



---

**CERTIFIED PUBLIC ACCOUNTANT**  
**ADVANCED LEVEL 2 EXAMINATIONS**  
**A2.3 ADVANCED TAXATION**  
**DATE: MONDAY, AUGUST 2021**  
**MARKING GUIDE AND MODEL ANSWERS**

---

## QUESTION ONE

### Marking guide

	Marks
a. 01 mark for a well-calculated item added back, except telephone overheads with 02 marks. ( <b>Maximum 6 Marks</b> )	6
01 mark for a well-calculated item deducted from taxable profit, ( <b>Maximum 02 Marks</b> )	2
0.5 marks for the sub totals of the additions and deductions ( <b>Maximum 1 Mark</b> )	1
01 mark for each item leading to adjusted profit, ( <b>Maximum 03 Marks</b> )	3
Award 01 mark for adjustment of prior losses (2016), effectively increasing current year losses	1
Award 01 mark for understanding that 30% Income tax is not applicable for a loss	1
Award 02 marks for adjustment of quarterly prepayment	2
Award 01 mark for adjustment of withholding taxes, max. 04 marks	4
Award 01 mark for final refund position (tax loss, adjusted for quarterly prepayment & withholding taxes)	1
Generally, award 01 mark for a well laid out income tax format and layout	1
<b>Maximum for this section</b>	<b>22</b>
b. 01 mark for each of the tax treatment of withholding tax grossed up by Rwandan importers, ( <b>Maximum 03 Marks</b> )	3
c. 01 mark for any well explained point regarding impact of 5% withholding tax on importers, ( <b>Maximum 05 Marks</b> )	5
d. 02 marks for each benefit of double tax agreement between Rwanda and other countries ( <b>Maximum 04 Marks</b> )	8
e. Award 02 marks for understanding that no VAT is charged on liquidation proceeds but rather treated as dividends and taxed as such	2
<b>Total marks</b>	<b>40</b>

## Model answers

### a. Jupiter Limited Income tax calculation for the year 2020

<b>Net profit as per account</b>				<b>41,769,357</b>	<b>Notes</b>
<b>Total add backs</b>	<b>Notes</b>	<b>Ledger no</b>		<b><u>15,656,027</u></b>	
Telephone Overheads (20%)	1	628000	435,802		Add 20%
Unsupported audit Committee sitting allowance	2	638000	1,100,000		Add back in full
Covid 19 fund contributions	3	640400	5,082,000		Not allowed by ITL
Cash shortage	4	658000	4,864		Add back in full
Provision for Bad debt	5	651100	9,033,361		Add back in full
<b>Total deductions</b>				<b><u>-111,524,931</u></b>	
Allowable tax depreciation			97,435,906		Deductible
Risk provision (expensed twice)	8	790100	14,089,025		
<b>Loss after adjustment</b>				<b>-54,099,547</b>	
Previous Loss to carry forward				5,000,000,000	For 2016 only
<b>Net loss (No tax applicable)</b>				<b>-</b>	
				<b><u>5,054,099,547</u></b>	
<b>Corporate income tax (30%) - N/A</b>				<b>-</b>	
Less: Quarterly prepayments (25% x 280m * 3)				-210,000,000	It paid profit tax in 2019
Withholding Tax on Public Tenders (3%)				-17,000,000	
Withholding tax on imports (5%)				-46,000,000	
Withholding Tax on juice (5%)				-165,000	
Withholding Tax on other services (15%)				-	
<b>Total tax refund</b>				<b>-273,165,000</b>	

**b. Grossed up withholding tax by importers of services in Rwanda**

- Withholding tax of 15% is charged on imported services
- It's true some service providers want their pay net of withholding tax
- The tax residents are forced to gross up tax, pay the service provider their net and take the balance to RRA
- This is not a correct tax treatment as per ITL. Therefore, the grossed-up amount is disallowed by RRA when conducting tax audits.

**c. Goods imported for commercial use**

- Article 61 of ITL states that withholding tax of five percent (5%) of the value of goods imported for commercial use shall be paid at custom on the cost insurance and freight (CIF) value before the goods are released by customs.
- This is an advance tax and taxpayers get refunded at the end of the year when they file their income tax return
- NGOs and Government agencies are exempt from this tax
- Taxpayers with a tax clearance certificate (quitus fiscale) are also exempt from this tax
- This tax is charged all taxable goods. Even importers who import goods for their own use pay this tax
- The argument from RRA is that all goods can be sold or be commercial, therefore it is up to the importer to make declarations to claim their tax.

**d. Tax benefits of Double Tax Agreements (DTAs) with other countries**

- The main intention of DTA is to make the country attractive for investments by offering tax benefits while avoiding double taxation. Rwanda will attract more investments by signing DTAs
- The DTA agreement between countries ensures that there is no double taxation. The agreement ensures that the company will effectively pay taxes in only one country. Therefore, Rwandan companies will not pay the same tax twice in countries with DTA with Rwanda as per terms of the DTAs
- Concessional tax rates are offered as per the provision of DTA which act as a relief
- Examples where Rwanda has DTA with other countries are;
  - Mauritius
  - Singapore
  - South Africa
  - Barbados
  - Belgium

**e. VAT paid on liquidation transaction**

No VAT is applicable to liquidation proceeds.

According to Article 55 of Law 16/2018, the liquidation proceeds of a company, after payment of liabilities and distribution of dividends, the remainder, is considered as dividends on shares in the last tax period of the company's existence.

## QUESTION TWO

### Marking guide

	Marks
a 01 mark for each well stated point, max. 08 marks	8
b Max. 02 marks for any 2 correct points	2
c 01 mark for any correct action point taken by taxpayer who is not satisfied tax assessment received, max. 05 marks	5
d Well explained definition of tax agent with at least 3 examples of qualifying tax agents	3
Award 02 marks for any 2 correct responsibilities of tax agents	2
<b>Total marks</b>	<b>20</b>

### Model answers

**a. Missing information in the Rwanda Revenue Authority tax audit letter**

- Tax Identification Number (TIN) of Orix Ltd
- Address of Orix Ltd
- Documents to be audited should be indicated in the letter
- Letter Should indicate the date the audit will be conducted
- Place of audit should be indicated in the letter
- Duration of the audit should be specified in the audit
- Name of Revenue Authority auditors should be mentioned in the letter
- The year 2014 and 2015 cannot be audited because they have expired (audit cannot go backward for not more than 5 years) and Orix Ltd has not been involved in fraud
- Signature and stamp of the letter (The letter should be on the RRA letterhead)

**b. Action taken by tax payer upon receiving audit notification letter**

- The taxpayer after receiving the letter, should acknowledge receipt
- Should prepare for the audit and put together the required information
- Cooperate with Revenue authority auditors
- If he or she is not ready for audit, they can ask for postponement of audit for 30 days in order to be ready.
- Rwanda Revenue Authority cannot extend the audit beyond 30 days

**c. Actions taken by unsatisfied taxpayer if he or she is not satisfied with the assessment of taxes**

- A taxpayer has a right to proper assessment and can appeal if he or she is not happy with the assessment
- He must appeal to the Commissioner General of RRA within 30 days from the following day he receives the assessment or tax demand
- The aggrieved taxpayer must show legal grounds for the appeal in his appeal
- The Commissioner General with the help of his legal department will study the appeal if it has grounds or reject it

- The Commissioner may invite the taxpayer for a hearing and may ask for further explanations from the taxpayer
- The commissioner General must respond and give his/her decision within 30 days. He/she may however inform the taxpayer that he needs additional 30 days to study the case further
- After 30 or 60 days, he must give a decision to the taxpayer in writing.
- If the taxpayer is not happy with the decision of the CG, he can apply for amicable settlement within 30 days or can decide to go to court.
- Even if the taxpayer applies for amicable settlement, he can still go to court if the amicable settlement fails to reach to an agreement
- **Note:** The process of appeal and going to court does not stop enforcement and collection of taxes.

**d. Meaning of a tax agent and give his or her responsibilities and liabilities in accordance with the Income Tax and Tax Procedure laws of Rwanda.**

Income tax law provides that in relation to a Permanent Establishment, an agent is a person who has capacity to make contracts in the name of foreign taxpayer who has business in Rwanda but does not reside in Rwanda. That taxpayer who is not in Rwanda but conducts business in Rwanda is considered as if he/she owns a permanent establishment in respect of activities his/her agent undertakes for the person

For tax procedure law, an agent is a person appointed to act on behalf of another person or group of persons; One of the following persons can represent a tax agent;

- The guardian or any other person responsible for custody of a minor or a person declared incapable;
- A legal or judicial administrator of a property or a legacy, and the heirs of such a property;
- The legal representative of a company;
- The partners in a partnership;
- The manager, or any other person with mandate to represent the taxpayer
- The curator of a company or any other legal person in liquidation;
- Any other person with mandate to represent the taxpayer.

**Responsibilities:**

- Must inform RRA of that capacity
- Must be liable for taxes in the limit of his capacity or responsibilities
- Make tax declarations and pay tax
- Communicate with the tax authority and receives tax correspondences including tax audits

## QUESTION THREE

### Marking guide

	Marks
a 01 mark for each well explained method of transfer pricing, (Maximum 06 Marks)	6
b 02 marks for each of any 7 well explained relevant points, (Maximum 14 Marks)	14
<b>Total marks</b>	<b>20</b>

### Model answers

#### a) Transfer pricing methods-determining arm's length

##### 1. The Cup Method

The CUP Method compares the terms and conditions (including the price) of a controlled transaction to those of a third-party transaction. There are two kinds of third-party transactions.

Firstly, a transaction between the taxpayer and an independent enterprise (Internal Cup).

Secondly, a transaction between two independent enterprises (External Cup).

##### 2. The Resale Price Method

The Resale Price Method is also known as the "Resale Minus Method."

As a starting position, it takes the price at which an associated enterprise sells a product to a third party. This price is called a "resale price."

Then, the resale price is reduced with a gross margin (the "resale price margin"), determined by comparing gross margins in comparable uncontrolled transactions. After this, the costs associated with the purchase of the product, like custom duties, are deducted.

What is left, can be regarded as an arm's length price for the controlled transaction between associated enterprises

##### 3. The Cost-Plus Method

The Cost-Plus Method compares gross profits to the cost of sales. The first step is to determine the costs incurred by the supplier in a controlled transaction for products transferred to an associated purchaser. Secondly, an appropriate mark-up has to be added to this cost, to make an appropriate profit in light of the functions performed. After adding this (market-based) mark-up to these costs, a price can be considered at arm's length.

The application of the Cost-Plus Method requires the identification of a mark-up on costs applied for comparable transactions between independent enterprises. An arm's length mark-up can be determined based on the mark-up applied on comparable transactions among independent enterprises

#### **4. The Transactional Net Margin Method**

With the Transactional Net Margin Method (TNMM), you need to determine the net profit of a controlled transaction of an associated enterprise (tested party). This net profit is then compared to the net profit realized by comparable uncontrolled transactions of independent enterprises.

As opposed to other transfer pricing methods, the TNMM requires transactions to be “broadly similar” to qualify as comparable. “Broadly similar” in this context means that the compared transactions don’t have to be exactly like the controlled transaction. This increases the amount of situations where the TNMM can be used. A comparable uncontrolled transaction can be between an associated enterprise and an independent enterprise (internal comparable) and between two independent enterprises (external comparable).

#### **5. The Profit Split Method**

Associated enterprises sometimes engage in transactions that are very interrelated. Therefore, they cannot be examined on a separate basis. For these types of transactions, associated enterprises normally agree to split the profits.

The Profit Split Method examines the terms and conditions of these types of controlled transactions by determining the division of profits that independent enterprises would have realized from engaging in those transactions

#### **6. Use of alternative method**

A person may apply a transfer pricing method other than methods provided above only if the tax administration is satisfied that:

none of the approved methods may be reasonably applied to determine arm’s length conditions for the controlled transaction;

such other method yields a result consistent with that which would be achieved by independent persons engaging in uncontrolled comparable transactions under comparable circumstances of controlled transactions.

##### **b) Documentation required by the large taxpayers**

- Taxpayers with an annual turnover of more than FRW 600 million are required to prepare detailed transfer pricing documentation to evidence the arm’s length nature of the controlled transactions;
- Transfer pricing documentation must be in place before filing of the annual tax declaration. On request, this should be submitted to the tax administration within 7 days. As a rule, the tax administration has the power to audit for a period going back five years, in accordance with the statute of limitations
- Audited financial statements must be filed by the large taxpayers
- Documents must be kept for 5 years. when RRA suspects fraud, it may require documents for last 10 year
- The Transfer Pricing Rules provide specific guidance on intragroup service and intangible transactions, including the analysis of functions relating to the development, enhancement, maintenance,



- Further, taxpayers should ensure that they have their transfer pricing documentation in place prior to filing their income tax declaration.
- Taxpayers should conduct benchmarking of their transactions with related parties

## SOLUTION FOUR

### Marking guide

	Marks
a	
Award maximum 02 marks for relevant introduction and understanding of initial cos price to be adjusted, given there is no relationship between A and B	2
Award maximum 04 marks for well calculated customs - Kigali price (300+110+500)	4
Award 02 marks for clearly stated costs to not be included (Inland freight + Insurance to Kigali)	2
Award 02 marks for final customs price calculation (\$3,610 + 10% insurance)	2
<b>Maximum marks for this section</b>	<b>10</b>
b	
01 mark for each relevant point, ( <b>Maximum 06 Marks</b> )	6
c	
02 marks for well calculated excise duty- Quartier Matheus	2
02 marks for well calculated excise duty - Rusumo	2
<b>Total marks</b>	<b>20</b>

### Model answers

#### a. Customs value of the 10 metric tons of chemical fertilizers

The transaction value of imported goods is the price actually paid or payable for the goods when sold for export to the country of importation, plus, certain adjustments of costs and charges

Since there is no relationship within the meaning of Article 15.4 of the CVA between A and B, transaction value of USD 3,000 should be accepted but adjusted as follows;

Add;

- 1) USD 3,000
- 2) USD 110 from the factory to the port of Dubai
- 3) USD 500 from the port of Dubai to the point of discharge, Mombasa

Do not add:

- 1) Inland freight from Mombasa to Kigali of USD 300 USD
- 2) Incurred inland insurance cost of USD 70 USD

Therefore, the customs Value in Kigali is USD 3610 (3,000 +110+500)

- Insurance will be 1% of 3610= USD 36
- Total customs value will be USD 3,646 (3,000 +110+500+36)

**b. Processes that do not confer origin of goods imported to Rwanda**

1. packaging, bottling, placing in flasks, bags, cases and boxes, fixing on cards or boards and all other simple packaging operations;
2. simple mixing of ingredients imported from outside the Partner State;
3. simple assembly of components and parts imported from outside the Partner State to constitute a complete product;
4. operations to ensure the preservation of merchandise in good condition during transportation and storage such as ventilating, spreading out, drying, freezing, placing in brine, sulphur dioxide or other aqueous solutions and removal of damaged parts and similar operations;
5. change of packing and breaking up or assembly of consignments;
6. marking, labelling or affixing distinguishing sign on products or their packages;

**c. Excise Duty**

$500 \times 1,000 = 500,000 \times 36\% + (500 \times 130) = 245,000$  for Matheus cigarettes

$500 \times 900 = 450,000 \times 36\% + (500 \times 130) = 227,000$  for cigarettes at Rusumo border

Total Excise duty paid = Frw 472,000

**QUESTION FIVE**

**Marking guide**

	<b>Marks</b>
a 04 marks for any four relevant points (01 mark per valid point)	4
b 01 mark for correct definition of transaction value method	1
03 marks for any three relevant points in customs appeal procedure	3
c 01 mark for any relevant point, ( <b>Maximum 04 Marks</b> )	4
04 marks for any four relevant points with examples of private	
d bonded warehouses in Rwanda	4
04 marks for any four relevant points in definition of going concern	
e per VAT legislation	4
<b>Total marks</b>	<b>20</b>

## **Model answers**

### **a) Reasons for exempting goods and services from paying VAT**

- Not to make those goods and services expensive, example is medicine and education services
- To facilitate investment by not paying VAT on some imported goods such as IT, construction materials
- International organisations are VAT exempt because they facilitate development of the country
- Encourage investment in some sectors such as agriculture and energy that are much needed in the country

### **b) Meaning of transaction value method:**

Is the price actually paid or payable for the goods when sold for export to the Partner State adjusted in accordance with the provisions of Paragraph 9.

Custom's appeals procedure

- When an importer is not happy with the customs decision, he or she can appeal to the Commissioner for customs
- The appeals committee will study the appeal and advise the Commissioner for Customs about the law and decision to take
- The decision of the Commissioner for Customs is final
- The importer cannot appeal to the Commissioner General of RRA although customs is under RRA.

### **c) Types of securities used in customs regimes**

- Transit bond on goods transiting the country (starts from first point of entry)
- Clearing agents also pay security to be allowed to operate
- Temporary import security of guarantee
- Security to operate a private customs bonded warehouse

### **d) Customs private bonded warehouse**

- A customs private bonded warehouse is a customs regime where imported goods are stored in the private warehouse under customs surveillance until taxes are paid.
- Examples in Rwanda are duty free shops, MAGERWA, Akagera Motors and oil depots at Gatsyata.
- A private bonded warehouse must be authorised by the Commissioner for Customs and is under customs supervision.
- A customs warehouse is a place of store where goods that have not paid duty as per law are kept pending public auction.

**e) Going concern as per Value Added Tax Legislation**

- According to VAT, business which are sold may be sold as going concern
- This means that they continue activities of the business using the same Tax Identification number (TIN)
- The purchaser assumes liabilities and income of the company
- VAT refund is claimed by the new purchaser and any outstanding tax is paid by him or her as well

**END OF MARKING GUIDE AND MODEL ANSWERS**