



POST GRADUATE DIPLOMA IN TAXATION

PAPER PGDT 5: INTERNATIONAL TAXATION

SERIES: PILOT PAPER 2024

TOTAL MARKS – 100; TIME ALLOWED: THREE (3) HOURS

INSTRUCTIONS TO CANDIDATES

1. You have fifteen (15) minutes reading and planning time. Use it to study the examination paper carefully so that you understand what to do in each question. DO NOT write in your answer booklet during this TIME. You will be told when to start writing.
2. This paper is divided into TWO sections: Section A: ONE Compulsory Question. Section B: FOUR (4) Optional Questions. Attempt any THREE (3) questions from section B.
3. The marks shown against the requirement (s) for each question should be taken as an indication of the expected length and the required depth of the answer.
4. Do NOT write in pencil (except for graphs and diagrams).
5. The marks shown against the requirement(s) for each question should be taken as an indication of the expected length and depth of the answer.
6. All workings must be done in the answer booklet.
7. Present legible and tidy work.
8. Graph paper (if required) is provided at the end of the answer booklet.
9. A Taxation Table is provided on pages 2 and 3 of this question paper.
10. **DO NOT OPEN THIS QUESTION PAPER UNTIL YOU ARE INSTRUCTED BY THE INVIGILATOR.**

Taxation table

Income Tax

Standard personal income tax rates

Income band	Taxable amount	Rate
K1 to K61,200	first K61,200	0%
K61,201 to K85,200	next K24,000	20%
K85,201 to K110,400	next K25,200	30%
Over K110,400		37%

Income from farming for individuals

K1 to K61,200	first K61,200	0%
Over K61,200		10%

Company Income Tax rates

On income from manufacturing and other	30%
On income from farming	10%
On income of Banks and other Financial Institutions	30%
On income from mineral processing	30%
On income from mining operations	30%

Mineral Royalty

Mineral Royalty on Copper

Range of Norm Price	Taxable Amount	Mineral Royalty Rate
Less than US\$4,000	Less than \$4,000	4.0% of norm value
From US\$4,001 to less than US\$5,000	The Next \$1,000	6.5% of norm value
From US\$5,001 to less than US\$7,000	The Next \$2,000	8.5% of norm value
From US\$7,001 and over		10.0% of norm value

Mineral Royalty on other minerals

Type of mineral	Mineral Royalty Rate
Cobalt and vanadium	8% of norm value
Base Metals (Other than Copper, cobalt and vanadium)	5% on norm value
Energy and Industrial Minerals	5% on gross value
Gemstones	6% on gross value
Precious Metals	6 % on norm value

Capital Allowances

Implements, plant and machinery and commercial vehicles:

Wear and Tear Allowance:	Plant used normally	25%
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Plant used in Manufacturing and Leasing	50%
Plant used in farming and agro-processing	100%
Plant used in mining operations	20%
Non- commercial vehicles: Wear and Tear Allowance	20%
Industrial Buildings: Wear and Tear Allowance	5%
Initial Allowance	10%
Investment Allowance	10%

Low Cost Housing (Cost up to K100,000)

Wear and Tear Allowance	10%
Initial Allowance	10%
Commercial Buildings Wear and Tear Allowance	2%

Farming Allowances

Development Allowance	10%
Farm Works Allowance	100%
Farm Improvement Allowance	100%

Turnover Tax

On Business Turnover

Turnover range	Taxable Amount	Rate
K1 to K12,000 per annum	First K12,000	0%
K12,001 to K800,000 per annum	Next K788,000	4%

On Rental Income

Amount of Rent per annum	Rate
Up to K12,000	0%
Excess over K12,000 but not exceeding K800,000	4%
Over K800,000	12.5%

Presumptive Tax for Transporters

Seating capacity	Tax per annum K
From 64 passengers and over	12,960
From 50 to 63 passengers	10,800
From 36 to 49 passengers	8,640
From 22 to 35 passengers	6,480
From 18 to 21 passengers	4,320
From 12 to 17 passengers	2,160
Less than 12 passengers and taxis	1,080

Property Transfer Tax

Rate of Tax on Realised Value of Land, Land and Buildings and shares	5%
Rate of Tax on Realised Value of Intellectual Property	5%
Rate of Tax on Realised Value of a mining right for an exploration licence	5%
Rate of Tax on Realised Value of a mining right for a mining licence	10%
Rate of Tax on Realised Value of a mineral processing licence	10%

Value Added Tax

Annual Registration threshold	K800,000
Standard Value Added Tax Rate (on VAT exclusive turnover)	16%

SECTION A

Attempt THIS question

QUESTION ONE

CAT Ltd is a Zambian resident company. It owns 40% of the ordinary share capital of LION Ltd and 20% of the ordinary share capital of CHEETAH Ltd. Both of these companies are incorporated abroad, and the directors of each company hold their board meetings abroad. The whole of the share capital of CAT Ltd is held by WILD Inc, a company that is incorporated in a country called Southland.

CAT Ltd sells imported domestic electrical appliances that have been manufactured by LION Ltd and CHEETAH Ltd. During the year ended 31 December 2024, LION Ltd and CHEETAH Ltd sold domestic electrical appliances to CAT Ltd at a values of K15,400,000 and K16,000,000 respectively under transfer pricing arrangements that are applied by the group. The open market value of the domestic electrical appliances sold by LION Ltd was K7,500,000 while the domestic electrical appliances sold by CHEETAH Ltd had an open market value of K8,200,000.

CAT Ltd exports raw materials extracted from Zambia to WILD Inc. during the year ended 31 December 2024, CAT Ltd invoiced WILD Inc an amount of K10,300,000 under transfer pricing arrangements for raw materials whose open market value was K17,500,000. The invoiced amounts were incorporated in CAT Ltd's statement of profit or loss for the year.

WILD Inc has provided debt finance of K50,000,000 to CAT Ltd at an annual interest rate of 40%. In Zambia, CAT Ltd can obtain the same amount of debt finance as that provided by WILD Inc at an annual interest rate of 22%.

For the year ended 31 December, 2024, CAT Ltd produced a profit before taxation figure of K1,900,000. This profit figure was arrived at after dealing with the following items:

	K
Income credited:	
Dividend from LION Ltd	360,000
Dividend from CHEETAH Ltd	60,000
Expenditure charged:	
Depreciation of non-current assets (Fixed assets)	2,760,000

Interest on debt	20,000,000
Bad debts written off	975,000

CAT Ltd's Chief Executive Officer, Joyce Mweemba, earns an annual salary of K180,000. She has shareholdings of 5% in each of LION Ltd and CHEETAH Ltd. In the year ended 31 December 2024, she received gross dividends of K45,000 and K15,000 from LION Ltd and CHEETAH Ltd respectively. In addition to her annual salary and dividends, she also received a bonus of K25,000 in the tax year 2024. She pays NAPSA contributions at the rate of 5% of her annual salary and she pays a further 5% of her annual salary as pension contribution into the employer's approved fund. She paid income tax of K45,000 under the Pay As You Earn system for the tax year 2024.

The results of LION Ltd and CHEETHA Ltd for the year ended 31 December 2024 were as follows:

	LION Ltd		CHEETAH Ltd	
	K	K	K	K
Trading profit		1,200,000		500,000
Company income tax		<u>225,000</u>		<u>175,000</u>
Distributable profits		975,000		325,000
Dividends paid				
Net	650,000		180,000	
Withholding tax	<u>250,000</u>		<u>120,000</u>	
		<u>900,000</u>		<u>300,000</u>
Retained profits		<u>75,000</u>		<u>25,000</u>

All of the above figures are in Zambian Kwacha.

In the absence of double taxation conventions between Zambia and the countries where both LION Ltd and CHEETAH Ltd are based, any double taxation relief is given to Zambian residents unilaterally in Zambia by way of crediting the foreign taxes paid against Zambian income tax.

CAT Ltd paid provisional company income tax of K7,550,000 for the tax year 2024.

Required:

- (a) Explain why LION Ltd and CHEETAH Ltd are treated as being resident abroad, and explain what difference it would make if the directors of each company held their board meetings in Zambia. **(4 marks)**
- (b) Explain the arms' length principle and discuss the various transfer pricing issues affecting CAT Ltd in respect of its international transactions. Your discussion should include computations of possible amounts to be included in the company income tax computation for CAT Ltd for the tax year 2024. **(11 marks)**
- (c) Discuss the tax regulations governing the deductibility of interest paid by CAT Ltd on the debt provided by WILD Inc and compute the taxable business profit for CAT Ltd for the tax year 2024. **(8 marks)**

(d) Calculate CAT Ltd's company income tax payable for the tax year 2024. **(5 marks)**

(e) Calculate Joyce Mweemba's income tax payable for the tax year 2024. **(12 marks)**

[Total: 40 Marks]

SECTION B

Attempt any THREE (3) questions out of FOUR (4) in this section

QUESTION TWO

Zambia, a growing economy in Southern Africa, faces challenges in managing double taxation and preventing international tax avoidance. As the country attracts more foreign investment and engages in cross-border trade, the government is keen on ensuring fair taxation while encouraging economic growth. However, complexities arise due to differing tax regulations between Zambia and other jurisdictions, as well as strategies employed by multinational corporations to minimize their tax liabilities.

Required:

- (a) Discuss the Impact of Double Taxation on Foreign Investors in Zambia and Recommend Strategies for Mitigation. **(5 marks)**
- (b) Evaluate the Effectiveness of Zambia's Anti-Tax Avoidance Measures and Suggest Possible Improvements. **(5 marks)**
- (c) Analyse the Role of Double Taxation Treaties (DTTs) in Zambia's Tax Policy and Provide Recommendations for Enhancing Their Utilization. **(5 marks)**
- (d) Explain the Challenges Faced by Zambian Tax Authorities in Combating International Tax Evasion and Propose Solutions to Address These Challenges. **(5 marks)**

[Total: 20 Marks]

QUESTION THREE

Delta LLC, a global digital services provider, is navigating the complexities of international tax regulations in the digital economy. They seek guidance on the tax implications of their cross-border digital transactions.

Required:

- (a) Discuss emerging approaches to taxing digital services and e-commerce transactions, including digital services taxes (DSTs) and the challenges of allocating taxing rights in the digital economy. **(7 marks)**
- (b) Analyze recent developments in digital taxation and ongoing discussions around Base Erosion and Profit Shifting (BEPS) 2.0, focusing on how countries are adapting their tax policies to address digitalization challenges. **(7 marks)**
- (c) Advise Delta LLC on the tax treatment of various income under the OECD Model Tax Convention, specifically focusing on business profits, employment income, and investment income. **(6 marks)**

[Total: 20 Marks]

QUESTION FOUR

Epsilon Inc., a multinational corporation headquartered in the United States, has a diverse portfolio of subsidiaries and operations spanning multiple continents, including Africa, Europe, and Asia. The company specializes in manufacturing and distributing high-tech equipment and software solutions, with substantial revenues derived from international markets. As Epsilon Inc. expands its global footprint, the complexities of international tax compliance and the need for effective tax planning have become increasingly critical. The company's leadership team is particularly concerned about the risks associated with international tax avoidance regulations and seeks comprehensive guidance to navigate these challenges.

Epsilon Inc. operates in a dynamic and often unpredictable global tax environment, characterized by varying national tax laws, international treaties, and evolving regulations aimed at curbing tax avoidance. The company is aware that aggressive tax planning strategies, while potentially reducing tax liabilities, also attract scrutiny from tax authorities and pose reputational risks. In light of recent global initiatives such as the OECD's Base Erosion and Profit Shifting (BEPS) project, Epsilon Inc. is committed to ensuring compliance with international tax standards while optimizing its tax position.

Required:

- (a) Discuss the criteria for identifying tax havens and harmful tax practices under OECD guidelines and their application in the Zambian context. **(7 marks)**
- (b) Analyze the relationship between controlled foreign companies (CFC) rules and domestic law approaches to international tax avoidance, including mandatory disclosure rules and diverted profits tax. **(7 marks)**
- (c) Discuss the co-operation between revenue authorities, including exchange of information, tax information exchange agreements, and joint investigation of taxpayers. **(6 marks)**

[Total: 20 Marks]

QUESTION FIVE

Gamma Corp, a multinational technology corporation, has established itself as a key player in the global market, with operations spanning multiple countries. However, the company is facing challenges related to international double taxation and tax avoidance strategies. These challenges threaten to undermine Gamma Corp's profitability and hinder its ability to compete effectively in the global marketplace. As such, the company seeks comprehensive guidance to address these issues and ensure compliance with international tax regulations.

Required:

- (a) Discuss the types and causes of international double taxation, including juridical and economic double taxation. **(7 marks)**
- (b) Analyze the methods of giving international double taxation relief, including relief by credit, exemption, and deduction of foreign tax. **(7 marks)**
- (c) Describe the role of Double Taxation Conventions (DTCs) in eliminating double taxation and the interpretation of DTCs in resolving tax disputes. **(6 marks)**

[Total: 20 Marks]

END OF THE PAPER

SUGGESTED SOLUTIONS

SOLUTION ONE

- (a) Both LION Ltd and CHEETAH Ltd are treated as resident overseas because both companies are incorporated overseas. In addition, the places of effective management for both companies are overseas since both companies' boards of directors hold their meetings abroad.

If the companies' boards of directors were holding their meetings in Zambia, then both companies would be resident in Zambia because their places of effective management would be in Zambia, despite the companies being incorporated outside Zambia.

- (b) The arm's length principle

The **arm's length principle** is the foundational guideline used in transfer pricing to ensure that transactions between related entities (such as subsidiaries of a multinational enterprise) are conducted as if they were independent parties. The aim is to prevent multinational corporations (MNCs) from artificially shifting profits between jurisdictions to minimize their overall tax burden.

The arm's length principle states that the price of transactions between related parties should be equivalent to the price that would have been agreed upon between unrelated parties under comparable circumstances. In other words, when companies within the same corporate group engage in transactions (like the sale of goods, provision of services, or the use of intellectual property), the terms must reflect what independent businesses would have agreed to if they were acting independently and in their own economic interests.

Transfer pricing issues

The transfer pricing issues facing CAT Ltd are in respect of the inter company sales of goods and the amount of loan and loan interest payable on the loan from WILD Inc.

- (i) Transfer of goods

Goods being transferred into Zambia by LION Ltd and CHEETAH Ltd should be priced at the amount that meets the arms' length principle. This means the transfer prices should be equal to the open market values of the goods of K7,500,000 for transfers from LION Ltd and K8,200,000 for transfers from CHEETAH Ltd.

As the transfer prices exceeded the open market values, Zambian taxable business profits were less than they should be had the transfer prices been the open market values. When computing taxable business profit in Zambia for CAT Ltd, differences between the actual transfer prices and the open market values should be added back to the profit and the amounts are as follows:

	Transfer from LION Ltd K	Transfer from CHEETAH Ltd K
Actual transfer prices	15,400,000	16,000,000
Open market values	<u>(7,500,000)</u>	<u>(8,200,000)</u>
Amounts to add back	<u>7,900,000</u>	<u>7,800,000</u>

In respect of the goods being transferred outside Zambia by CAT Ltd to WILD Inc, the transfer price should also meet the arms' length principle. The open market value of the goods of K17,500,000 should be the transfer price. When computing Zambian taxable profit, the difference between the open market value and the actual transfer price should be added back to the profit. This is because a transfer price which is less than the open market value results in reduction of Zambian taxable business profit. The amount to be added back is as follows:

	K
Open market value of raw materials	17,500,000
Less actual transfer price	<u>(10,300,000)</u>
Amount to add back	<u>7,200,000</u>

(ii) Financing

CAT Ltd has been provided with finance of K10,000,000 by its holding company. It is necessary to establish CAT Ltd's arm's length borrowing capacity and therefore establish whether CAT Ltd is able to borrow such a huge amount from the Zambian financial service providers. No information is provided regarding how much CAT Ltd would be able to borrow from the Zambian financial service providers so that part of the debt may be reclassified as equity in order to limit the debt on which tax allowable interest would be calculated.

The rate of interest on the debt provided by the holding company of 56% exceeds the market borrowing rate applicable in Zambia of 22%. the amount of interest being charged does not meet the arms' length principle. Therefore, when computing the taxable profit, part of the interest should be added back to the Zambian profit so that only interest calculated at the market rate applicable in Zambia may be tax allowed. This is because the excessive interest results in reducing the Zambian taxable business profit.

The amount of loan interest that should be disallowed is:

	K
Actual interest charged	20,000,000
Interest based on arm's length interest rate (22% x K50,000,000)	<u>(11,000,000)</u>
Interest to be added back	<u>9,000,000</u>

These adjustments relating both financing and transfer of goods will ensure that there is no loss of tax revenue in Zambia through the practice of shifting profit to other countries by the multinational entity.

(c) The rules governing deductibility of interest for tax purposes are as follows:

- (1) Interest on any debt, whether taken to finance normal operations of the borrower, or to finance capital expenditure is tax deductible subject to the amount of interest not

exceeding 30% of the Tax Earnings Before Interest, Taxation, Depreciation and Amortisation (30% of Tax EBITDA).

- (2) Interest of this purpose comprise all financing costs, including the costs of raising debt finance.
- (3) Tax EBITDA refers to the amount of total taxable income, plus interest, plus Taxation (if taxation had been deducted), plus Depreciation and plus amortization.
- (4) Where the amount of interest exceeds 30% of tax EBITDA, the excess amount of interest is disallowed. The disallowed interest is carried forward and claimed as a deduction from taxable profits over the following five years, provided that in each of the years when a deduction may be claimed, total interest does not exceed 30% of Tax EBITDA.

CAT Ltd

Computation of taxable business profit for the tax year 2024

	K	K
Net profit as per accounts		1,900,000
Add		
Depreciation	2,760,000	
Excess interest on debt	9,000,000	
Goods transferred from LION Ltd	7,900,000	
Goods transferred from CHEETAH Ltd	7,800,000	
Goods transferred to WILD Inc	<u>7,200,000</u>	
		<u>34,660,000</u>
		36,560,000
Less		
Dividends from LION Ltd	360,000	
Dividends from CHEETAH Ltd	<u>60,000</u>	
		<u>420,000</u>
Taxable business profit		<u>36,140,000</u>

Workings

(1) Calculation of interest that is tax allowed

	K
Taxable business profit	36,140,000
Foreign dividend	<u>420,000</u>
Taxable income	36,560,000
Add:	
Interest (22% x K50,000,000)	11,000,000
Depreciation	<u>2,760,000</u>
Tax EBITDA	<u>50,320,000</u>
Actual interest on debt (22% x K50,000,000)	11,000,000
30% of Tax EBITDA (30% x K50,320,000)	<u>(15,096,000)</u>
Excess amount of 30% of Tax EBITDA over interest	<u>(4,096,000)</u>

Interest paid is wholly tax allowed because it is below 30% of Tax EBITDA.

(d) CAT Ltd

Company income tax computation for the tax year 2024

	K
Business profit	36,140,000
Dividend from LION Ltd	360,000
Dividend from CHEETAH Ltd	<u>60,000</u>
	<u>36,560,000</u>
Company Income Tax	
K36,560,000 x 30%	10,968,000
Double Taxation Relief	
Dividend from LION Ltd (W1)	(100,000)
Dividend from CHEETAH Ltd (W2)	<u>(18,000)</u>
	10,850,000
Less tax already paid:	
Provisional Company Income Tax	<u>(7,550,000)</u>
Company Income Tax Payable	<u>3,300,000</u>

Workings

(1) Double taxation relief on dividend from LION Ltd is the lower of:

(a) Foreign Withholding Tax (WHT) paid
= Total foreign WHT paid/ Total gross foreign Dividend x Dividend for CAT
= K250,000/ K900,000 x K360,000
= K100,000

(b) Zambian Income Tax
= 30% x K360,000
= K108,000

(2) Double taxation relief on dividend from CHEETAH Ltd is the lower of:

(a) Foreign Withholding Tax (WHT) paid
= Total foreign WHT paid/ Total gross foreign Dividend x Dividend for CAT
= K120,000/ K300,000 x K60,000
= K24,000

(b) Zambian Income Tax
= 30% x K60,000
= K18,000

(e) Joyce Mweemba

Personal income tax computation for the tax year 2024

	K
Annual salary	180,000
Bonus	25,000
Dividend from LION Ltd	45,000
Dividend from CHEETAH Ltd	<u>15,000</u>
	<u>265,000</u>
Income tax	
On the first K110,400	12,360
On the balance (K265,000 – K110,400) x 37%	<u>57,202</u>
	69,562
Double taxation relief	
Dividend from LION Ltd (W1)	(11,812)
Dividend from CHEETAH Ltd (W2)	<u>(3,937)</u>
	53,813
Less tax already paid	
Pay As You Earn	<u>(45,000)</u>
Income Tax payable	<u>8,813</u>

Workings

(1) Double taxation relief on dividend from LION Ltd is the lower of:

(a) Foreign tax paid
= $K250,000 / K900,000 \times K45,000$
= K12,500

(b) Zambian tax attributed to the foreign income
= $\frac{\text{Gross dividend from LION Ltd}}{\text{Total Assessable Income}} \times \text{Zambian Tax charge}$

= $\frac{K45,000}{K265,000} \times K69,562$

= K11,812

(2) Double taxation relief on dividend from CHEETAH Ltd is the lower of:

(a) Foreign tax paid
= $K120,000 / K300,000 \times K15,000$
= K6,000

(b) Zambian tax attributed to the foreign income
= $\frac{\text{Gross dividend from CHEETAH Ltd}}{\text{Total Assessable Income}} \times \text{Zambian Tax charge}$

= $\frac{K15,000}{K265,000} \times K69,562$

= K3,937

The lower amounts have been credited in the personal income tax computation

SOLUTION TWO

- (a) Double taxation can significantly affect foreign investors operating in Zambia, leading to increased tax costs and reduced profitability. When income is taxed both in Zambia and in the investor's home country, it creates a burden on businesses and discourages foreign investment. To mitigate this impact, foreign investors can utilize several strategies:

Tax Treaty Utilization: Leveraging double taxation treaties (DTTs) between Zambia and other countries can help foreign investors avoid or mitigate double taxation. These treaties typically provide mechanisms such as tax credits or exemptions to ensure that income is not taxed twice.

Advance Pricing Agreements (APAs): Foreign investors can negotiate APAs with Zambian tax authorities to establish transfer pricing methodologies in advance. This provides clarity and certainty regarding the pricing of intercompany transactions, reducing the risk of double taxation arising from transfer pricing adjustments.

Investment Structuring: Structuring investments in Zambia through tax-efficient entities or structures can help minimize the impact of double taxation. For example, establishing holding companies in jurisdictions with favourable tax regimes or utilizing tax-efficient investment vehicles can optimize the overall tax position of foreign investors.

Engagement with Tax Authorities: Maintaining open communication and dialogue with Zambian tax authorities is crucial for foreign investors. By proactively engaging with tax authorities and seeking clarification on tax issues, investors can mitigate the risk of misunderstandings or disputes that may lead to double taxation.

- (b) Zambia has implemented various anti-tax avoidance measures aimed at preventing aggressive tax planning and profit shifting by multinational corporations. These measures include transfer pricing regulations, thin capitalization rules, and controlled foreign company (CFC) rules. However, the effectiveness of these measures depends on their enforcement and implementation.

Enforcement and Capacity Building: Enhancing the enforcement capabilities of Zambian tax authorities through training and capacity building initiatives can improve the effectiveness of anti-tax avoidance measures. This includes providing specialized training on transfer pricing audits, conducting risk assessments, and collaborating with international organizations to share best practices.

Transparency and Information Exchange: Strengthening transparency and information exchange mechanisms can help combat tax avoidance by increasing the availability of information to tax authorities. Implementing measures such as country-by-country reporting (CbCR) and automatic exchange of financial information can enhance transparency and enable tax authorities to identify potential tax avoidance schemes more effectively.

Legislative Reforms: Continuously reviewing and updating tax legislation to address emerging tax avoidance strategies is essential. Zambia should consider aligning its tax laws with international standards and best practices, including recommendations from organizations such as the OECD, to ensure that its anti-tax avoidance measures remain effective in combating evolving tax avoidance schemes.

Collaboration with Stakeholders: Collaboration between tax authorities, businesses, and other stakeholders is crucial for addressing tax avoidance effectively. Zambia should engage with multinational corporations, industry associations, and civil society organizations to gather input, raise awareness, and foster cooperation in combating tax avoidance.

- (c) Double taxation treaties (DTTs) play a vital role in Zambia's tax policy by providing mechanisms for the prevention of double taxation and the exchange of information between countries. However, the utilization of DTTs in Zambia can be enhanced through several measures:

Expanding Treaty Networks: Zambia should prioritize expanding its network of DTTs to cover more jurisdictions, especially key trading partners and investment destinations. Negotiating new treaties and updating existing ones can provide greater certainty for taxpayers and promote cross-border trade and investment.

Promoting Awareness and Education: Increasing awareness and understanding of DTTs among taxpayers, tax advisors, and government officials is essential. Zambia should invest in educational initiatives, workshops, and seminars to disseminate information about the benefits and provisions of DTTs, as well as how they can be utilized to minimize double taxation and facilitate cross-border transactions.

Streamlining Treaty Application Processes: Simplifying and streamlining the application processes for DTT benefits can encourage greater utilization by taxpayers. Zambia should establish clear guidelines and procedures for claiming treaty benefits, as well as provide timely and efficient processing of treaty relief applications to enhance taxpayer compliance and satisfaction.

Monitoring and Evaluation: Regular monitoring and evaluation of the effectiveness of DTTs in achieving their objectives are critical. Zambia should conduct periodic reviews of its DTTs to assess their impact on cross-border trade and investment, identify areas for improvement, and address any challenges or shortcomings in treaty implementation.

- (d) Zambian tax authorities encounter various challenges in combating international tax evasion, including limited resources, lack of capacity, and jurisdictional constraints. To address these challenges, several solutions can be considered:

Capacity Building and Training: Investing in training and capacity building programs for tax authorities can enhance their skills and capabilities in detecting and investigating cases of international tax evasion. This includes providing specialized training on international tax matters, forensic accounting, and digital forensics to equip tax authorities with the tools and knowledge needed to combat tax evasion effectively.

International Cooperation: Strengthening collaboration and information exchange with other tax authorities and international organizations is crucial for combating international

tax evasion. Zambia should actively participate in international initiatives such as the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes and bilateral agreements for mutual legal assistance and information exchange to enhance its capacity to combat tax evasion.

Technology and Data Analytics: Leveraging technology and data analytics can enhance the efficiency and effectiveness of tax authorities in detecting and combating tax evasion. Implementing advanced data analytics tools, artificial intelligence, and machine learning algorithms can help tax authorities analyze large volumes of data, identify patterns of tax evasion, and target high-risk taxpayers more effectively.

Legislative Reforms: Continuously reviewing and updating tax laws and regulations to address loopholes and strengthen enforcement measures is essential. Zambia should consider introducing measures such as mandatory disclosure requirements, anti-avoidance provisions, and penalties for non-compliance to deter tax evasion and promote voluntary compliance.

SOLUTION THREE

- (a) Digital Services Taxes (DSTs) have emerged as a significant tool for taxing digital services and e-commerce transactions. DSTs are levies imposed on revenues generated by digital services companies, particularly those deriving income from user data and digital interactions. The rationale behind DSTs is to ensure that digital companies pay their fair share of taxes in jurisdictions where they have significant user bases and generate substantial revenues, even if they lack a physical presence. Common features of DSTs include revenue thresholds, applying only to large multinational digital companies that exceed certain global and local revenue thresholds, and targeting revenues from online advertising, digital marketplaces, and user data sales. For example, France imposes a 3% DST on revenues from digital advertising, data sales, and intermediary services for companies with global revenues over €750 million and domestic revenues over €25 million. Similarly, the United Kingdom has introduced a 2% DST on revenues of search engines, social media platforms, and online marketplaces that derive value from UK users.

The challenges of allocating taxing rights in the digital economy are profound. Traditional tax rules are based on physical presence (permanent establishment), which are inadequate for digital businesses that operate across borders without significant physical infrastructure. Determining a digital business's tax liability based on where users are located or where value is created presents significant challenges. Establishing a "significant economic presence" in a jurisdiction without physical presence is complex, with criteria potentially including user engagement, data collection, and digital contracts. Furthermore, allocating profits to the jurisdictions where digital services are consumed or where user data is generated is contentious and requires new international consensus and methodologies.

- (b) The OECD's Base Erosion and Profit Shifting (BEPS) 2.0 initiative is pivotal in addressing the taxation challenges posed by digitalization. Pillar One of BEPS 2.0 proposes a unified approach to reallocating taxing rights to market jurisdictions where users are located, even if there is no physical presence. This involves introducing a new taxing right over a portion of residual profits of large and highly profitable multinational enterprises (MNEs) through Amount A. Additionally, Amount B aims to simplify and standardize the remuneration of related-party transactions in line with the arm's length principle. Pillar Two, on the other hand, introduces a global minimum tax to ensure MNEs pay a baseline level of tax regardless of where they operate. This is operationalized through the Income Inclusion Rule (IIR), which requires parent entities to pay additional taxes if subsidiaries are taxed below the agreed minimum rate, and the Undertaxed Payments Rule (UTPR), which denies deductions or imposes withholding taxes on payments to low-tax entities.

Countries are adapting their tax policies in response to these developments. Many have implemented domestic digital taxes, such as France and the UK, anticipating global consensus on Pillar One. These countries are revising their tax policies to align with BEPS 2.0 recommendations, enhancing transparency, and adopting measures against tax base erosion and profit shifting. Collaborative efforts are ongoing, with countries participating in international discussions facilitated by the OECD and G20 to reach consensus on digital taxation rules.

- (c) The OECD Model Tax Convention provides a framework for the tax treatment of various types of income, crucial for Delta LLC's operations. For business profits (Article 7), the general rule is that these profits are taxable only in the country of residence unless the

business is conducted through a permanent establishment (PE) in another country. In such cases, profits attributable to the PE can be taxed in the source country. This means if Delta LLC has a PE in a foreign country, the profits attributable to that PE will be subject to tax in the foreign country.

Employment income (Article 15) is typically taxed in the country where the employment is exercised. However, there are exceptions for short-term assignments, typically less than 183 days in a calendar year, which may be taxed only in the employee's country of residence if certain conditions are met, such as the salary not being paid by a resident employer of the work country. This provision implies that employees of Delta LLC working temporarily abroad may be exempt from foreign tax if the conditions of the OECD Model Tax Convention are satisfied.

Investment income, including dividends, interest, and royalties, is also governed by the OECD Model Tax Convention. Dividends (Article 10) are generally taxable in the resident country of the recipient, with the source country permitted to impose a withholding tax, typically reduced under Double Taxation Conventions (DTCs). Interest (Article 11) follows a similar rule to dividends, with potential reduced withholding tax rates in the source country under DTCs. Royalties (Article 12) are taxed in the resident country, with the source country allowed to impose a reduced withholding tax as stipulated in DTCs. For Delta LLC, this means investment income received from foreign sources will be subject to the tax rates and withholding provisions of applicable DTCs, potentially reducing the overall tax burden.

SOLUTION FOUR

- (a) The OECD has established specific criteria to identify tax havens and harmful tax practices. These criteria are part of the broader effort to combat tax avoidance and promote fair taxation globally. Key criteria include:

No or Nominal Tax Rates: Jurisdictions with very low or zero tax rates on income or profits.

Lack of Effective Exchange of Information: Jurisdictions that do not effectively share tax-related information with other countries, thereby facilitating tax evasion.

Lack of Transparency: Jurisdictions with opaque legal and administrative frameworks that prevent the disclosure of beneficial ownership and financial information.

No Substantial Activities Requirement: Jurisdictions that attract businesses and income without requiring substantial economic activities to be carried out within their borders.

In the Zambian context, these OECD guidelines are critical as Zambia navigates its own tax policy landscape. Zambia has shown commitment to adhering to international standards by implementing anti-avoidance measures and participating in global initiatives such as the Inclusive Framework on BEPS. For instance, Zambia actively scrutinizes jurisdictions that offer preferential tax regimes without requiring substantial business activities, aligning with OECD's efforts to deter harmful tax practices.

- (b) CFC rules are designed to prevent profit shifting and base erosion by taxing the income of foreign subsidiaries controlled by domestic companies, even if the income has not been repatriated. These rules ensure that profits earned in low-tax jurisdictions are subject to tax in the parent company's home country if certain conditions are met.

In practice, CFC rules typically:

1. Define what constitutes a controlled foreign company based on ownership thresholds.
2. Specify the types of income (e.g., passive income) that are subject to inclusion under CFC rules.
3. Outline exceptions and exemptions, such as the active income exemption, which excludes income derived from substantial business activities abroad.

Domestic Law Approaches: In addition to CFC rules, countries implement various domestic measures to combat international tax avoidance, including:

Mandatory Disclosure Rules: These require taxpayers and intermediaries to disclose aggressive tax planning schemes to tax authorities. This enhances transparency and allows authorities to address potential abuses promptly.

Diverted Profits Tax (DPT): Some countries, such as the UK and Australia, have introduced DPT to target profits artificially diverted to low-tax jurisdictions. This tax

imposes higher rates on diverted profits, disincentivising aggressive tax avoidance strategies.

Epsilon Inc. must carefully navigate these rules and align its international operations to comply with both CFC regulations and domestic anti-avoidance measures. This involves comprehensive tax planning, ensuring that the company's global tax strategies are robust and compliant with the various jurisdictions' requirements where it operates.

(c) Co-operation Between Revenue Authorities: Exchange of Information, TIEAs, and Joint Investigations

Exchange of Information: The exchange of information between tax authorities is a cornerstone of international tax co-operation. This can occur in several forms:

1. **Automatic Exchange of Information (AEOI):** Countries automatically share financial account information of non-resident taxpayers based on the Common Reporting Standard (CRS). This helps prevent tax evasion by ensuring transparency.
2. **Exchange on Request:** Authorities share specific tax-related information upon request to support investigations and audits.

Tax Information Exchange Agreements (TIEAs): TIEAs are bilateral agreements that facilitate the exchange of tax information between countries. They are designed to improve transparency and co-operation in tax matters. TIEAs allow tax authorities to access information necessary to enforce tax laws, detect tax evasion, and ensure compliance.

Joint Investigations: Joint investigations involve collaboration between tax authorities from different countries to address cross-border tax issues. These investigations enable authorities to pool resources, share expertise, and coordinate efforts to tackle complex tax avoidance schemes effectively.

For Epsilon Inc., understanding these mechanisms is crucial for effective tax planning and compliance. By staying informed about international co-operation efforts and actively participating in information exchanges, Epsilon Inc. can mitigate the risk of tax disputes and ensure compliance with global tax standards. Additionally, the company can leverage these co-operative frameworks to enhance its internal tax compliance strategies and improve its overall tax risk management.

SOLUTION FIVE

(a) Types of International Double Taxation:

Juridical Double Taxation: This form of double taxation arises when two or more countries assert their taxing rights over the same income or financial transaction based on their domestic laws. Juridical double taxation can occur due to differences in tax residency rules, source taxation principles, and the absence of bilateral tax treaties between countries.

Economic Double Taxation: Economic double taxation occurs when the same income is taxed multiple times in different jurisdictions, regardless of whether there is a legal basis for such taxation. This can result from differences in tax rates, inconsistent tax treatment of certain transactions, and mismatches in tax systems between countries.

Causes of International Double Taxation:

- (a) **Divergent Tax Systems:** Variations in tax laws and regulations across different countries can lead to overlapping or conflicting tax obligations, resulting in double taxation for multinational corporations like Gamma Corp.
- (b) **Cross-Border Transactions:** As Gamma Corp engages in cross-border transactions, such as sales, royalties, and licensing agreements, the allocation of taxing rights between countries becomes more complex, increasing the likelihood of double taxation.
- (c) **Transfer Pricing Issues:** Transfer pricing practices, where related entities within the Gamma Corp group transact with each other, can give rise to disputes over the appropriate allocation of income and expenses, leading to double taxation concerns.
- (d) **Inconsistent Treaty Provisions:** Differences in the interpretation and application of tax treaties between countries can create ambiguity and uncertainty regarding the elimination of double taxation, posing challenges for multinational corporations operating in multiple jurisdictions.

(b) Methods of Giving International Double Taxation Relief:

Relief by Credit: Gamma Corp can alleviate international double taxation by claiming a tax credit in its home country for taxes paid in foreign jurisdictions on the same income. This method ensures that the company does not pay more tax than the higher of the two countries' tax rates. However, the effectiveness of this method depends on the availability of tax credits and the rules governing their utilization.

Exemption: Another approach to relieving international double taxation is through the exemption method, whereby the income earned in foreign jurisdictions is excluded from taxation in the home country. This method is often used when the foreign income is subject to tax in the source country but is exempt from tax in the home country.

Deduction of Foreign Tax: Gamma Corp may also opt to deduct foreign taxes paid on its foreign income from its taxable income in the home country. This reduces the company's overall tax liability, although the extent of relief depends on the deductibility of foreign taxes under domestic tax laws.

(c) Role of Double Taxation Conventions (DTCs):

Eliminating Double Taxation: DTCs play a critical role in eliminating double taxation by allocating taxing rights between countries and providing mechanisms for relieving double taxation. These treaties typically include provisions for the allocation of taxing rights over different types of income, such as dividends, interest, royalties, and capital gains, ensuring that income is not taxed twice in both the source and residence countries.

Resolving Tax Disputes: DTCs also serve as a framework for resolving tax disputes between countries. In cases where Gamma Corp faces double taxation despite the provisions of a tax treaty, mechanisms such as mutual agreement procedures (MAPs) allow the competent authorities of the relevant countries to negotiate and resolve the issue amicably.

Interpretation of DTCs: The interpretation of DTCs is crucial in determining the application and scope of treaty provisions. Gamma Corp must carefully analyze the provisions of relevant tax treaties to understand its rights and obligations under international law. This may involve consulting legal experts or tax advisors with expertise in international tax law to ensure compliance and mitigate the risk of double taxation.

MARKING KEY

QUESTION ONE

(a) Reason why the two companies are treated as resident abroad	2 marks
Change that would occur if directors met in Zambia	2 marks
(b) Explanation of arm's length principle	2 marks
Discussion of transfers from LION Ltd and CHEETAH Ltd	2 marks
Calculation of disallowed amounts on LION and CHEETAH transfers	2 marks
Discussion of transfer to WILD Inc	1 mark
Calculation of amount to be disallowed on transfer to WILD Inc	1 mark
Discussion covering the amount of loan and loan interest	2 marks
Calculation of amount of loan interest not meeting arm's length principle	1 mark
(c) Discussion of regulations governing interest deduction	3 marks
Depreciation disallowed	½ mark
Excess interest disallowed	½ mark
Goods transferred from LION Ltd amount disallowed	½ mark
Goods transferred from CHEETAH Ltd amount disallowed	½ mark
Goods transferred to WILD Inc amount disallowed	½ mark
Calculation of tax EBITDA	1 mark
Conclusion that interest is wholly tax allowed	1 mark
Taxable business profit	½ mark
(d) Taxable income for CAT Ltd	1 mark
Double Taxation Relief on LION Ltd dividend	1 mark
Double Taxation Relief on CHEETAH Ltd dividend	1 mark
Deduction of provisional company income tax	½ mark
Company income tax at 30% on taxable income	1 mark
Company income tax payable	½ mark
(e) Taxable income for Joyce	3 marks
Double taxation relief on dividend from LION Ltd	2 marks
Double taxation relief on dividend from CHEETAH Ltd	2 marks
Deduction of amount of double taxation relief on LION dividend	1 mark
Deduction of amount of double taxation relief on CHEETAH dividend	1 mark
Personal income tax charge	1 mark
Deduction of income tax paid under PAYE	1 mark
Income Tax payable	1 mark
Total	40 marks

QUESTION TWO

(a) Discussion of impact of double taxation on foreign investors	2 marks
Recommended Strategies for mitigation	3 marks
(b) Evaluation of effectiveness of Zambia's anti-avoidance measures	2 marks
Suggestion for improvements	3 marks
(c) Analysis of the role of Double Taxation Treaties	2 marks
Recommendations for enhancing their utilization	3 marks
(d) Explanation of challenges	2 marks
Proposals to address the challenges	3 marks
Total	20 marks

QUESTION THREE

(a) Discussion of emerging approaches to TDS and e-commerce	3 marks
Discussion of challenges in allocating taxing rights in the digital economy	4 marks
(b) Analysis of developments in digital taxation	5 marks
Examples of countries adaptation	2 marks
(c) Business profits	2 marks
Employment income	2 marks
Dividends	2 marks
Interest	1 mark
Royalties	1 mark
Total	20 marks

QUESTION FOUR

(a) Discussion of criteria for identifying tax havens	5 marks
Application in the Zambian context	2 marks
(b) Analysis of the relationship between CFC rules and domestic law	5 marks
Mandatory disclosure rules (diverted profits tax)	2 marks
(c) Discussion of cooperation between revenue authorities	1 mark
Exchange of information	2 marks
Tax information exchange agreements	2 marks
Joint investigation of taxpayers	1 mark
Total	20 marks

QUESTION FIVE

(a) Discussion of the types of international double taxation	2 marks
Discussion of the causes of international double taxation	4 marks
(b) Analysis of relief by credit	3 marks
Analysis of relief by exemption	2 marks
Analysis of relief by deduction of foreign tax	2 marks
(c) Elimination of double taxation	2 marks
Resolution of tax disputes	2 marks
Interpretation of double taxation conventions	2 marks
Total	20 marks

Note

Marks should be awarded for alternative valid points which may not be incorporated in the suggested solutions. In a real examination, elaborate answers covering all possible points may not be produced even by a well prepared student.