

Tax Professional

2013 Knowledge Competency Assessment

Paper 2: Question

## 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	Individual Tax	40	Blue
2	Trust, Estate Duty and Donations Tax	50	White
3	Partnership	30	Pink
4	Tax Administration	40	Green

Total marks: 160

Time: 4 hours plus ½hour 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 junior tax consultant employed by a firm in Sandton, Gauteng. Your manager has asked you to complete the tax calculation and address any additional queries of a prominent new client, Mr. Bonges.

You received the following e-mail from Mr. Bonges:

**To:**<Junior Tax Consultant>

**From:**<Oliver Bonges>

**Re:** Tax Calculation for the 2014 year of assessment

Good day

Please would you assist me with my tax calculation for the 2014 year of assessment? I am 51 years old and married out of community of property to Winnie Bonges (48 years old). We have two children in high school. I am a Qualified Behavioural Psychologist and worked at Andersons Insurers as head of their recruitment division for 10 years until I resigned from their services on 30 September 2013.

I started a sole proprietorship in the 2012 year of assessment (while still working at Andersons Insurers). My business operations entail that I facilitate on-site strategic planning sessions for small and medium firms. Due to my responsibilities at Andersons Insurers, I could not facilitate a large number of sessions for the past two years, but I did manage to build up a good client base. The main reason for resigning at Anderson Insurers is to pursue my business on a full time basis. I submitted provisional tax returns for the 2012 year of assessment. I am not a registered VAT vendor.

Please find the following documents attached:

Attachment 1: IRP5 received from Andersons Insurers

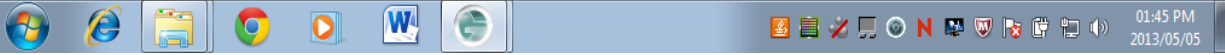
Attachment 2: Additional notes relating to employment at Andersons Insurers

Attachment 3: Notes on business income and expenditure

I look forward to hearing from you.

Regards,  
*Oliver Bonges*

Account: Novell GroupWise



Attachment 1: Oliver Bonges's IRP5 as received from Andersons Insurers

- All amounts on the IRP 5 have been calculated correctly

IRPDP05

**Employee Tax Certificate Information [IRP5/IT3(a)]**

Employer Name: **A** **A** **N** **D** **E** **R** **S** **O** **N** **G** **I** **N** **S** **U** **R** **E** **R** **S**

Certificate No: **0** **1**      Year of Assessment (CCY):      PAYE Ref No: **2** **0** **1** **4**      **1** **0** **6** **0** **5** **4** **7** **1** **2** **0**

**Employee Address Details - Business**

Unit No:      Complex (if applicable): **G** **R** **E** **E** **N** **F** **I** **E** **L** **D** **S**

Street No: **1** **2** **1**      Street / Name of Farm: **M** **A** **L** **A** **N** **S** **T** **R** **E** **E** **T**

Suburb / District: **R** **O** **S** **E** **B** **A** **N** **K**

City / Town: **J** **O** **H** **A** **N** **N** **E** **S** **B** **U** **R** **G**      Postal Code: **0** **0** **7** **3**

**Income Received**

Amount	Source Code
R 419295	3601
R 21649	3605
R 54145	3802
R 17500	3810
R 6100	3704
Income Received (contin. u.c.)	
Non-Taxable Income	
R 3696	3696
Gross Retirement Funding Income	
R 419295	3697
Gross Non-Retirement Funding Income	
R 99394	3698
<b>Deductions / Contributions</b>	
R 24500	4005
R 17500	4474
R 25158	4001
Total Deductions / Contributions	
R 67158	4497

**Tax Credits and/or Employer/Employee Contribution**

SITE R:      4101:      00

PAYER:      4102:      35

PAYE on Lump Sum Benefit:      4115:      00

Employee and Employer UIF Contribution:      4141:      28

Employer SDL Contribution:      4142:      40

Total Tax, SDL and UIF:      4149:      03

Medical Scheme Fees Tax Credit:      4116:      00

Reason for Non-Deduction of Employees' Tax:      4150:      00

**Pay Periods**

Periods in Year of Assessment:      12      0000

No. of Periods Worked:      07      0000

Period Employed From (CCYMMDD):      20130301

Period Employed To (CCYMMDD):      20130930

**Directive Numbers**

Directive No.:

Directive No.:

Directive No.:

**FOR PERSONAL RECORDS ONLY,  
NOT FOR SUBMISSION TO SARS.**

ITR12    L 1    FV 2013.26.00    SV 1301    CT EFLING    NO 1907506149

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Y 2013  
0000000000    0077088

## Attachment 2: Additional notes relating to employment at Andersons Insurers

1. The medical aid contributions were made on behalf of me, my wife and our two children towards Bestmed Medical Aid. After I resigned (from 1 October 2013), I paid the full contributions on my own. No-one in our family is disabled.
2. A portion of my medical aid contributions goes into a 'savings account' at the medical aid. I can then use the accumulated amount in this savings account to pay for any medical expenditure not covered by the medical aid. In October 2013, my wife went for cosmetic surgery which is not covered by the medical aid. We used R40 000 of the accumulated amount in our savings account. We did not incur any additional medical expenses.
3. Since the day of resignation, I started to contribute to an Old Mutual Retirement Annuity Fund. I contributed R5 500 per month to this fund, with my first contribution starting on 1 October 2013.
4. I contributed to the pension fund of Andersons Insurers until the date of my resignation from my cash salary (this is my retirement funding employment income). On 30 September 2013, I received a withdrawal lump sum from the pension fund of R500 000. I re-invested R400 000 of this amount in the Old Mutual Retirement Annuity Fund (refer point 3 above). Up to 1 March 2013, the cumulative pension fund contributions that did not qualify for deduction in previous years amounted to R45 680. In terms of a SARS directive, the pension fund withheld employees' tax of R67 321 from the lump sum and paid it over to SARS on my behalf. This is the first lump sum I have ever received.
5. Andersons Insurers granted me the right to use a Diahatsu Terios from 30 June 2012 until the date of my retirement. Andersons Insurers purchased the vehicle on 1 February 2011 for R280 000 (including a maintenance plan). From 1 March 2013 until the date of my retirement I travelled a total of 15 000 km of which 5 000 km was for business purposes (I often travelled to Universities in different provinces for recruitment purposes). I spent a total of R17 200 on fuel for this period but I did not

incur any other costs in relation to this vehicle. I have kept a log-book that meets SARS requirements.

6. When I travelled to the different universities (refer point 5 above) I stayed overnight at guest houses booked by my employer. I was away on business for a total of 10 days (9 nights) for the period 1 March 2013 until the date of my resignation. I spent R5 700 in total on meals and other incidental costs and have kept all the slips to prove these expenses.

### Attachment 3: Notes on business income and expenditure

I operate my business from an office at my home. Our house of 500 m<sup>2</sup> includes a study of 40 m<sup>2</sup> which I use specifically and exclusively for my business. I have prepared a brief income and expenditure statement for my business for its 2014 year of assessment, as shown below. I operate the business on a cash basis.

Item	Note	R
Income received from client sessions		R500 000
Miscellaneous business expenditure	This includes for example the cost of stationery and books which I use during the strategic sessions.	(R124 000)
Legal costs	Incurred in relation to a dispute with our neighbor. The wall between the two houses was badly damaged due to building operations at the neighbors' house, and the neighbor did not want to fix the wall.	(R56 700)
Repairs	Due to the above dispute, I paid the repairs to the wall and I am subsequently trying to get a refund from the neighbor in the small claims court.	(R10 100)
Property maintenance expenditure	Including cleaning services, garden maintenance, water and electricity and general repairs on our house. The costs included the total property maintenance expenses.	(R35 600)
Cell phone costs	I used my cell phone for business purposes 80% of the time throughout the 2014 year of	(R9 600)



assessment. On 1 March 2013, I entered into a two year contract with Vodacom for R800 per month. On the contract date I received an I-phone 5 with a market value of R8 000. The monthly contract price includes the cost for the cell phone, call costs and data usage.

Laptop	I purchased a laptop for R5 500 on 1 October 2013. I use the laptop 100% for business purposes.	(R5 500)
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Motor vehicle costs	<p>I purchased a Jeep Rubicon, including a maintenance plan for R395 000 (including VAT but excluding finance charges) on 1 October 2013 (as I did not have the right to use the DiahatsuTerios anymore). For the period 1 October 2013 to 28 February 2014 I travelled 10 000 km in total, of which 6 000 km was for private purposes. I incurred the following costs in the same period:</p> <ul style="list-style-type: none"> <li>▪ Fixed monthly installments of R8 300 (R6 300 towards the capital and R2 000 towards the finance element)</li> <li>▪ Fuel of R15 400 (total for the period 1 October 2013 to 28 February 2014)</li> </ul>	(R56 900)
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Provisional tax payments	I always use the basic amount as provided by SARS as estimates when making provisional tax payments. My first provisional tax payment for the 2014 year of assessment was R nil (you can accept that this was correctly calculated). I filed my IRP6's and made the two provisional tax	?
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payments for the 2014 year of assessment on time as required. I received my 2012 assessment on 2 July 2012 which reflected taxable income of R454 000 (no capital gain or loss). I received my 2013 assessment on 30 September 2013 which reflected taxable income of R626 000 (including a taxable capital gain of R50 000).

**Net profit**

**?**

### Queries

Will you please also assist me with the following two queries?

1. If I always use my basic amount as estimates for both the first and second provisional tax payments, will I ever incur an underestimate penalty? With reference to my 2014 year of assessment tax calculation, are you of the opinion that the basic amount is the best amount to use for estimates?
2. I am currently overwhelmed with all the taxes I am paying. In the 2014 year I paid provisional tax, employees' tax and on top of that, income tax as well! I don't understand the difference between these three types of taxes. Especially since it seems as if the same amounts are used to calculate the taxes on. Am I effectively taxed three times on the same amounts?

### Assumptions and information:

- All amounts include VAT unless stated otherwise.
- Mr. Bonges will always choose the most beneficial tax position.
- In terms of Binding General Ruling No. 7, SARS allows the following write-off periods:
  - Cellular telephones            2 years
  - Computers                        3 years
  - Passenger cars                   5 years

Question 1 Required		Marks	
		Sub- total	Total
a	Calculate Mr.Bonges's normal tax payable to / refundable by SARS for the year of assessment ending 28 February 2014.	35	
b	Respond to Mr.Bonges's queries in Attachment 2. <ul style="list-style-type: none"> <li>• Query 1</li> <li>• Query 2</li> </ul>	3 2	40

## Question 1

### Annexure 1: Source codes relevant to interpret Oliver's IRP5

A source code is a four digit identifier / number that SARS uses to capture information on the income tax return. It will usually appear alongside the amount it relates to. The codes starting with a three (3) relates to 'Income received' and the codes starting with a four (4) relates to 'Deductions/Contributions'.

3605 - Annual payment	3601 - Income or salary	3602 - Non-taxable income
3611 - Purchased annuity	3606 - Commission	3608 - Arbitration award
3615 - Director's remuneration	3613 - Restraint of trade	3907 - Other retirement lump sums
3701 - Travel allowance	3616 - Independent contractors	3617 - Labour brokers
3704 - Subsistence local	3702 - Reimbursive travel > 8000km	3703 - Reimbursive travel < 8000km
3712 - Telephone allowance	3707 - Share options	3708 - Public office
3713 - Other allowances	3714 - Non-taxable allowances	3715 - Subsistence foreign
3717 - BBEE share plan	3718 - Vesting instruments	3801 - General benefits
3802 - Use of car	3810 - Medical aid contributions by employer	3813 - Other medical costs
3901 - Gratuities	3906 - Special lump sums	3907 - Other lump sums
3908 - Surplus apportionments	3909 - Unclaimed benefits	3915 - Retirement lump sum
3920 - Lump sum withdrawal benefit	3921 - Living annuity, s15C	4001 - Current pension
4002 - Arrear pension	4003 - Provident fund	4005 - Total medical aid contribution (employer + employee)
4006 - Current RAF	4007 - Arrear RAF	4018 - Income protection
4024 - Other medical costs	4026 - NSF pension	4030 - Donations
4474 - Employer medical aid contribution	4493 - No 7th schedule medical	

## Question 2

50 marks

You are a tax advisor at an accounting firm in Pretoria. You regularly receive requests for tax advice from potential new clients and, while some of these requests involve basic tax issues and calculations, some entail detailed tax structures and estate planning.

The following is an extract from a request you have received on 21 October 2013 from a local businessman from Pretoria:

“Allow me to introduce myself. My name is Rudi Murloch and I desperately need some tax and estate planning advice. I am getting on in years and I would like to structure my estate in such a way as to minimise the taxes payable by me and my estate, but I also need to provide for my loved ones and dependents in the most efficient manner. I am 50 years old and a resident of South Africa. I provide investment advice to big corporate clients on a free-lance basis and have earned R790 000 in fees since the beginning of the 2014 year of assessment. I have no tax deductible expenses or other income, except for anything that may come to light in the information following below. I made a provisional tax payment of R122 000 on 30 August 2013 in respect of the 2014 year of assessment.

The following is a summary of the information that I gathered and that relates to my family's financial affairs:

### Murdoch Family Trust

My father, Antonio Murloch died on 1 May 2012. In terms of his last will and testament, the following bequests were made:

- A summer home in Cape Town with a market value of R900 000 to me.
- Local dividend-yielding shares and interest-bearing securities to his four grandsons (my sons): Carl (40%), Joe (30%), Ken (20%) and Martin (10%), subject to the condition that these assets be kept in trust until Martin, my youngest son, attains the age of 30 years. The will provides that his grandsons have a vested right to both the capital and the receipts and accruals earned from the investment of the capital in the proportion 40:30:20:10 (as per the bequest). But it also provides that no

amounts will actually be distributed to a grandson until Martin attains the age of 30 years.

- Units in a collective investment scheme with a market value of R590 000 to his daughter-in-law, Sheila (my wife – aged 48 – and the mother of his four grandsons).

The trust was formed in South Africa and my sons are the only beneficiaries of the trust. On 1 June 2012 I sold the summer home to the trust for R900 000 (its market value) on a loan account, which bears interest at 9%. (Assume that SARS regards the 9% as being the appropriate market-related interest rate.) I sold no assets during the 2014 year of assessment.

The trust deed provides that the four grandsons have a vested right to the summer home and any receipts and accruals that may result from it, in the same ratio as above (40:30:20:10). No amounts will be distributed to the grandsons until Martin attains the age of 30 years.

On 1 June 2012 Sheila donated the units in the collective investment scheme to the trust – the market value of these units was R600 000 on this date. The trust deed provides that the four grandsons have only a contingent right to the units in the collective investment scheme and the receipts and accruals that may result from these units. The trustees may, however, use their discretion and make awards to the grandsons out of the receipts and accruals from these units in the collective investment scheme.

The receipts and accruals, expenses and distributions of the trust for the year ended 28 February 2014 were as follows:

	R	R
<u>Receipts and accruals</u>		254 000
Local dividends	120 000	
Local interest	18 000	
Rentals from the Cape Town property (earned evenly over the year)	92 000	
Interest return on collective investment scheme	27 000	
<u>Expenses paid and incurred</u>		(70 000)
Interest paid (R900 000 x 9% x 9/12)	60 750	
Other tax deductible expenses relating to the summer home	9 250	
<u>Distribution of returns from collective investment scheme:</u>		(22 000)
To Carl	4 000	
To Joe	3 000	
To Ken	2 000	
To Martin	13 000	
<u>Retained in the trust</u>		162 000

As at 28 February 2014: Carl will be 25 years old, Joe 22 years old, Ken 15 years old, and Martin 13 years old. Carl is not a resident of the Republic, having emigrated after he finished school. His three brothers are residents of the Republic. Sheila and I are married out of community of property, without the accrual system. None of my children, my wife or me, received any other interest during the 2013 year of assessment.

### Rudi Murloch’s Estate

After the death of my father, I was faced with the reality of the brevity of life and the fact that I have to take my estate planning more seriously. As of today, the following “mini statement” reflects my assets and liabilities:

	Notes	R
<b><u>Assets</u></b>		
Loan account	1	900 000
Primary residence	2	7 000 000
Xtreme Money Market account	3	1 500 000
Cash in cheque account	4	467 000
<b><u>Liabilities</u></b>		
Mortgage bond at XYZ Bank	2	300 000

### Notes to “mini-statement”

1. This is the loan due by the Murloch Family Trust.
2. This is the house in Mountain View Drive, Pretoria, that the family has always used as their primary residence. No business was ever conducted from this house, which I purchased in May 2004 for R3.2 million.
3. This account earns returns at varying rates, but this balance includes capital and interest at the specified date.
4. This is the balance on my cheque account at FedBank as of today.



The following is an extract of my last will and testament:

**Last Will and Testament**

I, the undersigned, Rudi Murloch (Identity number: 621206 0029 097) of 123 Mountain View Drive, Pretoria, Gauteng, hereby declare this to be my Will. I hereby revoke all previous wills or testamentary writings made by me.

I nominate Discrete Law Inc. (12 Corlett Drive, Illovo, Johannesburg) to be the Executor of my Estate.

I direct that my estate shall devolve as follows:

**Special Bequests:**

1. Loan account to the value of R900 000 carrying interest at 9% per annum, due by the Murloch Family Trust, to my brother, Elijah Murloch (Identity number 640815 5111 08 4).
2. Investment proceeds of my Xtreme Money Market Account to my son, Joe (Identity number 810909 5425 5).
3. My house (primary residence) located in Pretoria in Gauteng (123 Mountain View Drive) to my mother Ms Patricia Murloch (Identity number: 370618 0015 057).
4. To my beloved wife, Mrs Sheila Murloch (Identity number: 630101 0045 037), to whom I am married out of community of property, R100 000 in cash.

The rest of my estate, after the abovementioned special bequests, must go to my local tennis club (not an approved Public Benefit Organisation).

In witness whereof I have signed this will in Pretoria on the 9th of July 2013 in the presence of the undersigned witnesses who in my presence and in the presence of each other have signed this will as witnesses.

Date: *9 July 2013*

*Rudi Murloch*

**TESTATOR**

*Henry Hendryson Steal*

**WITNESS 1**

**WITNESS 2**

I am considering donating R1 million of the Xtreme Money Market account to the Murloch Trust, and bequeathing the rest of it to Joe. During the 2014 year of assessment I also made a donation of R10 000 to "Save the Trees", a registered Public Benefit Organisation in terms of section 30 of the Income Tax Act. I obtained a section 18A receipt from them. I made no other donations during the 2014 year of assessment. I am planning to make this donation tomorrow. I would like my sons to have vested rights to this amount of capital in the trust in equal parts, as well as to the income earned from it.

I am concerned that, should I die tomorrow (after I've made the donation) there may not be enough cash in my estate to settle all outstanding liabilities. If not, I would appreciate any suggestions you may have for making sure there is enough cash available in the estate? I presume that there will be some taxes due to SARS after my death?"

Question 2 Required		Marks	
		Sub- Total	Total
a	Calculate the taxable income of the following persons for the 2014 year of assessment: <ol style="list-style-type: none"> <li>a. Carl</li> <li>b. Joe</li> <li>c. Ken</li> <li>d. Martin</li> <li>e. Sheila</li> <li>f. The Murloch Family Trust</li> </ol>	20	
b	Describe the tax consequences for Rudi Murloch if he makes the donation to the trust as planned.	10	
c	Determine whether there would be sufficient cash in the estate to settle all liabilities. <ul style="list-style-type: none"> <li>• Calculations</li> <li>• Suggestions</li> </ul> <p><i>Assuming that there is not sufficient cash, suggest some steps Rudi could take to ensure there is adequate liquidity in his estate.</i></p>	16 4	50

### Question 3

30 marks

Three partners, Athos, Porthos and Aramis carried on a security guard business from 1999 until 2013, trading under the name of "The Three Musketeer Partnership". Athos withdrew from the partnership on 28 February 2013 and since 1 March 2013 Porthos and Aramis have carried on the same business in the partnership called "The Two Musketeer Partnership".

The profit-sharing ratio of The Three Musketeer Partnership was

- Athos 40%;
- Porthos 40%; and
- Aramis 20%.

The profit-sharing ratio of The Two Musketeer Partnership is:

- Porthos 60%; and
- Aramis 40%.

1. The net profit of The Two Musketeer Partnership for the 2014 year of assessment amounts to R1 336 000 before taking into account the transactions listed in notes 1.1 and 1.2 below:

#### 1.1 Irrecoverable debts recovered

An irrecoverable debt of R30 000, which was written off in The Three Musketeer Partnership, was recovered on 1 June 2013. The money was received and deposited into the bank account of The Two Musketeer Partnership.

1.2 Salaries, drawings and retirement fund contributions	R
Salary (including travel allowance as per note 2.1 below)	
Porthos	350 000
Aramis	150 000
Drawings	
Porthos	60 000
Aramis	30 000
Interest paid on partnership loan	
Porthos	48 000
Retirement annuity fund contributions	
Porthos	37 000
Aramis	25 000
Pension fund contributions	
Aramis	45 000

The salaries and retirement fund contributions are paid by the partnership on behalf of the partners in terms of the partnership agreement. The partners are also entitled to make drawings out of their capital accounts, if money is available.

Aramis was originally an employee of The Three Musketeer Partnership before he was admitted as a partner on 1 March 2011. He decided to continue as a member of the partnership's pension fund after becoming a partner. His retirement funding employment income for the year ended 28 February 2011 amounted to R300 000 and his pension contributions in that year amounted to R45 000. He received R200 000 by way of salary and his share of partnership profits from The Three Musketeer Partnership in the 2012 year of assessment and his pension contributions in that year amounted to R30 000.

2. The following information relates to Porthos in his personal capacity:

2.1 Porthos used his private car for business travel on behalf of the partnership and he received a travel allowance of R50 000 for the 2014 year of assessment. He bought a new motor vehicle on 1 March 2011 at a cost of R513 000, including 14% VAT.

Porthos' motor vehicle expenses incurred during the 2014 year of assessment were as follows:

	R
Finance charges	87 210
Fuel cost	28 000
Maintenance cost	12 000
Insurance premiums and licence fees	9 600

Porthos keeps an accurate logbook which reflects that he travelled a total of 28 000 kilometres during the 2014 year of assessment, of which 18 000 was for private purposes.

The write-off periods in terms of SARS' Binding General Ruling No 7 are as follows:

Passenger vehicles	5 years
Delivery vehicle	4 years

2.2 Apart from his involvement with the partnership, Porthos runs a residential guesthouse which has operated in his own name since 1 April 2011. Porthos caters to the general public and has never provided any accommodation to his relatives. In 2014, the guesthouse will make a loss of R12 000 (you may assume this has been correctly determined). The guesthouse had an assessed loss of R45 000 in the 2012 year of assessment and R30 000 in the 2013 year of assessment and in both 2012 and 2013 the assessed loss was set off against his partnership income.

2.3 Porthos celebrated his 50<sup>th</sup> birthday on 13 November 2012.

2.4 He receives no income other than what has been referred to above.

Question 3 Required		Marks	
		Sub-Total	Total
a	Calculate the taxable income of Porthos for the 2014 year of assessment.	18	
b	Explain the tax implications for Porthos of the loss generated by the guesthouse in the 2014 year of assessment as well as the treatment of potential losses from his guesthouse trade in future years of assessment.	12	30

## Question 4

40 marks

Mr Carl Ludike 100% owns a construction company, Brass (Pty) Ltd ('Brass'). He is the Financial Director of the company and was therefore also appointed as Public Officer of the company.

Brass owns investments in two other South African tax-resident companies, Bennie Q (Pty) Ltd ('BQ') and Tempe (Pty) Ltd ('Tempe').

- Brass owns 25% of the ordinary shares in BQ and 3 other unconnected persons own the remaining 75% equally between them. These shares are not limited to any specified amount as to participate in any distribution of either a return of capital or dividend.
- Brass owns 21% of the class B ordinary shares in Tempe. These shares are limited to share in only 10% of any distribution of both return of capital and dividends.

Brass was incorporated and commenced business on 1 March 2012 and has a financial year ending on the last day of June each year.

Brass employs 20 people including Mrs. Goldblum, a full time employee, who is the group financial manager and is regularly involved the overall management of the company's financial affairs. As Mrs. Goldblum knows about tax compliance she was asked to assist BQ and Tempe to complete and submit their tax returns, for which she would be paid extra by Brass. She is also in charge of completing Brass's monthly employees' tax return but through negligence did not pay the March 2013 employees' tax withheld, to SARS.

Brass is trying to expand its business, hence its equity investments in Tempe and BQ, but financing is expensive and tax inefficient. On advice of BOAB Bank Ltd, a tax resident of the Channel Islands and promoter of the arrangement, Brass during 2013 entered into a hybrid equity instrument arrangement as envisaged in section 8E of the Income Tax Act. The arrangement's main purpose is to obtain a tax benefit by reducing the company's tax liability, which benefit will also constitute an undue tax benefit in



excess of R10million. The subscription price for the hybrid equity will only be paid by Brass six months after the arrangement was entered into, which will constitute the first amount paid or receivable in terms of the arrangement.

SARS have conducted an audit of Brass and have issued an employees' tax assessment for March 2013. Mrs Goldblum drafted an objection but it was not signed as Mr Ludike was unavailable and she wanted to get it to SARS as fast as possible. In her haste she also did not specify in detail the grounds upon which the objection was made.

Brass is audited by Mr Olsen, who only provides auditing services. To assist Mrs Goldblum in managing the tax affairs of Brass, Mr. Olsen, as an insignificant part of the audit, assisted Mrs Goldblum to calculate the taxable income for the purposes of completing the income tax return. Furthermore, to prevent another payroll mistake Mr Olsen for consideration provides monthly training and assistance to Mrs Goldblum on how to properly complete the monthly tax return.

Question 4 Required		Marks	
		Sub-Total	Total
a	Describe the dispute resolution process to be followed by Brass (Pty) Limited, including the maximum time periods applicable to both SARS and Brass Pty) Ltd. Assume for this part that (i) SARS did not provide reasons for the assessment; and (ii) the initial objection was defective as described above and will therefore be disallowed in full. Also discuss the steps regarding payment if Brass (Pty) Ltd would face irreparable financial hardship if it had to pay the assessment. <i>Your answer should make reference to appropriate provisions of legislation.</i>	13	
b	Explain whether there is a reporting obligation on Brass (Pty) Ltd in respect of the hybrid equity instrument and, assuming that such an obligation does exist, identify the period within which it must be reported to SARS.  Describe the type and amount of any penalty that would be charged to Brass (Pty) Ltd if the arrangement was reported ten-and-a-half months after the arrangement was entered into. <i>Your answer should make reference to appropriate provisions of legislation.</i>	12	
c	Discuss whether any of the individuals mentioned above is required to register as a tax practitioner and is so, briefly identify who the person/s must register with and by when. <i>You are not required to list the Recognised Controlling Bodies.</i>	15	40