Tax Professional

2013 Knowledge Competency Assessment

Paper 1: Question

South African
Institute of
Tax Professionals

Instructions to Candidates

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

Question	Topic	Marks	Answer Book
1	Company Tax Calculation and Advisory	40	Blue
2	Analysis of Financial Statements	45	White
3	Value-Added Tax	25	Pink
4	General Tax Principles	50	Green

Total marks: 160

Time: 4 hours plus ½ hour reading time

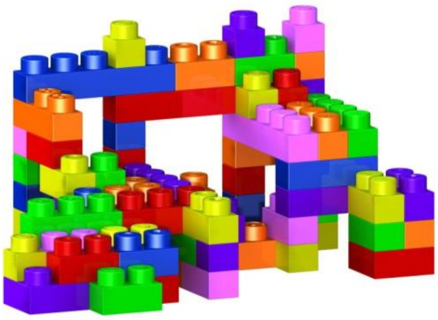
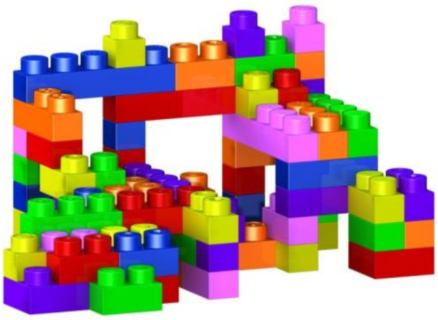
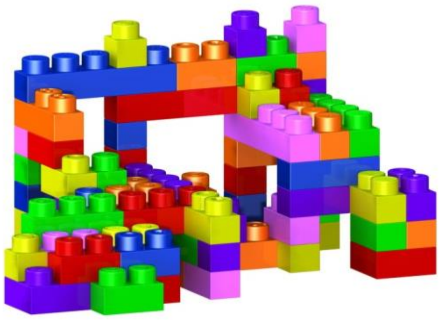
The marks specified are an indication of the expected length and detail of your response.

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 (tipex) 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.

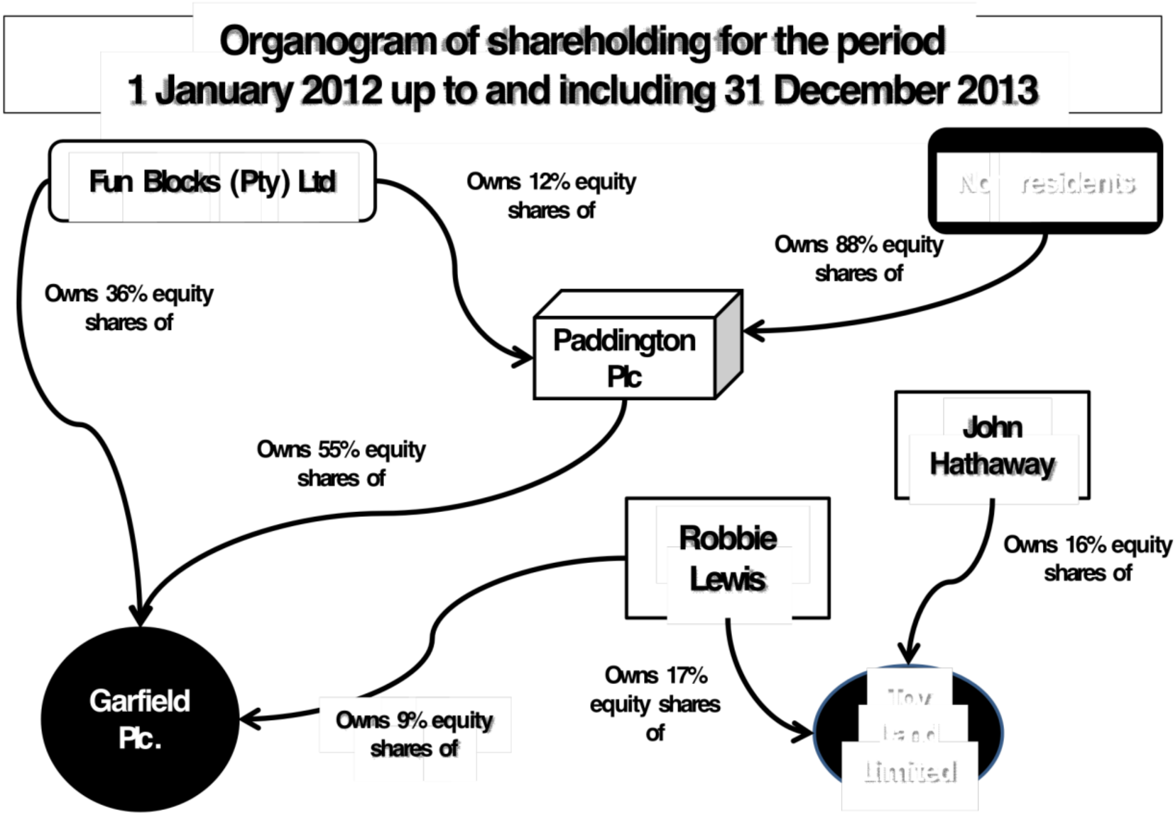
Question 1 40 marks

You are a tax advisor in the employment of Tax Solutions (Pty) Ltd, a company providing tax advisory services. One of your clients, Fun Blocks (Pty) Ltd ('Fun Blocks'), is a company incorporated in South Africa that manufactures and sells children's building blocks with a "dinosaur" theme. The building blocks are predominantly purchased by toy stores.

The South African Revenue Service ('SARS') accepts that the process of making the building blocks is a process of manufacturing or similar process. The company's financial year ends on the last day of 31 December each year.

Mrs. Kate Austen, a director of Fun Blocks, has presented the following organogram to you which covers the two-year period from 1 January 2012 to 31 December 2013:



The organogram above indicates the shareholding by different persons for the period 1 January 2012 to 31 December 2013. You may assume that the shareholding remained unchanged during this period and that each equity share carries one voting right.

Fun Blocks' issued share capital was R120 000 on 1 January 2013. This share capital includes a share premium of R25 000, which would have been regarded as a dividend if it were distributed to shareholders on or before 31 December 2010. Fun Blocks' share capital on 1 January 2013 consisted of only one class of share, namely *Class One* ordinary shares. These shares are equity shares as defined in section 1 of the Income Tax Act No. 58 of 1962 ('the Act').

Fun Blocks had an accumulated STC credit of R30 000 on 1 January 2013.

Fun Blocks' share register reflected the following shareholders on 1 January 2013 (you may assume that no changes in the share register took place during the 2013 year of assessment):

Shareholder	Notes	Percentage shareholding	Number of shares	Date of receipt of declaration certificate*
Mr Jack Sheperd	1	53%	11 660	23 February 2013
Edinburgh Plc	2	47%	10 340	17 February 2013
Total		**100%**	**22 000**	

* You may assume that the declaration certificates meet the requirements of section 64FA of the Act.

Notes:

1. Mr Jack Sheperd is a 39-year old South African resident.
2. Edinburgh Plc is incorporated, and has its place of effective management in Scotland, which is part of the United Kingdom (UK). Edinburgh Plc owns a number of toy stores in Scotland. The Double Taxation Agreement ('DTA') between the UK and South Africa provides that the withholding tax on dividends is 0% if the beneficial owner is a company which controls at least 10% of the voting power in the other company.

The following matters pertain to Fun Blocks' 2013 year of assessment:

Matter 1 – Investments in Garfield Plc and Paddington Plc

Garfield Plc ('Garfield') is an American company with a 31 May year-end. Garfield's net income as calculated in terms of section 9D(2A) of the Income Tax Act was $70 000 (US Dollars) for the period 1 June 2012 to 31 May 2013 and $88 000 for the period 1 January 2013 to 31 December 2013 (earned evenly throughout each period).

Paddington Plc (‘Paddington’) is a company incorporated in the UK and has a 30 November year-end. Paddington paid a gross dividend of £5 000 to all of its shareholders registered on 30 November 2013. Paddington’s net income as calculated in terms of section 9D(2A) of the Act was £27 000 for the period 1 December 2012 to 30 November 2013 (earned evenly throughout the year).

Garfield’s and Paddington’s functional currency is the United States Dollar ($) and the British Pound (£), respectively. The relevant exchange rates for the different periods were as follows:

	Average exchange rate	
Period	**R / $**	**R / £**
1 January 2013 – 31 December 2013	R9.98 / $	R14.95 / £
1 June 2012 – 31 May 2013	R9.75 / $	R15.11 / £
1 December 2012 – 30 November 2013	R9.83 / $	R15.02 / £

	Spot rate	
Date	**R / $**	**R / £**
31 May 2013	R9.90 / $	R16.02 / £
30 November 2013	R10.05 / $	R15.75 / £
31 December 2013	R9.20 / $	R14.82 / £

Matter 2 – Lease of building blocks moulding machine

Fun Blocks leased a building blocks moulding machine to Robbie Lewis, a 52-year old South African resident from 1 November 2012 for a period of three years. The lease payments amount to R3 300 per month. Robbie operates a trade in the form of a partnership with John Hathaway who is also a South African resident and he uses the moulding machine for reshaping candles which he then sells. The reshaping of candles is not recognised as a manufacturing or similar process by SARS. The write-off period for a moulding machine is four years in terms of Binding General Ruling No 7.

Fun Blocks purchased the moulding machine for R770 000 from Toy Land Limited ('Toy Land'), a South African company, on 1 November 2012. The market value of the moulding machine on 1 November 2012 was R745 000. Toy Land originally purchased the moulding machine brand new for R720 000 on 1 August 2011 and immediately brought the asset into use (until the date of disposal) in a process deemed by the SARS to be a manufacturing process. Toy Land's financial year ends on 30 September of each year.

Matter 3 – Dividend declaration

Fun Blocks' directors declared a dividend to the shareholders during a directors meeting on 1 February 2013. The directors did not want to make use of the company's cash reserves and therefore decided to send Edinburgh Plc 2 000 "Dinosaur" building block sets. These were shipped free-on-board ('FOB') on 28 February 2013 and were received by Edinburgh Plc on 3 March 2013.

The sets were manufactured during the 2013 year of assessment. Each set cost Fun Blocks R200 to manufacture and the market value was R240 per set on 1 February 2013, R255 per set on 28 February 2013 and R260 per set on 3 March 2013.

Matter 4 – Transfer of land

The dividend declared to Jack Sheperd on 1 February 2013 (refer Matter 3) comprised a section of land which was transferred into Jack's name. The title deed to the land was registered in Jack's name on 28 February 2013, although Jack only physically received the title deed documents on 4 March 2013.

Fun Blocks purchased the land for R250 000 on 1 January 2002, financed partly by way of a bank loan of R130 000. Fun Blocks experienced some financial difficulties during its 2012 year assessment. Negotiations with Fun Blocks' bank led to the bank writing off R30 000 in respect of the outstanding loan balance on 30 April 2012. The balance of the mortgage loan was paid off in full by the end of the 2013 financial year. The market value of the land was R270 000 on 1 February 2013, R271 000 on 28 February 2013 and R272 000 on 4 March 2013.

Additional Information in respect of Matters 3 and 4

Fun Blocks directors requested both Jack and Edinburgh Plc to send them their declaration certificates before 28 February 2013 in order for the company to establish their status with regards to dividends tax. The directors also announced that the transfer of the assets in Matters 3 and 4 led to utilization of a portion of the STC credit (exact amount must be determined) and a 30% decrease in the company's contributed tax capital on the date of payment of the dividends.

Matter 5 – Sales to overseas client

SARS assessed Fun Blocks on a taxable income of R1 750 000 for its 2013 year of assessment. Upon closer inspection, Kate Austen noticed that SARS had added an amount of R20 000 to the company's gross income, which she queried. SARS then explained that this was a SARS estimate of an additional sales amount in respect of a consignment of building blocks sold by Fun Blocks to an unconnected overseas client during the 2013 year of assessment. Fun Blocks sold the building blocks for R80 000 after allowing the client a trade discount of R20 000 due the fact that they were a loyal supporter of Fun Blocks. Fun Blocks still realised a profit on the transaction; however SARS was of the opinion that the sales amount should have been reflected at R100 000, which was the amount that would have been charged in a market-related arm's-length transaction.

Assumptions for this question

- Ignore Value-Added Tax.
- You may assume that there were no other disposals of assets apart from those in Matters 3 and 4 during the 2013 year of assessment.
- Fun Blocks is not a property dealer or developer.

Question 1 Required		Marks	
		Sub-total	Total
a	Calculate the effect of Matter 1 on Fun Blocks (Pty) Ltd's taxable income for the 2013 year of assessment.	5	
b	Write a letter to Mrs. Kate Austen in which you explain the normal income tax implications of Matter 2 for Fun Blocks (Pty) Ltd in the company's 2013 year of assessment.	14	
c	Calculate the effect of Matters 3 and 4 on the taxable income of Fun Blocks (Pty) Ltd's for the 2013 year of assessment.	5	
D	Calculate the amount of dividends tax that Fun Blocks (Pty) Ltd must withhold during the 2013 year of assessment, providing brief reasons why any identified dividends are subject to, or not subject to, dividends tax.	11	
E	List the steps that Fun Blocks (Pty) Ltd should take with regards to Matter 5 and identify what the probable outcome of its actions might be. Support your answer with references to relevant provisions in the legislation.	5	40

Question 2 45 marks

Simtech (Pty) Ltd ('Simtech') is incorporated in South Africa and is a registered VAT vendor.

Simtech is the exclusive South African distributor of the Pacific S390 engine, a small and very fuel-efficient engine used in generators, pressure washers, water pumps and go-karts. Simtech imports the Pacific S390 engines from Pacific Motor Company Ltd ('PMC'), a company incorporated and managed in Hong Kong.

Simtech has the following shareholders:

Shareholder Name	Country of Tax Residence	Interest held in Simtech
Mr Martin Herbert	South Africa	40%
Mrs. Thembi Ngwenya	South Africa	15%
Mrs. Andrea Vermeulen	South Africa	20%
Pacific Motor Company Ltd	Hong Kong	20%
Didcot Engineering (Pty) Ltd	South Africa	5%

Mr Herbert and Mrs. Ngwenya also serve as directors of the company. Mr Herbert also owns 50% of the issued share capital of the Pacific Motor Company Ltd.

The following information was obtained from the company's financial statements for the year ended 28 February 2013 (all amounts exclude VAT unless indicated otherwise):

SIMTECH (PTY) LTD

STATEMENT OF FINANCIAL POSITION AS AT 28 FEBRUARY

	Notes	2013	2012
		R	**R**
Assets			
<u>Non-current assets</u>			
Property, plant and equipment	1	7 000 000	5 625 000
Loan to James Vermeulen	2	2 000 000	-
Share investment in PropCo Ltd	3	10 000 000	10 000 000
Share investments in listed South African companies		20 000 000	18 000 000
<u>Current assets</u>			
Inventory		8 000 000	2 500 000
Trade receivables		3 000 000	899 500
Cash and cash equivalents		17 058 960	1 900 500
Total Assets		**67 058 960**	**40 125 000**
Equity and Liabilities			
Equity			
<u>Shareholders' equity</u>			
Stated capital		100 000	95 000
Retained earnings		47 458 960	40 030 000
Liabilities			
<u>Non-current liabilities</u>			
Loan from Alca Finance	4	10 000 000	-
Provision for compensation	5	500 000	-
<u>Current liabilities</u>			
Trade creditors		9 000 000	4 000 000
Total Equity and Liabilities		**67 058 960**	**40 125 000**

SIMTECH (PTY) LTD

STATEMENT OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME

FOR THE YEAR ENDED 28 FEBRUARY

	Notes	2013	2012
		R	R
Revenue		15 000 000	10 000 000
Cost of sales	6	(10 000 000)	(5 000 000)
Gross profit		**5 000 000**	**5 000 000**
Dividend income from local companies		4 000 000	500 000
Dividend income from PropCo	3	50 000	50 000
Gain on re-measurement of share investments in local companies		2 000 000	-
Profit on sale of land		800 000	-
Interest income		18 000	1 000
Depreciation	1	(1 125 000)	(875 000)
Compensation for losses	5	(500 000)	0
Consulting fees paid	7	(750 000)	
Telecommunication expenses	8	(150 000)	(36 000)
Other expenses	9	(600 000)	(370 000)
Profit before tax		**8 743 000**	**4 270 000**
Income tax expense		(1 314 040)	(1 041 600)
Profit for the year		**7 428 960**	**3 228 400**

Notes and additional information

The following information was obtained from the company’s asset register:

Description	Cost R	Purchase Date	Depreciation Rate
Office building	5 000 000 (excluding VAT)	1 March 2011	10%
Toyota Hilux Double Cab x 5	1 500 000 (excluding VAT)	1 March 2011	25%
Ferrari F430 Spyder	2 500 000 (including VAT)	1 September 2012	20%
Land	2 000 000 (excluding VAT)	1 January 2013	-

1. Simtech purchased the office building new and unused from Maverick Construction CC and the building was brought into use on 1 March 2011.

2. Five Toyota Double Cab delivery vehicles were purchased and brought into use on 1 March 2011. These vehicles are used to deliver Pacific S390 units to customers across the country.

3. The Ferrari F430 Spyder was acquired for use by the directors - mainly when they attend meetings with potential customers.

   All the above-mentioned assets are depreciated on a straight-line basis with no residual value.

4. Simtech purchased a piece of land in an industrial area on 1 January 2013 for R2 000 000. The directors were of the opinion that the asking price for the property was significantly below market value and that they would be able to sell the land at a decent profit. The land was sold on 15 January 2013 for R2 800 000 and the company expects the R800 000 profit to be taxed as a capital gain.

5. A loan of R2 million was advanced to Mr James Vermeulen, the husband of shareholder, Mrs. Andrea Vermeulen on 1 December 2013. Mr Vermeulen, also a South African resident, used the funds to start his own business. The loan bears interest at 3.5% per year.

6. Simtech owns 100% of the share capital of PropCo Ltd, a company incorporated and effectively managed in Mauritius. The company earns passive rental income from a number of properties owned in Mauritius.

7. In order to expand the company's operations, a loan of R10 million was obtained from Alca Finance Ltd ("Alca"). As part of the agreement, Alca acquired twenty S390 engines from Simtech that it plans to use for its corporate go-kart team. In exchange for the engines, Alca agreed not to charge any interest on the loan.

8. Simtech received a complaint from a customer in the food industry about an engine used in a generator that suffered a malfunction. The customer incurred substantial losses as a result and has threatened to institute legal proceedings against the company. The directors decided to be prudent and included a provision for the potential compensation payable should the court rule in the customer's favour.

9. All trading stock (consisting of S390 engines) is imported from the Pacific Motor Company in Hong Kong. The agreed purchase price of S390 engines was substantially increased in the current financial year.

10. Simtech paid R750 000 to Carver (Pty) Ltd for technical consulting services provided by Alex Carver, Carver (Pty) Ltd's only shareholder. Alex was previously employed by Simtech, but resigned during 2012 to start his own company. Alex works at the offices of Simtech every day of the week. Carver (Pty) Ltd currently does not have any employees other than Alex nor does it have any clients other than Simtech.

11. On 1 March 2012, Simtech paid R150 000 to Ferncom for telecommunication and internet services to be rendered over the next five years. The company accountant was of the opinion that since the full amount had already been paid, the full amount should be recognised as an expense in the 2013 financial year.

12. Other expenses include:

	2013	**2012**
	R	**R**
Audit fees (refer note 12.1)	400 000	200 000
Traffic fines incurred by delivery drivers	15 000	1 000
Penalties for late submission of employees' tax returns	5 000	-

Note 12.1

Audit fees increased substantially due to the increased time required by the auditors to audit the local dividend income.

Question 2 Required	Marks Total
Critically analyse the information provided and identify the likely tax impacts or risks for Simtech (Pty) Ltd arising from each of the items listed under 'Notes and additional information'.	45

Question 3 25 marks

You are a tax advisor in a firm in Durban. Your manager has asked you to attend to a query from a client, Boogaloo Books (Pty) Ltd ('BB'), which distributes books and other printed material to clients in South Africa and in Europe. BB is based in Durban, where it leases offices in a business park. It is registered as a 'Category B' VAT vendor.

BB's bookkeeper, Stanley Naidoo, became ill and was admitted to hospital in early November 2013 and his manager, Melanie Subramoney, is concerned that the most recent VAT return for BB is outstanding. Melanie has provided you with the following information and she has asked you to calculate the VAT payable to or refundable from SARS for the tax period ended 31 October 2013.

Local sales: total amount invoiced in each month (the amounts reflected below are the amounts debited to the Trade Debtors account in each month):

September 2013	980 100
October 2013	900 000

Amounts received from local Trade Debtors in:

September 2013	800 000
October 2013	930 000

In October 2013 BB sold books to a customer in Belgium, Europe. The selling price of the books amounts to a total of R186 000, based on the company's price list, which lists the price of each book, exclusive of VAT. In line with its usual practice for overseas sales, BB delivered the books directly to the customer in Belgium. The customer paid BB R186 000 on 22 October 2013.

BB has suffered cash flow problems due to the delay in receiving payment from some of its debtors. As a result, BB started charging interest on overdue accounts. The interest charged to the Trade Debtors accounts was as follows:

September 2013	13 800
October 2013	21 740

BB received the following amounts from debtors which it had written off several months ago:

Received on 23 September 2013 from Bonanza Books CC - a South Africa client	18 500
Received on 28 October 2013 from Stirling Readers - a client based in England	28 600

BB pays insurance premiums of R12 000 per month on a short-term insurance policy that covers all risks relating to the loss or destruction of the company's assets. Of this amount, R1 400 relates to the insurance of the company's pool car.

BB's offices were burgled one night in August 2013. A large number of books (trading stock) and ten computers used in the offices were stolen in the robbery. The burglars also found the keys to BB's pool car (a Toyota Corolla) and stole the car from the office basement parking area. The insurance company paid BB R300 000 on 15 September 2013 in settlement of the insurance claim. This amount was made up of: R120 000 for the trading stock, R80 000 for the ten computers and R100 000 for the pool car. BB replaced all the assets in October 2013. The replacement of the trading stock is included in the October purchases as shown below. Replacement computers were purchased at a total cost of R120 000 and a new Toyota Corolla was purchased to replace the pool car at a total cost of R180 000.

BB provides its sales manager, Jim Flint, with the use of a company car. All fuel and maintenance costs on the vehicle are paid for by BB. BB acquired the vehicle, a BMW 320I, at a cost of R380 000 in July 2012.

BB paid for Jim Flint to attend a booksellers' conference in Sydney, Australia in September 2013. BB paid the equivalent of R18 000 for the air tickets and R12 000 for the hotel accommodation during Jim's stay. BB also paid Jim a subsistence allowance of the equivalent of R1 000 per day to ensure that he would have enough money to pay for his meals and incidental costs.

Purchases: amounts invoiced by suppliers for trading stock purchased in each month (the amounts reflected below are the amounts credited to the Trade Creditors account each month):	
September 2013	638 720
October 2013	730 200
Amounts paid to Trade Creditors in:	
September 2013	732 900
October 2013	710 300
Salaries and Wages paid in:	
September 2013	382 000
October 2013	415 000
Fuel Costs paid in:	
September 2013	2 890
October 2013	3 730
Motor Vehicle Repair and Maintenance costs paid in:	
September 2013	820
October 2013	2 830
Provision for Depreciation on BB's fixed assets in:	
September 2013	28 000
October 2013	27 500

BB purchased tea, coffee, milk and sugar at a total cost of R3 200 on 15 October 2013 to replenish the supplies in the staff kitchen.

BB pays rental of R32 000 per month for its offices in Durban.

Assumptions for this question

- All the necessary documentation has been obtained by BB wherever relevant.
- BB does not make any exempt supplies.

Question 3 Required	Marks Total
Calculate the amount of VAT payable to / refundable by SARS for the tax period ended 31 October 2013 and indicate how, and by when, the VAT return must be submitted and the VAT paid (if applicable) to SARS.	25

Question 4 50 marks

This question consists of three parts and are related. Ignore VAT for this question.

Part A 24 marks

Better Living South Africa (Pty) Ltd ('Better Living') is a 100%-owned subsidiary of a US company Big 'n Better Corporation (BnBC). Better Living constructs low-cost housing on affordable land and then leases the developed properties to tenants under long-term agreements of up 20 years. Better Living has a December year end. The events and transactions described below took place during Better Living's 2013 financial year.

The directors of Better Living identified a property in the geographic area between Heidelberg and Alberton that they regarded as suitable for their next development. Better Living made an offer to purchase the property from the owner, Mr John Stanley for R10 000 000, which they determined as the current market value of the property. John however, having done his homework and knowing the future returns from the property, declined their offer. Instead, he offered to enter into a thirty-year lease agreement under which Better Living would have the use of the property in return for paying him a rental R500 000 per annum. After much deliberation, Better Living agreed to this proposal and duly signed the lease agreement with John. In terms of the agreement, they made him an upfront payment of R10 000 000. Better Living claimed the amount of R10 000 000 as a section 11(a) deduction in its tax return for the 2013 year of assessment. The Commissioner for SARS ('the Commissioner') disallowed the deduction on the grounds that the expenditure was capital in nature.

BnBC is an established brand in the US and internationally and the BnBC trademark is used by Better Living. With effect from 1 March 2013, Better Living became contractually obligated to pay BnBC a royalty based on 10% of Better Living's total turnover each year, for the use of the BnBC trademarks. Prior to entering into this agreement, Better Living was allowed the use of the trademarks free of charge. Better Living claimed the royalty expense as a section 11(a) deduction on its tax return for the 2013 year of assessment and again the Commissioner disallowed the deduction on the basis that the expense was capital in nature.

The directors of Better Living are dissatisfied with the disallowance of the R10 000 000 upfront lease payment and the royalty expense as they argue that both amounts are revenue in nature and the company is entitled to the deductions.

In an attempt to diversify its current product offering, Better Living acquired a piece of land between Centurion and Woodmead and started the construction of a retirement village on the land. Instead of selling the developed properties outright, Better Living entered into an agreement with each customer in terms of which the customer was granted the right to occupy the residential unit for the rest of his/her life and in return the customer advanced Better Living an interest-free loan for an amount equal to the determined market value of the property, for as long as they occupied the units (that is, until death or until the arrangement is cancelled). The directors of Better Living are of the opinion that, as the loan amounts received from the residents are capital in nature, there is no amount to be included in Better Living's gross income. The Commissioner disagrees however, and insists that Better Living must include the value of each loan in the company's gross income in the year that the respective agreement is entered into.

The directors of Better Living has asked your opinion on the above three disputes.

<table>
<tr><td rowspan="2">Question 4 Part A
Required</td><td colspan="2">Marks</td></tr>
<tr><td>Sub-
total</td><td>Total</td></tr>
<tr><td>Discuss whether
• the payment of R10 000 000; and
• the royalty expense
should be allowed as deductions; and
• whether the value of the loans should be included in gross income.
Your answer should make reference to appropriate provisions of legislation and appropriate case law where applicable.</td><td>
10
4

10</td><td>

24</td></tr>
</table>

Part B 18 marks

Each low-cost house built by Better Living is equipped with a cost-effective solar power system to heat water and generate electricity. The solar power systems were designed by engineer, Peter Brown, who was employed by Better Living until he resigned from the company on 31 December 2012. Better Living paid Peter an amount of R400 000 on 31 December 2012 in terms of a restraint of trade agreement that prohibits him from using or selling the design of the solar power system anywhere in South Africa for the next three-and-a-half years.

On 1 May 2013, Peter Brown sold a design for the solar power system to John Daly. John liked the design so much that he approached Energy-R-Us Ltd ('Energy-R-Us'), a manufacturer of solar geysers and heat pumps, to manufacture a similar solar power system but with additional features that would enable the system to be used in shopping centres and restaurants. Unfortunately for Peter, the marketing director of Energy-R-Us is a friend of the financial director of Better Living, and he told him about Peter's sale of the design. The directors of Better Living subsequently sued Peter Brown for breach of his restraint of trade agreement.

Peter incurred R100 000 in legal fees defending the case on the basis that the design was developed specifically for John Daly and was not used in a low-cost housing development.

Peter also sued Energy-R-Us (with additional legal costs of R50 000) for the copyright that Energy-R-Us had tried to register over the design.

Peter won both cases. He was compensated R350 000 for loss of income as a result of the restraint of trade case and he was awarded R300 000 for the copyright case. The decision for the restraint of trade case was handed down by the courts on 15 February 2013 and the decision for the copyright case was only handed down on 5 March 2013. Both amounts were paid as lump sums.

<table>
<tr><td colspan="2" rowspan="2">Question 4 Part B
Required</td><td colspan="2">Marks</td></tr>
<tr><td>Sub-total</td><td>Total</td></tr>
<tr><td>a</td><td>Discuss whether Better Living may deduct the amount of R400 000 paid to Peter Brown in terms of the restraint of trade agreement in the 2013 year of assessment.</td><td>4</td><td></td></tr>
<tr><td>b</td><td>Discuss with reference to case law whether the compensation of R350 000 received by Peter must be included in his gross income in the 2013 year of assessment.</td><td>8</td><td></td></tr>
<tr><td>c</td><td>Discuss with reference to case law whether the R300 000 awarded to Peter in the copyright case will be included in gross income in the 2013 year of assessment.</td><td>6</td><td>18</td></tr>
</table>

Part C 8 marks

After Peter Brown's resignation from Better Living, the US holding company, BnBC, seconded their best electronic engineer to Better Living in South Africa to assist with the development and installation of the solar systems. In terms of the secondment the electronic engineer, William Smith will be seconded to South Africa for a period of 5 years. William, together with his wife and their youngest child arrived in South Africa on 5 March 2013. His two older children are enrolled at the University of Washington and decided stay on in their father's house in Washington and complete their studies.

Better Living provided William with a four bedroom house in Sunninghill, Gauteng. Being a people's person William and his wife soon joined the local church and tennis club and became friends with their neighbors.

Question 4 Part C Required	Marks Total
Discuss with reference to legislation and case law whether William Smith will ever be regarded as a South African resident.	8