Part (a)	Discuss the normal tax consequences for Boitumelo for her 2021 year of assessment of – (i) the sign-on incentive from KicksZA;	Marks
1.1	The R1 500 000 (R1 200 000) sign-on incentive provided to Boitumelo would have been included in **gross income** at the earlier of **receipt or accrual**	1
1.2	in terms of para. (c) (**services rendered or employment**) in the 2019 year of assessment.	1
1.3	There is no indication that 20% forfeited amount of **R300 000** was not **received b**y Boitumelo for her **own benefit** **NOR** Alt. The R300 000 was **not received in the 2019 year** of assessment NOR	1
1.4	that she was not **unconditionally entitled as the dismissal is not a condition** attached to the receipt of the amount in 2019 year of assessment. Alt. Boitemelo was **not unconditional entitled** to the R300 000 as its potentially refundable due to a **resolutive condition** (Mooi case).	1
1.5	As the R300 000 was received and through forfeit is now being refunded (a seperate event ito *Pyott*), Boitumelo would be **entitled to a deduction in terms** *of s11(nA)* **as its connected to her employment or the rendering of a service** in the 2021 year of assessment or Alt. Boitemelo is **not entitled to a deduction** in terms of s 11(nA) as the R300 000 was **not included in her taxable income in 2019**.	1
1.6	Section 23(*m*) explicitly allows the section 11(*n*A) deduction. Bonus	1B
	Available	**6**
	Maximum	**5**
	Total for part (a)(i)	**5**

Part (a)	Discuss the normal tax consequences for Boitumelo for her 2021 year of assessment of – (ii) the forfeitable share awards she received from OTL ; and	Marks
1	As the forfeitable shares were **acquired by virtue of her employment**, s8C could apply (its excluded from the ambit of the Seventh Schedule).	1
1.1	These **shares** would qualify **as s8C equity instruments as defined** as none of the exemptions of this section apply.	1
1.2	In terms of section 8C, Boitumelo would have a **gross income inclusion** for **30 000 x R117,32 = R3 519 600,** relating to the shares awarded to her on <u>1 May 2020</u>.	1
1.3	In terms of s 8C(7) the R3 519 600 is a **restricted equity instrument** at the date of grant (1 May 2020) as Boitumelo will **not be able to freely dispose of the shares** until it is transferred into her name and **will be exempt from normal tax in terms of** *s10(1)(nD).*	1 1
2	On <u>31 December 2020</u> when the equity instrument **vests, a gain (**s 8C(1)(a)) arises that should be **included in Boitumelo's income** at the **market value** (s 8C(2) on vesting date: 30 000 x (**R129,74** - 0 **)=** R3 892 200**.**	1 1
3	In terms of para. 20(1)(h) of the 8th Schedule (CGT) **the base cost** of the equity instrument acquired in terms of s8C **is equal to market value** that was taken into account, of R3 892 200. Bonus	1B
	Available	**8**
	Maximum	**5**
	Total for part (a)(ii)	**5**

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Part (a)	**Discuss the normal tax consequences for Boitumelo for her 2021 year of assessment of – (iii) the Atlantic seaboard property, with supporting calculations.**		**Marks**
1.	**Normal tax consequences for the 2021 year of assessment**		
	Atlantic seaboard property	**28 February 2021**	
		R	
	Rentals from Lesedi (R7 000 x 7)	**49 000**	1
	Short-term rental unit	**60 000**	1
	Other tax deductible expenditure	(**110 000)**	1
	Coffee machine (s11(e)) (R13 999 x 1/6 x 11/12) – based on **value**	**(2 139)**	1
	Loss	(3 139)	
2.	**The dividend *in specie*** (Ukuthula) is **exempt** in terms of s 10(1)(k) has a zero effect on the trade of rental properties.		1
3.	As a loss is made by a natural person, the **issue** is whether the **loss from the rental** must be **ring-fenced** in terms of *s 20A*. It is clear from the scenario that Boitumelo's taxable income (for example part (a)(ii) above) is equal to or exceeds the amount at which the **maximum marginal rate applies**, (R1 577 301), and		1 1
4.	the residential letting of the Atlantic seaboard property is a **listed suspect trade**, as **100%** of the residential accommodation is **used by Lesedi (a relative** s 20A(10)**)** for **seven months (more than half)** of the year of assessment		1
5.	The **tax loss will be ring-fenced** for current year (s 20A(2)(b)), and can only be set off in future against income from this trade.		1
		Available	**9**
		Maximum	**7**
		Total for part (a)(iii)	**7**
		Total for part (a)	**17**

Part (b) Calculate Boitumelo's taxable income for her 2021 year of assessment, excluding the information in section 4. • Clearly indicate all items that have a nil effect and provide a brief reason for each of these items.		Marks
	Taxable Income R	
OTL salary (para. (c) gross Income) (R2 000 000/12 x 10 *or R166 667 x 10*	**1 666 667**	1
Fringe benefit: **Provident fund** (par. 2(l) and 12D) R19 167 x 10	**191 670**	1
Allowance for **fibre** (s8(1)) R1 497 x 10 *Alt: If candidate discussed the employer instructs Boitumelo to incur cost relating to an uncapped fiber line and produced proof, s 8(1)(a)(ii)(bb) – nil value*	**14 970**	1
Fringe Benefit (para. 2(a)): **Desktop monitor: No fringe benefit arises** as the consideration paid by Boitumelo **exceeds the cost price of R4 000** – nil value		1
S8C Gain on vesting on the forfeitable share award at end of OTL's financial year. from **part (a)(ii)**	3 892 200	1P
Remuneration	5 765 507	
Desktop monitor used in home office (s11(e) read with s23(m) **- less than R7 000**, so fully deductible) Or R5 999	(6 000)	1
Home office expenditure (s11(a) read with s23(b) and s23(m)) Alt: if apportioned **10/11** * R32 000 = R29 090	**(32 000)**	1
Repayment of sign-on incentive (s11(nA)) from **part (a)(i)**	(300 000)	**1P**
Taxable income before s11F	5 427 507	
Provident fund contributions (s11F) – same amount from fringe benefit R191 670		
Limited **to the lesser of** the following three options: • R350 000, or • 27,5% of the higher of the r**emuneration** (R5 765 507) or **taxable income** (R5 427 507), thus R5 765 507 X R27.5% = R1 585 514 or • the taxable income and any taxable capital gain = R5427 507 Thus: R1 585 514 limited to	(191 670)	1 1 1P
Taxable Income after s11F before Atlantic seaboard property	**5 235 837**	
Available		**11**
Maximum		**11**
Communication skills – layout and structure		*1*
Total for part (b)		**12**

Part (c) **Advise Lesedi which of the two transport arrangement options available to her as part of her employment package at Ukuthula would result in her having the highest after-tax cash flows for her 2021 year of assessment.** • **Base your answer on cash flows after the tax return has been submitted by the taxpayer and any appropriate refunds received from the South African Revenue Service.**				**Marks**
		Right of use of motor vehicle	**Travel allowance**	
Option 1 Right of use of company car		**R**	**R**	
Annual value of usage (para. 7(4))				
Lease payments (R8 000 x 7)		**56 000**		1
Fuel costs (R1 500 x 7)		**10 500**		1
		66 500		
Less business travel proportion (para. 7(7)) (R66 500 x **12 000/30 000**)		(26 600)		1
		39 900		
Option 2 Own motor vehicle				
Travel allowance (12 500 x 7)			**87 500**	1
Deemed cost per table:				
S8(1)(b)(ii) Deemed expenditure and actual km				
Fixed cost (**102 211/30 000** x **212/365**)	197,88			1 1
Fuel cost	**138,0**			1
Maintenance cost Cannot be claimed as the vehicle was the subject of **a maintenance plan**.	0			1
	335,88	or		
Actual cost (s8(1)(b)(iiiA)) (R6 500 x 7 = **45 500/30 000**)	151,66			1
Reduction is based on the highest of deemed cost or actual cost, thus deemed cost:				
Travel allowance reduction (335,88/100 x **12 000km)**			(40 306)	1P
Annual taxable value		39 900	47 195	
Highest marginal tax rate		**45%**	**45%**	1
Normal tax		(17 955)	(21 238)	
Cash flows		Option 1	Option 2	
Cash received on travel allowance			**87 500**	1
Total repayments for the year for both options (**R6 500 x 12 / 7mths)**		(78 000)	(78 000)	1
Deduct: tax costs		(17 955)	(21 238)	1P
Total after-tax cash flows for the year of assessment		(95 955)	(12 238)	
Conclusion: The travel allowance option should be favoured over the company car option.				1C
Furthemore in making this decision consideration must also be given to **additional costs and cash outflow** attached to owning your own vehicle such as fuel, insurance and maintenance.				1
			Available	**16**
			Maximum	**13**
			Communication skills – logical argument	*1*
			Total for part (c)	**14**

Part (d)	**Discuss whether Lajuba land sales would constitute gross income for Origins during the 2021 year of assessment.** • **Ignore VAT.**	**Marks**
1	The gross income effects on the land sales made by Origins would be dependent on whether the sales are of a **revenue or capital nature.**	1
1.1	In terms of s102 of the Tax Administration Act the **taxpayer bears the burden of proving** that an amount is not included into gross income.	1
	Sale of the 100ha Lajuba land – R13 million	
	Intention	
2	The **intention with which the taxpayer (Boitemelo) acquires the asset** is a critical consideration. If the intention is to acquire as a capital asset, then it will be a capital receipt. If the intention is to embark on a scheme of profit making, then revenue receipt	1
3	Origins was formed as a **realisation company**. The court has held the realisation company would **not** be considered to be **embarking on a scheme of profit making** if its **dominant intention** was to dispose of the capital asset of its previous owners in a **practical and effective manner or** Boitumelo, as the **sole owner** of the Lajuba land, could have facilitated the sale of the land without a realisation company and Boitemelo remains the sole owner of Origins.	1
4	As s42 allows that a capital asset may be traded for a capital asset or trading stock, that there was **no change of intention** of the 100 ha of undeveloped land disposed in September 2020 **or** Furthermore, it could be argued that Origins acquired the land with the **intention of reselling it to GOAT**, making **it trading stock** as defined from the perspective of Origins.	1
5.	The sale of the **100HA is capital in nature and subject to CGT or** There was no need for the sale to have been facilitated through a realisation company, the **amount of R13 million relating to the 100ha would be considered revenue in nature and included in its gross income** for the year of assessment ending 30 June 2021.	1C
	Development of the additional 50 ha Lajuba land – R12 million	
6	By entering into a contractual arrangement **to develop the additional 50 ha of Lajuba land into a mixed-use residential** and commercial development and incurring development costs of R2 million, Origins has embarked on a **scheme of profit making** due to the extent its operations or crossed the Rubicon.	1 1
7	Therefore, the **land sales of R12 million** conducted by Origins **would be considered revenue in nature and included in its gross income** for the year of assessment ending 30 June 2021.	1C
	Available	**9**
	Maximum	**7**
	Total for part (d)	**7**
	TOTAL FOR QUESTION 2	**50**