

Part (a) Advise Nomzamo on whether the interest expense incurred by her on her mortgage bond would be deductible in the determination of her 2017 taxable income Refer to case law where applicable	Marks
1. The deduction of the interest that is incurred on the mortgage bond at ZA Bank can only be deducted if Nomzamo meets the requirements of s24J(2) as she is the issuer of an instrument (she has to pay the interest to the bank).	1
2. In terms of s23B(3), no deduction may be allowed under s11(a) where a deduction or allowance may be granted under a specific provision. Therefore s11(a) must not be considered.	1
3. In terms of s24J(2) an amount of interest incurred must be deducted:	1
3.1 based on the yield to maturity method – s24J(5) (effective interest rate).	1
4. The burden of proof in terms of s102 of the Tax Administration Act rests on Nomzamo – she has to prove that the interest incurred is deductible, if the matter is disputed by SARS. Nomzamo will have to prove the following:	1
4.1 The definition of ‘trade’, in s1(1) of the Act, should be given a wide interpretation (<i>Burgess</i>) and specifically includes a venture. It is unlikely that the passive investment of funds to derive interest would constitute a trade.	1
4.2 Judge Hefer made the following comment in the <i>Scribante</i> case: ‘In addition, borrowing money and re-lending it at a higher rate of interest, thereby making a profit, constitutes the carrying on of a trade ...’	1
5. Nomzamo needs to prove that the money obtained from the bond was for the purpose of making the loan to the company, thus the interest incurred should be closely connected to the production of income (<i>PE Electric Tramway</i>).	1
5.1 It is clear that the interest incurred by her will be in the production of the income derived from the company and can be deductible under s24J(2). The purpose was therefore to produce income.	1P
5.2 As the interest on the bond includes interest relating to the acquisition of her primary residence, the extent that the interest relates to the funding of the primary residence, it is incurred for private purposes and not for purposes of trade (<i>section 23(b)</i>).	1
6. Thus, only a proportionate share of the interest incurred on the bond, relating to the amount advanced to the company, was in the production of income and can be deductible under s24J(2).	1
Available	11
Maximum	9
<i>Communication skills – logical argument</i>	1
Total for part (a)	10

Part (b) Discuss the possible normal income tax consequences, if any, for the marketing assistants on the flats sold to them by Uhuru during 2017 year of assessment.	Marks
1. The issue is whether the cash equivalent of the benefit will be included in terms of <i>par. (i)</i> of the gross income definition.	1
2. Uhuru sold the flats to its employees at below market value (R50 000 each, when the open market value was R445 000 each). This is the acquisition of an	1

asset by an employee from an employer for a consideration less than market value	
3. Therefore a taxable benefit arises for the marketing assistants in terms of par. 2(a) of the Seventh Schedule.	1
4. The cash equivalent of the value of the taxable benefit determined in terms of par. 5(1) and (2) would be the market value of the asset on the date acquired by the marketing assistants less the consideration given by the employees.	1
5. However <i>par 5(3A)</i> determines that when the market value of the property is less than R450 000 (on the date the flats were acquired it was R445 000),	1
5.1 and as the marketing assistants earn remuneration less than R250 000 per annum (between R8 000 and R20 000 per month), and	1
5.2 they are not connected persons to Uhuru, as they do not hold any shares in the company.	1
5.3 <i>Par. 5(3A)</i> of the Seventh Schedule will place no value on the flats acquired by marketing assistants.	1P
6 The acquisition cost of the flats are not deductible for the employees as its capital in nature.	1
	Available
	9
	Maximum
	8
	Total for part (b)
	8

Part (c)	Discuss the income tax implications for Aisha with respect to the temporary employment agreement with Uhuru for the marketing of the Copacabanas in Brazil for the 2017 year of assessment.	Marks
1.	Aisha is a South African resident and therefore she is subject to income tax on her worldwide income.	1
2.	Aisha will have a gross income inclusion on the amounts received from Uhuru for work performed in Brazil for each image taken and the number of 'likes' each post received.	1
3.	In terms of par.1 of the Fourth Schedule the temporary employment agreement that Aisha had with Uhuru constitutes remuneration (par 1) and she is therefore considered an employee of Uhuru for the purposes of the Fourth Schedule.	1
4.	The cost of the flights and packages is not a taxable benefit (in terms of par2 of the Seventh Schedule) as it was wholly for business purposes.	1
5.	However, as the income was earned in a foreign jurisdiction, a possible double tax agreement between South Africa and Brazil and the application of s108 of the Income Tax Act must be considered.	1
6.	The income earned by Aisha is from employment and therefore the application of <i>article 15</i> of the double tax agreement must be considered.	1
7.	<i>Article 15(2)</i> provides that because Aisha was present in Brazil for only seven days (did not exceed 183 days) and	1
7.1	her remuneration was paid by Uhuru, a South African resident, and	1
7.2	and Uhuru has no permanent establishment in Brazil,	1
8	Aisha will only be taxed in South Africa for services performed in Brazil.	1P
		10
		Maximum
		8
	<i>Communication skills – clarity of expression</i>	1

Total for part (c)	9
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Part (d)	Calculate the amounts that would qualify to be claimed as input tax in Uhuru's VAT return relating to Aisha's trip to Durban in February 2017		Marks
	Provide reasons for any amounts not included in your calculations.		
	Input tax R		
1. Domestic flights – standard rated supply <i>Alt: R4 000 X 14/114 = R491</i>	475		1
2. Allowance – cash not goods as defined in the VAT Act <i>(supply of money is not a supply)</i>	0		1
3. Restaurant bills: – input tax not denied (s17(2)(a)(ii)) on employee costs (R1200 – R500) = R700 x 14/114	86		1
– input tax denied - entertainment (s17(2)(a)(ii)) on clients (R500)	0		1
4. Taxi fare – exempt supply (s12(g))	0		1
	Available		6
	Maximum		6
	Total for part (d)		6

Part (e) Identify and correct the errors in the assessment that was issued to Siphokazi for the 2017 year of assessment			Marks
Overall: The following amounts are incorrect (rounding error): 3601: Income - taxable R575 779, should be R575 780 3601: Income – taxable R115 155, should be R115 156			1
Error one			
The lump sum benefit taken from the fund has been incorrectly assessed as a withdrawal benefit.			1
As the taxpayer retired from a provident fund on 31 December 2016, the lump sum should be subject to tax in terms of the table applicable to retirement lump sums and not a withdrawal benefit.			1
The tax on the lump sum benefit of R693 418 does not agree to the tax per the directive of R684 418. Thus, the tax payable on the lump sum should be recalculated as follows:			1
Par. 2(1)(a) Retirement fund lump sum benefit		2 242 528	1
Par. 5(1)(a) deductions <i>Alt: if allowed as a deduction under the old s11(k)</i>		(203 866) 0	1
Add: Previous severance benefit		600 000	1
Amount subject to tax		2 638 662	
Tax thereon per retirement table	(R2 638 662 – R1 050 000) x 36% + R130 500	702 418	1P
Less: Tax on previous withdrawal benefit per retirement table	(R600 000 – R500 000) x 18%)	(18 000)	1
Tax payable on lump sum		684 418	
Error two			
The taxpayer is a member of a registered medical aid scheme and therefore should have been entitled to a s6A rebate, deducted from income tax liability, calculated as follows:			1
Medical rebate: S 6A	(R286 x 2 x 12) / (R572 x 12)	(6 864)	1
Error three			
The additional medical expenses (s6B) tax credit, deductible from income tax liability, has not been taken into account. This is calculated as follows:			1
Medical aid contributions	R43 200 + (R43 200/10) x 2	51 840	1
Less: 4*s6A		(27 456)	1P
		24 384	
Less: 7,5% of taxable income	R720 951 x 7,5%	(54 071)	1P
<i>No mark if candidate did not limit deduction to nil</i>			0
Error four			
The amount of R684 418 agrees to the Tax Directive issued by SARS. The assessment did not deduct the tax withheld, resulting in the amount being overstated by R684 418 in addition to the errors outlined above.			1
			Available
			16
			Maximum
			10
Total for part (e)			10

Part (f) Calculate the amounts to be included in Masego's gross income for the 2017 year of assessment. Provide reasons for any amounts not included in your calculations.			Marks
Item	Calculations /reasons	R	
Salary – par. (c) gross income	R40 000 x 12	480 000	1
Commission – s7B variable remuneration		127 000	1
Right of use of smartphone 6 - par. (2)(b) and 6(2)(b)	employee is granted the sole right of use of the asset over the major portion of the useful life; the value is the cost to Uhuru and this would have been accounted for in the 2016 year of assessment	–	1
Right of use of smartphone 7 – par. (2)(b) and 6(2)(b)	R9 499 x 100/114	8 332	1
Right of use of Mini 3-door hatch– par. 7(4)(a)(i)	<u>Not an operating lease</u> = R290 500 x 3.5% = R10 167.5 <i>No mark if input tax was deducted, as input tax is denied on a motor car as defined.</i>		1
	x 9 = R91 508		1
	Par 7(7) adjustment: R91 508 x (20 000 km - 4 800 km)/R20 000 km = (R69 546)		1
	Par 7(8) adjustment: 4 800 km (private) x R1.075 = (R5 160)		1
	Cash equivalent of fringe benefit to be included in gross income, s 1, par (i): R91 508 – R69 546 – R5 160 = R16 802	16 802	1P
Contributions to retirement annuity fund – par 12D		45 000	1
Gross Income		677 134	
Available			10
Maximum			7
Total for part (f)			7