

# TAX OCTOBER ASSESSMENT MARKPLAN SESSION 2 QUESTION 2

<b>Student Exam Number:</b>			
	<b>Calculation</b>	<b>Amount</b>	<b>Section Reference</b>
			<b>Marks</b>

**Question 2(a)**  
**Advise Lerato on whether her election, made during the 2021 year of assessment, in relation to the provident fund pay-out of R700 000 was a good decision from a tax perspective. No calculations necessary.**

<b>Lerato</b>		
As this is a divorce, <b>Lerato</b> (the ex-spouse) <b>will be taxed</b> on the withdrawal ( <b>clean-break principle</b> ).	1	
The full R700 000 will be taxed as a <b>withdrawal</b> .	1	
Only the first <b>R25 000 will be taxed at a rate of 0%</b> , and the remainder will be taxed according to the withdrawal sliding scale table.	1	
The R400 000 did <b>not qualify as a valid tax free</b> transfer as it went through her bank account before being transferred to her pension fund. If Lerato transferred the R400 000 from Edward's provident fund directly to her pension fund, it would have been a valid transfer.	1	
Therefore, Lerato <b>did not make the best decision</b> from a tax perspective as she paid additional taxes on the R400 000.	1	
<b>Even though</b> the 400 000 will qualify for <b>s11F</b> (limited 350 000), it is <b>still not the best decision</b> as you will pay taxes on the withdrawal.	1	
<b>Total marks available for Q2(a):</b>		<b>6</b>
<b>Maximum for Q2(a):</b>		<b>5</b>

**Question 2(b)**  
**Discuss the income tax implications with regards to the vesting of the residential apartment during the 2021 year of assessment.**

<b>Scope + Application</b>		
When a trust vests the asset in a beneficiary, it is a <b>disposal for CGT purposes</b>	1	
The disposal will result in a <b>gain of R525 000</b> (1 000 000 - 475 000)	1	
Lerato is a <b>resident beneficiary</b> (Lerato is a SA tax resident)	1	
Therefore, the scope of par 80(1) of the 8th Schedule is met.		
<b>Implication</b>		
Lerato will have to take the capital gain into account when determining her <b>aggregate capital gain or loss</b>	1	
Lerato is a <b>major</b> and therefore, the <b>re-attribution rule</b> of par 69 of the 8th schedule <b>does not apply</b> even though her father donated the asset.	1	
The net capital gain will be reduced by the <b>R40 000</b> annual exclusion and inclusion rate of <b>40%</b>	1	
<b>Total marks available for Q2(b):</b>		<b>6</b>

**Question 2(c)****With regards to Mr. Edward Makae:****(i) Calculate the taxable income of Mr Edward Makae up to 31 July 2020 in relation to his 2021 year of assessment. Provide brief reasons where necessary.**

<b>1. Services Rendered</b>					
Par (c) of gross income definition.		R550,000		1	
R600 000 not SA Source, rendered by <b>Edward (non-resident) in Mauritius.</b>					
<b>2. Assistant Salary</b>					
s11(a) deduction	6 000 x 5	-R30,000		1	
<b>3. Assets disposed</b>					
Assets deemed to be disposed immediately before ceasing to be a resident					
<b>3.1 Holiday home</b>					
No disposal as it is <b>immovable property in RSA</b>	R0		s9H(4)(a)	1	
<b>3.2 Personal belongings</b>					
Gain and Loss disregarded as <b>personal use assets</b>	R0		Par 53 of 8th	1	
<b>3.3 Shares in SeaGulf</b>					
Proceeds	R600,000		Par 35 of 8th		
Base Cost	-R18,000		Par 20 of the 8th Sch		
Capital Gain	<u>R582,000</u>			1	
<b>Dividends from Seagulf</b>					
The R25 000 was exempt in the 2019 year of assessment as Edward holds 15% (>10%).					
<b>Clawback</b> of previously exempted dividends as <b>ceased to be a resident within 3 years</b> from receiving dividend.		R25,000		1	
<b>3.4 Provident Fund</b>					
Disregard any capital gain or loss <b>retirement benefits</b>	R0		Par 54 of 8th Schedule of	1	
<b>3.5 Cash Investments</b>					
<b>Cash is not a asset</b> for CGT purposes, no CGT implications	R0			1	
<b>Interest Income - SNB</b>					
Include SNB in gross income		R20,000		1	
Natural person exclusion		-R20,000		1	P
R23 800 is available per year of assessment. Therefore, it can only be claimed once per year of assessment. You can not claim R23 800 while resident and another R23 800 while being non-resident.					

**Interest Income - Beach Bank**

Include in gross income - taxed on WWI

R34,200

No natural person exclusion as not SA source.

R0

*The R23 800 is only available against SA source interest.*

Sum of all CGT amounts

R582,000

Annual exclusion for Natural Person

-R40,000

Inclusion rate of 40%

R542,000

R216,800

*(P - same apportionment argument as for interest exemption above)*

**Taxable Income**

**R796,000**

Total marks available for Q2(c)(i):

13

Maximum for Q2(c)(i):

13

**(ii) Advise whether Mr. Edward Makae will be able to withdraw his retirement savings from his South African provident fund upon emigration.**

No he will not be able to withdraw the retirement funds

Because he has to be formally emigrated for 3 years.

Total marks available for Q2(c)(ii):

2

Maximum for Q2(c)(ii):

2

**Question 2(d)**

**Discuss the South African tax implications for interest earned by Mr Edward Makae from 1 August 2020 to 28 February 2021.**

Edward is a Mauritius resident (non-resident) and therefore, taxed on source basis in South Africa

**Beach Bank**

**Mauritian source** interest to a **Edward (non-resident)**; not taxable in SA.

**SNB**

Edward is taxed on SA Source - interest paid from a SA Bank, **SA Source**.

Include in gross income.

Interest is exempt under s10(1)(h)

Edward was in SA for less than 183 days (181 days)

*Learning opportunity: Interest accrued on 31 January 2021. From 31 January, you look back 12 months from that date to determine whether you were in SA for more than 183 days. The 12 month period is 1 February 2020 - 31 January 2021, i.e. 181 days. If you are in SA for less than 183 days, the exemption will apply.*

Withholding tax of 15% is applicable to interest.

However, as the interest is **paid by SNB (SA Bank)** it is Exempt from withholding taxes.

The interest is not taxed in SA, no need to consider DTA.

Total marks available for Q2(d):

8

Maximum for Q2(d):

6

**Question 2(e)**

Calculate, with brief reasons where necessary, the effects of Mrs. Lerato Makae's employment income on her taxable income for the 2021 year of assessment.

<b>Salary</b>				
Salary - include in gross income	104 000 x 7	R728,000	1	
<b>Subsistence Allowance</b>				
Subsistence Allowance - s7B included in Feb 2020 when paid (taxed in 2020 year of assessment)		R0	1	
<b>Travel allowance</b>				
Travel allowance	385 x 4,5	R1,733	1	
Re-imbursive allowance exclusion	385 x 3,98	-R1,532	1	
No actual cost could be claimed as no information was furnished/given.			1	
		R200		
<b>Long-service watch</b>				
Specifically acquired for Lerato.			1	
Thus, FB value is the cost to the employer.		R12,000	1	
No R5 000 tax free long-service award as no initial unbroken period of 15 years ( <b>11 years</b> ).			1	
<b>VitaminB12 shot</b>				
Free medical services provided by Employer (Zebra) - No value as available to employees in general		R0 Par 12B of 7t	1	
<b>Total marks available for Q2(e):</b>			<b>9</b>	
<b>Maximum for Q2(e):</b>			<b>9</b>	

**Question 1(f)**

Write an email to the payroll clerk of Zebra in which you critically evaluate his treatment of the travel and subsistence allowances in Mrs. Lerato Makae's Pay-As-You-Earn (PAYE) calculation.

<b>Travel allowance</b>				
The travel allowance received is a re-imbursive travel allowance and is based on actual distance travelled.				
<b>Error:</b>				
The employees tax <b>should not have been multiplied by 80%</b>			1	
<b>Correction:</b>				
The <b>first R3,98</b> of the re-imbursive travel allowance <b>will not be remuneration.</b>			1	
The excess above R3,98, being <b>R0,52</b> , should be <b>taxed at 100%</b>			1	
Therefore, <b>only R78 (R0,52 x 150)</b> should have been <b>included in remuneration.</b>			1	

**Subsistence allowance**

employee, will have to be included in the month after the allowance was given.

Lerato **did not use** the R4 000 subsistence allowance in March and **did not re-imburse** Zebra for the amount.

Therefore, it is **correct** to include the R4 000 in the PAYE calculation of Lerato.

1	P
1	P
6	
6	
1	
7	

Total marks available for Q2(f):

Maximum:

*Communication skill - Layout (email format)*

Maximum for Q2(f):

**Question 2(g)**

**Briefly discuss how the dividends earned by Mrs. Lerato Makae will be taxed in her 2021 year of assessment. No calculations necessary.**

**Dividends**

All dividends will be **included in gross income** at gross amount

Dividends from Rush CIS will be **exempt** from tax as they are **local dividends**

No exemption for dividend from **REIT**

1	
1	
1	
3	
3	

Total marks available for Q2(g):

Maximum for Q2(g):