nature	78 000	1
Competition Prize	Capital in nature: once-off & not actively worked for	0	1
Annuity	par (a) special inclusion R24 000 (R2 000 x 12)	24 000	1
Sale of primary residence	Receipt is capital in nature - refer CGT calculation	0	
Less Exempt Income			
Bursary: Monash	Bona fide bursary to study at recognised educational institution - section 10(1)(q)	-78 000	1
Purchased annuity	s10A OR capital portion purchased annuity Exempt = A/B * C A = capital paid = R250 000 B = total proceeds = R360 000 (R2 000*12*15) C = R2 000 * 12 = R24 000	-16 667	0.5 0.5 0.5 0.5

Income		<u>2 275 833</u>	
Less Deductions/Expenses			
Beauty expenditure	Pre 30 November 2013: section 23(a)/23 (m) prohibited deduction Post 30 November 2013: section 11(a) in the production of income	0 -19 865	0.5 0.5
Ipad 1 allowance	section 11(e) wear & tear (R9 500 / 3) x 2/12 = R528	-528	1
Ipad 2 allowance	section 11(e) wear & tear (R9 000/3) x 1/12 = R250	-250	1
Scrapping Loss	section 11(o) R9 500 (cost) - R528 (accumulated wear & tear) = R8 972 (tax value) R0 (selling price - theft thus no insurance) - R8 972 (tax value) = R8 972 (scrapping loss)	-8 972	1 1
Prepaid rent	section 11(a) read with section 23H > exceeds R100 000 : R60 000 does not exceed R100 000 > benefit accrues within 6 months: benefit accrues within 3 months > conditions meet and may deduct prepaid rental (section 23H not applicable)	-60 000	1
Motor Vehicle expenses	Section 11(e) - to the extent of business use (R299 000/5 x 3/12 x 3672 km / 6783 km)	-8 093	1.5
	A	<u>2 178 125</u>	
RAF contributions	Full contribution allowed as a deduction	-62 600	0.5
	Actual contribution: R9 600 (R800 x 12) + R53 000 (previously disallowed) limited to greatest of;	62 600	1
	R1 750	1 750	
	R3 500 - R0	3 500	
	15% of non retirement funding employment income 15% x A	326 719	1
Allowances			

Clothing Allowance	R6 000 x 9 months	54 000	1
Travel Allowance (pre 30 Nov 2013)	Taxable portion of travel allowance (allowance LESS portion expended for business purposes)	26 111	0.5
	R5 200 x 9 months	46 800	0.5
	<u>Deduction</u>		
	Deduct: Portion used for business purposes		
	Use deemed cost (no records of actual costs)		
	R4.53 x 4 567 km	<u>-20 689</u>	1
	Net allowance included in taxable income		
	Business Kms (given)	4 567	
	Private Kms 15 556 (20 123 km - 4 567 km)	<u>15 556</u>	
	Total kms (given)	20 123	
	Deemed Cost	R	
	Fixed component vehicle costing R299 000	78 192.00	
	Fixed cost per km (per table): 79 185/20 123 kms x 100 (in cents) x 275/365 (only used for part of a year, apportionment in days)	292.76	1.5
	Fuel cost per km (per table in cents)	113.60	0.5
	Maintenance cost per km (per table in cents)	<u>46.30</u>	0.5
	Total deemed cost per km (in cents):	452.66	
	Total deemed cost per km (in Rands):	4.53	
Capital Gains	Disposal of iPad (theft)	R	
	Proceeds	0	0.5
	less Base cost	0	
	Cost price	9 500	0.5
	less accumulated capital allowances	-528	0.5
	less scrapping allowance	<u>-8 972</u>	0.5
	Capital loss	<u>0</u>	
	Disposal of Primary Residence		
	Proceeds	3 500 000	0.5
	Less Base cost (base cost of Steve as roll over relief would have applied)	<u>1 600 000</u>	1
	Gain	1 900 000	

	Less primary residence exclusion	<u>-2 000 000</u>	0.5
	Capital Loss	<u><u>-100 000</u></u>	
	The capital loss is carried forward to the following year of assessment.		1
Sub-total		B <u><u>2 097 928</u></u>	
Less Medical Aid	Section 18 - natural person	0	0.5
	Total Contribution (no contributions made)	0	
	Less 4 times s6A med aid credit	<u>0</u>	
		0	
	Plus qualifying med expenditure - Given	<u>34 000</u>	0.5
		34 000	
	less 7.5% of sub-total (above) B	<u>157 345</u>	1
	Medical Aid (as per section 18)	0	
Taxable Income		C <u><u>2 097 928</u></u>	
Tax per tables	R185 205 + 40%(C - R638 600)	768 936	1
less primary rebate	Younger than 65	-12 080	0.5
Employees tax: Employment income	R29 000 x 9 months	-261 000	0.5
Employees tax: Restraint of trade	given	-16 000	0.5
Employees tax: Ring	given	-3 500	0.5
Less Provisional tax	given	-450 000	0.5
Tax due to SARS		<u><u>26 356</u></u>	
	+1 for proper layout and presentation		1
	-1 for incorrect order of deductions		
Total Marks for Question 1			37
Max Marks for Question 1			35

Question 2

65marks

(Question consists out of 7 unrelated parts)

2.1. QUESTION 2 - QUERY 1

PART A	Marks
Donations tax is;	
> gratuitous transfer of property	1
> between a living donor and a donee	0.5
Estate Duty is;	
> tax imposed on the net value of a deceased person's estate	1
> and consists of the deceased person's property, deemed property and liabilities	0.5
Both taxes impose a tax charge of 20%	
Total	3
Max	3
PART B	Marks
<i>Estate Duty Tax Implications</i>	
> In terms of the provisions of the Estate Duty Tax Act, a taxpayer should include the total value of property in calculating his/her estate duty liability	
>The value of the house must therefore be included in calculating Bonggi's estate duty liability	0.5
> However, bequeaths made by the deceased to his/her spouse will be deductible from the estate duty calculation in terms of section 4(q) of the Act	1
> Therefore, the bare dominium rights (wife) will have a nil effect on the estate duty but the usufructuary rights will have estate duty implications as the value of the usufruct will be included without exemption/deduction	1
<u>Value of Usufruct</u>	
FMV = R4 300 000	
Annual Value: R4 300 000 x 12% = R516 000	0.5
Age of Mother next birthday (69) = 6.32818 (factor)	0.5
Donor would be deceased	

R516 000 x 6.32818 = R3 265 341 (usufruct value)	0.5
Therefore, the full value of the house will be included in the estate duty calculation. The bare dominium which is transferred to the spouse will then be deducted under section 4(q) (being the market value of the house (R4 300 000) LESS the usufruct (R3 265 341)). The net effect would then be the value of the usufruct, included in the estate without exemption/deduction.	1
Total	5
Max	4

2.2 Query 2

10 marks

QUESTION 2 - QUERY 2

	Taxable income	
Debtors book & bad debts written off.		
No deduction allowed as the original amount was never included in the heir's taxable income (as required by s 11(i)). Loss is of a capital nature.	-	1
Legal fees		
Test requirements for s 11 (c)		1
* incurred during YOA		
* on legal expenses as a result of claim / dispute		
* paid to legal practitioner		
* not of a capital nature		1
*provided that the expense incurred meet the requirement of s 11(a) - TEST : Incurred to prevent claim for compensation and the accompanying compensation would have been deductible in terms of section 11(a)		1
Conclusion: Glasaritti is a tabloid company - an expense like this is inevitable risk to the industry and therefore would qualify as a deduction in terms of section 11(a) , therefore meeting requirement of section 11 (c) .	-40 000	1
Key man policy		
Special inclusion in terms of par (m) of the Gross Income definition	500 000	1
Deduction of premiums key man policy s 11(w)	-40 000	
Printing machine as part used directly in the process of manufacturing of the tabloid		
Section 12 C allowance, directly used in a process of manufacturing		
New machine, therefore 40% allowed on the cost of the asset (R660 000 x 40%)	-264 000	1
Part of commercial building purchased.		
<i>Part of a building acquired : "Cost of building" therefore $R750\,000 * 55\% = R412\,500$</i>		1
Capital allowance on commercial building(s 13 quin): 5% on Cost =5% * R412 500	-20 625	1
Copyright sold		
The amount received for the copyright sold was as a result of the disposal of an asset held as an "income producing investment" - therefore will qualify to be " capital in nature " - not included. Also there is no specific inclusion provision provided for in terms of the Income Tax Act.	-	1
Total		10
Max		10

2.3. A. Query 2

15 marks

2.3. QUESTION 2 A- QUERY 3

5

PART A	Marks
Rental costs qualify as a deduction in terms of section 11(a) of the Income Tax Act, as they are incurred in the production of income and meet all other requirements.	0.5
However, as these expenses are in relation to the 2014 year of assessment, the section 11(a) deduction applies, subject to section 23H/ limitation of deduction of prepaid expenditure.	0.5
In terms of section 23H, the pre-paid portion of expenditure will not be allowed as a deduction in the year in which it was paid (in this case the 2013 year of assessment), but only in the year to which the expenditure relates (in this case the 2014 year of assessment).	1
Section 23H will not be applicable if:	
> Benefit accrues within 6 months of prepayment	0.5
> Pre-paid portion of expenditure does not exceed R100 000 OR	0.5
<u>Application</u> > Benefit accrues within a year after year-end thus not fulfilling this requirement (0.5) > Rental costs of R300 000 exceed the R100 000 limit thus not fulfilling requirement (0.5)	1
Therefore, section 23H will be applicable and SARS is correct to not allow the rental expenditure as a deduction in the 2013 year of assessment.	1
Total	5
Max	5

2.3. B. QUESTION 2 - QUERY 3

PART B			Marks	
First Provisional Tax Payment		Note	R	
Estimate used: Basic Amount	2013 tax assessed income received on time - 1 Oct 2013	356 432	0.5	
	Payment Due: 31 December 2013			
	Tax payable: R356 432 x 28%	99 801	0.5	
	First Provisional Payment R99 801/2	49 900	0.5	
Second Provisional Tax Payment		Note	R	
Estimate used: Estimate	Incorrect: understated by R300 000 prepaid rental expenditure	189 543	0.5	
	Payment Due: 30 June 2014			
	Tax payable: R189 543 x 28%	53 072	0.5	
	1st provisional payment	-49 900	0.5	
	2nd Provisional payment	3 172		
Penalty on Underestimation - Taxable income of less than R 1 million				
Estimate < 90% x Actual	R189 543 < R440 589 (0.9 x R489 543)		1	
Estimate < Basic Amount	R189 543 < R356 432		1	
Penalty Imposed	20%			
Basic Amount < 90% of Actual.	R356 432 x 28%	99 801	1	
Penalty = 20% of difference between tax on basic and tax paid	less 1st provisional payment	-49 900	0.5	
	less 2nd provisional payment	-3 172	0.5	
		46 729	0.5	
	Penalty: R46 729 x 20%	9 346	0.5	
Tax Liability				
Actual Taxable Income	given	489 543		
		28%		
Tax on actual taxable income		137 072	0.5	

	less 1st provisional payment	-49 900	0.5
	less 2nd provisional payment	-3 172	0.5
	plus penalty	9 346	0.5
	Tax Liability	93 346	
Total			10
Max			10

2.4. Query 4

10 marks

TAX IN CONTEXT

Tax Principles: “Balancing of the system”

Note: Students may answer in table format. Memo structured like this for marking purposes.

Scenario 1: Issue of credit by a commercial bank to a company

- (a) Effect on Taxpayer 1 (commercial bank): Interest income received : PLUS R100 000½
- (b) Effect on Taxpayer 2 (company): Interest paid: Minus R100 000½
- (c) s 1 Gross Income definition ½
- (d) s11(a) Expense incurred in production of income ½
- (e) “Balance” achieved by Fiscus? : Yes ½

Scenario 2: Lease premium paid from lessor to lessee

- a) Effect on Taxpayer 1(lessee/tenant): Lease premium paid: Minus R500 000 spread over 5 years e.g. R100 000 per year½
- b) Effect on Taxpayer 2 (lessor): Premium received : PLUS R500 000½, the lessor will be entitled to s11(h) relief ½
- c) s11 (f) / Deduction spread over lease period (maximum 20 years) ½
- d) s1 Gross Income definition par (g) //specific inclusion ½
- e) “Balance” achieved by Fiscus? : Yes, at end of lease period, ignoring time value of money ½

Scenario 3: Fringe benefit issued to individual

- a) Effect on Taxpayer 1(employer): MINUS R91 200 /5 = R18 240. ½
- b) Effect on Taxpayer 2 (employee): PLUS R24 417 ½
- c) Section 11 (e) deduction ½
- d) Par (i) inclusion of cash equivalent in terms of seventh Schedule. ½
- e) “Balance achieved by Fiscus? : NO ½- Monetary value not “ in balance” / OR “YES” if student motivates the answer

Scenario 4: Legal cost

1. Effect on Taxpayer 1: Legal expenses: Expense incurred not allowed as deduction – Rnil tax effect
½
2. Effect on Taxpayer 2: Income for services rendered PLUS R100 000 ½
3. No deduction: Denied in terms of section 23(m). Also not allowed in terms of section 11(c) ½
4. Par (c) special inclusion for services rendered ½
5. “Balance” achieved by Fiscus? : No: In a net PLUS of R100 000. ½

Available: 10.5

Maximum: 10

2.5. Query 5

TAX IN CONTEXT

5 marks

Medical deductions

- Why: Economic, social and political factors and **changes drive policy making**. (*identification of “change is required” generates the mark*) (1)
- Who: Policies drafted by **national treasury** which is headed by the Minister of Finance (Cabinet minister) ½
- How: Policy changes are then drafted by the legislator and amended every year in an **updated Income Tax Act** (which becomes a binding law and needs to be enforced by SARS). ½ **Alternative:** The Act is amended based on the required changes.

Any other valid mark (as these questions test the student's basic insight)

Total marks: 2

Max: 2

Reserves

- “The tax system hates reserves” because it **creates misrepresentations** in terms of the tax framework/people can easily use reserves to manipulate their financial position. **Alternative:** May indicate fraud / dishonesty. (1)
- **Yes**, the treatment of reserves is regulated in the Income Tax Act. The deduction of reserves is prohibited in terms of sec 23(e). **Alternative:** s23(e) prohibits the deduction of provisions. (1)
- **Accounting** does allow for reserves due to the provision principles in accounting. Therefore, although accounting and tax are related disciplines, there are **differences** that exist. (1)

Any other valid mark

Total marks: 3

Max: 3

2.5. Query 5

10 marks

Query 6: Employees' Tax and Provisional Tax

1. **Requirements to register for Provisional Tax:**

- In terms of the provisions of the Income Tax Act, **companies** have to register for provisional tax. $\frac{1}{2}$
- Also, individuals earning income which **does not constitute remuneration** as defined should register for provisional tax. $\frac{1}{2}$

2. Requirements to register for **Employees' tax**:

In terms of the Fourth Schedule of the Act, three elements have to be present before a taxpayer has to register for employee's tax:

- Employer, $\frac{1}{2}$ & Remuneration, $\frac{1}{2}$ & Employee. $\frac{1}{2}$
- **Alternative:** As soon as requirements for liability are met

3. **PKY auditors** $\frac{1}{2}$ and **Crossfit** $\frac{1}{2}$ will have to register for provisional tax as they as well as **Rocky** $\frac{1}{2}$ and **Strong** $\frac{1}{2}$ will also need to register as provisional taxpayers, as additional income from own trade is earned (other than remuneration).

4. PKY **does not have to withhold employees' tax** from payments made to Crossfit as they are neither independent contractors nor personal service providers $\frac{1}{2}$.

- Test for independent contractor :

Payments to **independent contractors are excluded from the definition of remuneration.** $\frac{1}{2}$

As *Crossfit* employs **three or more unconnected (full-time)** $\frac{1}{2}$ employees (three exactly), they qualify as **independent contractors** $\frac{1}{2}$.

- Test for Personal service provider

A **personal service provider is included in the definition of an employee** $\frac{1}{2}$ but **Crossfit is not a personal service provider** $\frac{1}{2}$ as the company employs three or more full time employees $\frac{1}{2}$

Note: The question clearly states that PKY is not a labour broker.

5. **Yes** - *Crossfit* will need to withhold employees tax from the payments made to the instructors as there is *remuneration* paid from an employer to an employee **Alternative:** *Crossfit* Complies with requirements for the withholding of employers tax. **(1)**

- For Instructors Rocky, Sandy and Strong in **standard employment** $\frac{1}{2}$ and therefore employees' tax will be withheld according to employees' tax tables (**normal tax tables for natural persons**) $\frac{1}{2}$.
- For instructor Mellow employees' tax will be withheld at a rate of **25%** $\frac{1}{2}$ as Mellow is a **part time worker** (not in standard employment as defined). $\frac{1}{2}$

Total marks: 11.5

Max: 10

2.7. Query 7

5 marks

TAX ADMINISTRATION

- Section 104 of the Tax Administration Act provides that a taxpayer who is aggrieved by an assessment may object to the assessment. (1)
- Section 102 of the Tax Administration Act provides that the burden of proof to show that an amount is capital in nature lies with the taxpayer. (1)
- He may object to the assessment within 30 days after one of the following two dates: (1)
 - The date of the assessment; or (1)
 - If the taxpayer requested reasons for the assessment, the date of the reasons or notice that adequate reasons have already been provided. (1)
- The taxpayer's objection must comply with the following requirements:
 - It must lodged on the following prescribed forms:
 1. NOO – for personal income tax (administrative penalties and assessed tax), PAYE (penalties only) and corporate income taxpayers (assessed tax); and (1)
 2. ADR1 – for trusts, STC, VAT, PAYE assessments. (1)
 - Alternative (In the context of the question candidates may not identify which exact forms are required):
 - The taxpayer's objection must be in **writing**, must specify in **detail** the **grounds of objection** and must be **signed by the taxpayer**. (2)

Available 6

Max 5