



TAXATION PROGRAMME EXAMINATIONS

POST-GRADUATE DIPLOMA LEVEL

PGDT 6: TRANSFER PRICING

PILOT PAPER 2024

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

INSTRUCTIONS TO CANDIDATES

1. You have fifteen (15) minutes reading time. Use it to study the examination paper carefully so that you understand what to do in each question. You will be told when to start writing.
2. This question paper consists of FIVE (5) questions. Answer Question One in Section A which carries 40 Marks and any THREE (3) questions in Section B which carry 20 Marks each.
3. Enter your student number and your National Registration Card number on the front of the answer booklet. Your name must NOT appear anywhere on your answer booklet.
4. Do NOT write in pencil (except for graphs and diagrams, where required).
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 (where required) must be done in the answer booklet.
7. Present legible and tidy work.
- 8. DO NOT OPEN THIS QUESTION PAPER UNTIL YOU ARE INSTRUCTED BY THE INVIGILATOR.**

SECTION A

This question is compulsory and must be attempted.

QUESTION ONE

The Ocean Fresh Group is a multinational group of companies which specialises in the end-to-end procurement and sale of tuna products. The group's ultimate parent company, Tuna Headco, is domiciled in Yellowfinland, which has a headline corporate tax rate of 30%.

Tuna Headco owns significant assets to undertake the processing of tuna for cans, whole tuna and tuna fillets. This includes the cleaning, gutting and cutting of the fish by employees of Tuna Headco, as well as machines for packaging.

Employees of Tuna Headco assist with the moving of the packaged fish into trucks for distribution. A procurement department within Tuna Headco manage the purchasing of the raw tuna from a wholly owned subsidiary, Tuna Sub 1. Tuna Headco performs research and development (R&D) activities and has recently developed a new automated cutting machine to improve the efficiency, cost and timeliness of the operations; the R&D was conducted as part of a contract research and development arrangement with Tuna Sub 4.

Tuna Sub 1 is domiciled in Country W, which has a headline corporate tax rate of 17%. Tuna Sub 1 owns several large fishing boats and employs crews to catch the tuna within the territorial waters of Country V. Tuna Sub 1 has employees and a warehouse in Country V to store fishing nets and other associated products. It also owns a number of trucks and a large crane, which its employees use to transfer the tuna from its boats and deliver it to Tuna Headco's facility.

Tuna Sub 2 is a wholly owned subsidiary of Tuna Headco and is domiciled in Country X, which has a headline corporate tax rate of 15%. Tuna Sub 2 is a distribution company that purchases the tuna products processed by Tuna Headco and delivers them to independent customers in Country V and various other jurisdictions. Tuna Sub 2 invoices the customers and receives payment, while the physical products are transported to the customers via independent companies using boats operating from Country V.

Tuna Sub 3 is a wholly owned subsidiary of Tuna Headco and is domiciled in Country Y, which has a headline corporate tax rate of 9%. Tuna Sub 3 is a distribution company that purchases the tuna products processed by Tuna Headco and delivers them to independent customers in Country V and various other jurisdictions. Tuna Sub 3 invoices the customers and receives payment, while the physical products are transported to the customers via independent companies using boats operating from Country V.

Tuna Sub 4 is a wholly owned subsidiary of Tuna Headco and is domiciled in Country Z, which has a headline corporate tax rate of 10%. Tuna Sub 4 is an intellectual property holding company that has legal ownership of all intellectual property for the Ocean Fresh Group, including the recently patented machinery process developed and used by Tuna Headco. As stipulated in the contract manufacturing agreement with Tuna Headco, Tuna Headco performs contract research and development for a reimbursement of cost plus 5% and does not receive any legal ownership of intellectual property that is successfully registered. Tuna Sub 4 has a preferential tax agreement with the tax administration of Country Z, granting Tuna Sub 4 an exemption from corporate income tax on the basis of its legal ownership of intellectual property.

Required:

- (a) Provide advice on any four (4) transfer pricing risks or issues that a tax authority may raise when conducting a review of the Ocean Fresh Group. (16 marks)
- (b) Discuss any comparability issues that may arise through the application of transfer pricing methods for the Ocean Fresh Group. (16 marks)
- (c) Advise on any four (4) specific issues in relation to intellectual property and the concept of development, enhancement, maintenance, protection and exploitation of intangibles (DEMPE). (8 marks)

[Total: 40 Marks]

SECTION B:

There are FOUR (4) questions in this section. Attempt any THREE (3) questions.

QUESTION TWO

Company A and Company B are members of a multinational group. Each company performs different services. Company A performs IT services and Company B performs human resource services). Company A and Company B each "consume" both services (that is, Company A receives a benefit from human resource services, and Company B receives a benefit for IT services).

The cost of providing IT services (cost incurred by Company A) is K100 per unit while the market value of IT services is K120 per unit.

The cost of providing human resource services (cost incurred by Company B) is 100 per unit. The market value of human resource services is 105 per unit (note: assume that this is considered a low-value service).

In year one and in subsequent years, Company A provides 30 units of IT services to the group and Company B provides 20 units of human resource services to the group.

Company A and Company B wish to enter into a cost contribution arrangement (CCA) to share the costs and benefits of IT services and human resource services.

Required:

- (a) Advise Company A and Company B on at least eight (8) main requirements of the CCA for it to comply with the arm's length principle, as recommended by the OECD Transfer Pricing Guidelines.
(8 marks)
- (b) Company A consumes 15 units of IT services and 10 units of human resource services. Company B consumes 15 units of IT services and 10 units of human resource services. Compute the costs, contribution and benefits of each of the parties under the CCA.
(12 marks)

[Total: 20 Marks]

QUESTION THREE

- (a) X Limited is a company within a multinational enterprise group (MNE group). X Limited provides an intra-group service to Y Limited, another company within that MNE group. X Limited charges a fee of K50,000 for the service. X Limited understand that, under the Zambian tax laws, the fee must be at arm's length.

Required:

Advise X Limited on the key transfer pricing issues associated with applying the arm's length principle to intra-group services. (8 marks)

- (b) ZICA International is a multinational group of companies headquartered in Lusaka. One of the group companies, ZICA (1) Ltd, owns the patent and trademark rights for range of cleaning products manufactured by the group. ZICA (1) Ltd licences the use of the patent and trademark rights to the other group companies at a fee. The global tax manager of the group wants to understand the process that will be involved in conducting a transfer pricing analysis of the said licensing arrangements between ZICA (1) Ltd and the other group members.

Required:

As a transfer pricing adviser, advise the global tax manager on the main steps involved in the transfer pricing analysis of transactions relating to intangibles. (12 marks)

[Total: 20 Marks]

QUESTION FOUR

Savenda Holdings is the parent company of a multinational group. Savenda Holdings is resident in Country Y. Following the completion of transfer pricing audits by the tax authorities in the several countries where the group operates, the tax authorities made material transfer pricing audit adjustments to the profits of the group companies. In Country Y, this adjustment has resulted in an increase in the amount of royalty income received by Savenda Holdings from three subsidiaries to reflect an arm's length price for the supply of intellectual property. Savenda Holdings does not fully agree with the adjustments made by the tax authority.

Required:

You have been engaged as the international tax adviser to the Savenda group.

- (a) Advise the Savenda group on the options that may be available to the group in resolving the dispute with the tax authorities following the audits. Your advice should include any conditions or requirements which apply to the option(s) you suggest. (10 marks)
- (b) Advise the Savenda group on how it can minimise the risk of tax authorities undertaking future transfer pricing audits and adjustments in relation to its activities. (10 marks)

[Total: 20 Marks]

QUESTION FIVE

- (a) Rho Ltd., a Zambian company, transfers process patents to ABC Inc., a US company, which guarantees 12% of the total borrowings of Rho Ltd. Rho Ltd and ABC Inc. have different shareholders but are governed by the same board of directors.

Required:

Explain whether Rho Ltd.'s transfer of process patents to ABC Inc. will be a controlled transaction under the Income Tax Act, Cap 323. (5 marks)

- (b) Gamma Ltd., a Zambian company, has two subsidiaries, Delta Ltd. and Omega Ltd. Delta Ltd, which commenced business four years back, is engaged in the development of a highway project, for which purpose an agreement has been entered into with the Zambian Government. Omega Ltd is carrying on the business of trading in steel. Omega Ltd sells 25,000 metric tons of steel of the value of K30,000 per MT to Delta Ltd for K20,000 per MT.

Required:

Explain whether the transaction between Omega Ltd. and Delta Ltd would be subject to a transfer pricing adjustment by the Zambia Revenue Authority (5 marks)

- (c) Tamanga Holdings Ltd is the ultimate parent entity of an MNE group. Tamanga Holdings is tax resident in Zambia. Tamanga Holdings engages in commercial transactions with its domestic and foreign subsidiaries, which include the provision of management, human resources, product marketing and IT services. The group has an annual consolidated revenue exceeding K50 million.

Required:

Explain briefly explain the transfer pricing documentation obligations of Tamanga Holdings under the Zambian transfer pricing regulations. (5 marks)

- (d) ABC Ltd., a Zambian company, borrowed K10,000,000 from XYZ Ltd, a related company incorporated in Country B, at an interest rate of 20% p.a. ABC Ltd also has other loans borrowed from related companies amounting to K80,000,000. The interest rates on these additional borrowings ranges from 15-20%. ABC Ltd.'s equity capital is K15,000. The average lending rate by unrelated lenders is 10%.

Required:

Explain whether there is any transfer pricing risk associated with ABC Ltd.'s borrowings. (5 marks)

[Total: 20 Marks]

END OF PAPER

SUGGESTED SOLUTIONS

SOLUTION ONE

(a) The Ocean Fresh Group has a number of associated enterprises with different functions and transactions between them. In addition, they are operating in multiple jurisdictions with different corporate tax rates. Therefore, a tax authority would certainly raise questions in terms of potential transfer pricing risks/issues. Potential risks/issues that may be discussed include:

- With regard to the contract research and development arrangement between TunaHeadco and Tuna Sub 4, intellectual property and DEMPE issues will be a risk in terms of the arm's length nature of the arrangement. The form versus substance surrounding the arrangement would need to be tested. The cost plus 5% remuneration for TunaHeadco's functions, assets and risks require testing.
- Tuna Sub 4 is in a low tax jurisdiction, whilst TunaHeadco is not, further Tuna Sub 4 receives a tax exemption having regard to intellectual property legal ownership. Would also need to check if any royalties or license fees exist in the arrangement.
- Tuna Sub 1 is operating in a jurisdiction with a corporate tax headline of 17%. It is domiciled in Country W, however, appears to own assets and fish in Country V. This may create a permanent establishment and transfer pricing risk between the jurisdictions.
- Tuna Sub 2 and Tuna Sub 3 both operate in low taxed jurisdictions. The prices paid by both these entities would need to be examined and determined which associated enterprise invoices them (TunaHeadco or Tuna Sub 1) relative to the work performed. The purchases by Tuna Sub 2 and Tuna Sub 3 could be tested in terms of the arm's length nature of them by internal CUPs. A resale price method may also potentially be applied.

The group may be advised that the global value chain of the entire group arrangement would be required. A transfer pricing advisor would develop a risk framework and recommendations following a full functional analysis, including functional interviews across the entities within the group. Any intercompany agreements would need to also be requested and examined.

MARKING KEY – 4 marks for each potential risk item discussed.

(b) Comparability issues

Para 1.36 of the OECD Transfer Pricing Guidelines (2017) outlines the comparability factors as:

- 1) Contractual terms
- 2) Functions, assets and risks
- 3) Characteristics of property or services

- 4) Economic circumstances
- 5) Business strategies

In terms of the Ocean Fresh Group, all of the comparability factors must be considered when selecting and applying transfer pricing methods.

Candidates may note:

- The contractual terms of all intercompany agreements between associated enterprises in the Ocean Fresh Group should be examined. It would be expected that there would be formal agreements in place for the contract research and development arrangement between Tuna Headco and Tuna Sub 4. There may also be agreements in place surrounding the intellectual property as well as the distribution functions.
- A functional analysis of the Ocean Fresh Group would be conducted, and any comparability analysis would consider the functions, assets and risks of the tested party and comparables.
- The characteristics of property or services would include the products purchased and distributed as well as any services provided within the group.
- Economic circumstances in the different markets the entities of the Ocean Fresh Group are operating in would need to be considered.
- The business strategies of the entities and comparables would be considered. For example, a subsidiary may be relatively new to the market and targeting a market penetration strategy to gain market share.

MARKING KEY – 3 marks for each comparability factor identified and discussed, 1 mark for taking note of the additional matters (highlighted above) that would need to be considered in the comparability analysis process.

(c) Intellectual property and DEMPE

Reference is made to Chapter VI of the OECD Transfer Pricing Guidelines – Special consideration for intangibles.

Any intangibles that exist within the Ocean Fresh Group need to be firstly identified. It is evident that intangibles exist as it is stated that Tuna Sub 4 legally owns all intellectual property for the group. Clearly, this arrangement will be discussed and issues raised, as highlighted below.

Ownership and DEMPE (development, enhancement, maintenance, protection and exploitation) need to be fully examined. This includes the form and substance of the intangibles.

Analysis of intangibles should involve an investigation of the commercial and financial relations of the entities within the group to delineate the transactions. A functional

analysis should be performed to identify which entities are creating intangibles or adding value through the value chain.

Some specific issues that may be raised by candidates include:

- Who legally owns the IP?
- The legal form of the arrangement relative to the economic substance.
- Who performs the DEPME functions?
- What is the extent and nature of the research and development conducted?
- Has there been any transfer of IP?
- Is the remuneration of the arrangements arm's length?

If any restructuring has occurred, particularly in relation to the IP, implications in relation to the OECD BEPS Project, Actions 8 – 10 (Aligning Transfer Pricing Outcomes with Value Creation) and Chapter VI of the OECD Transfer Pricing Guidelines may include:

- Arm's-length pricing should be based on accurately delineated transactions.
- Analysis of the contractual relations together with evidence of the actual conduct of the parties, including control over risks.
- Where economically relevant characteristics of a transaction are inconsistent with contractual terms, the actual transactions should in general be identified based on the actual conduct of the parties.
- The legal form of the transaction relative to the economic reality of the transaction.
- Has there been an arm's length compensation for any potential transfer of assets?

MARKING KEY – 2 marks for each issue identified and discussed.

SOLUTION TWO

(a) According to the OECD Guidelines (para. 8.50), a CCA between associated persons should meet the following requirements:

- The participants should include only enterprises expected to derive mutual and proportionate benefits from the CCA activity itself (and not just from performing part or all of that activity). This is in order to minimize the risk of disputes over the ownership of the fruits of the CCA and disputes with tax authorities.
- The arrangement should specify the nature and extent of each participant's interest in the results of the CCA activity, as well as its expected share of benefits.
- No payment other than the CCA contributions, appropriate balancing payments and buy-in payments should be made for the particular interest or rights in intangibles, tangible assets or services obtained through the CCA.

- The value of participants' contributions should be determined in accordance with the arm's length principle and, where necessary, balancing payments should be made to ensure the proportionate shares of contributions align with the proportionate shares of expected benefits from the arrangement.
- The arrangement may specify provision for balancing payments and/or changes in the allocation of contributions prospectively after a reasonable period of time to reflect material changes in proportionate shares of expected benefits among the participants; and
- Adjustments should be made as necessary (including the possibility of buy-in and buy-out payments) upon the entrance or withdrawal of a participant and upon termination of the CCA.

It is recommended that participants in a CCA should prepare documentation on the nature of the CCA, the terms of the CCA, the expected benefits and compliance with the arm's length principle. The documentation should include information on:

- The participants;
- Any other associated enterprises which will be involved;
- Any other associated enterprises that may be expected to benefit from the CCA;
- The activities of the CCA;
- The duration of the CCA;
- The measurement of the participants' shares of expected benefits;
- The contributions of each participant;
- The consequences of a participant entering the CCA, leaving the CCA or of termination of the CCA; and
- Balancing payments and adjustments to the terms of the CCA to reflect changes in economic circumstances of the participants.

Further, participants are encouraged to monitor the operation of a CCA.

MARKING KEY – 1 mark for each requirement identified and discussed.

(b) Under the CCA, the calculation of costs and benefits are as follows:

Cost to Company A of providing services:	K3,000 (60% of total costs)
Cost to Company B of providing services:	<u>K2,000</u> (40% of total costs)
Total cost to group:	K5,000

Contribution made by Company A (market value):	K3,600 (63% of total contributions)
Contribution made by Company B (market value):	<u>K2,100</u> (37% of total contributions)
Total contributions made by group:	K5,700

Benefit to Company A: $K1,800 + K1,050 = K2,850$ (50% of total value of K5,700)
 Benefit to Company B: $K1,800 + K1,050 = K2,850$ (50% of total value of K5,700)

Contributions measured at value: Under the CCA, Company A should bear the costs associated with 50% of the total value of contributions (K5,700), or K2,850. The market value of Company A's in-kind contribution is K3,600. Company B should bear the costs associated with 50% of the total value of contributions, or K2,850. The value of Company B's in-kind contribution is K2,100. Accordingly, Company B should make a balancing payment to Company A of K750.

MARKING KEY – 2 marks for each item of cost, contribution and benefit correctly computed for each of the parties.

SOLUTION THREE

- (a) Reference is made to Chapter VII of the OECD Transfer Pricing Guidelines – Special considerations for intra-group services.

The first key consideration in relation to intra-group services is whether they have been provided before moving onto an analysis of the arm's length nature of them. Examples of intra-group services include administrative, accounting, human resources, marketing and sales, research and development.

Some of the main issues candidates may raise include:

- Benefits test – has a benefit been received and would an independent party have been willing to pay for the services.
- Shareholder activities – not considered to be an intra-group service and therefore not chargeable given at the shareholder level (e.g., costs of compliance for the parent company, shareholding costs, listing, meetings, costs ancillary to the governance of the MNE).
- Duplication – performing for itself and another member.
- Incidental benefits – e.g., economic benefits for members in a group not directly involved in a decision and a shareholding or co-ordination centre.
- Centralised services – activities such as administrative, accounting that a central entity performs for other members of the group and are remunerated for.
- Form of remuneration – e.g., service fee, commission.
- Determining an arm's length charge:
 - Identification of actual arrangements for charging intra-group services
 - Direct charge methods – charge for specific intra-group services.
 - Indirect charge methods – cost allocation and apportionment methods such as allocation keys of staff hours, turnover, orders processed.
 - Calculation of an arm's length remuneration is based on the value of the intra-group service and how much a comparable independent enterprise would be willing to pay for the service.
- Low value adding intra-group services – e.g., back office administrative services (cost plus 5%) compared to higher value adding services such as highly technical engineering services.

MARKING KEY – 1 mark for each issue discussed.

(b) An analysis of intangibles will generally involve the following steps:

- Step 1: Identification of the intangibles used or transferred in a transaction, as well as the specific economically significant risks associated with the “development, enhancement, maintenance, protection, and exploitation” or (DEMPE) functions of the intangibles.
- Step 2: Identification of the legal ownership and contractual arrangements involved. The legal owner can be determined by examining relevant registrations, license agreements, other relevant contracts, and other indications of legal ownership, as well as the contractual rights and obligations. Contractual payment terms (for example, licensing terms) may establish how receipts and expenses of the MNE are allocated, and the form and amount of payments.
- Step 3: Identification of the parties performing functions, contributing assets, and assuming risks related to the DEMPE functions of the intangibles.
- Step 4: Determination of whether the conduct of the parties and the terms of the relevant legal arrangements are consistent. For example, one must determine whether the party assuming risks in fact controls the risks and has the financial capacity to assume the risks.
- Step 5: Identification of the controlled transactions related to the DEMPE functions of intangibles in light of the intangible’s legal ownership under relevant registrations and contracts.
- Step 6: Determination of the arm’s length prices according to each party’s contribution of functions performed, assets used, and risks assumed.

MARKING KEY – 2 marks for each step correctly identified and discussed.

SOLUTION 4

(a) The options available to the Savenda group will likely depend on domestic laws and regulations in the countries the audit adjustments relate to. However, the following options are likely to be available:

- (1) Pay the assessments and not take any action;
- (2) Object or appeal against the assessments;
- (3) Undertake litigation in the country which the made the adjustment; or
- (4) Apply for Mutual Agreement Procedure (MAP) assistance.

Options 2 and 3 will vary depending on the legislation and administrative procedures of the tax authority in the relevant country.

The procedure for MAP is mostly uniform and is addressed in tax treaties. Although tax treaties may vary depending on the country, the 2017 OECD Model Tax Convention on Income and Capital is referenced.

Article 26 addresses MAP and regardless of the domestic remedies available under domestic law, the taxpayer may present their case to the tax administration (competent authority) which the audit adjustments relate to. However, this must be submitted within a 3-year timeframe. The competent authorities of the respective states, who are employees of the tax administration will seek to eliminate double taxation (i.e. one tax administration may grant relief). If the case is not resolved within two years, the taxpayer has the option to request that the issue/s be resolved under arbitration (as long as the issue has not previously been considered by a court or tribunal).

However, the countries which the audit adjustment relates to must have entered into a treaty. If they have not, MAP is not available to the multinational.

MARKING KEY – 4 marks for identifying the 4 available options. 6 marks for discussing the MAP.

- (b) The Group has several options which candidates could recommend. The most obvious ones are set out below.

The multinational may request an Advance Pricing Arrangement (APA). An APA is covered in Chapter IV (F) of the OECD Guidelines. An APA is an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria for the determination of the transfer pricing for those transactions over a fixed period of year. As intellectual property is a complex area of transfer pricing, it would be recommended that the multinational consider entering into a bilateral APA with the tax administrations. However, due to the resources required, time consuming examination process and potential costs, it is suggested that this is limited to the countries with the most material transactions. The tax administrations must also offer an APA and there must be treaties between the countries for a bilateral APA.

Paragraph 4.156 highlights one of the key benefits of a bilateral APA is the reduction or elimination of the possibility of double taxation, which has arisen in the audit.

Another possible suggestion is for the multinational to improve the quality of their contemporaneous transfer pricing documentation in order to comply with the arm's length principle. A key element is updating their transfer pricing analysis, which includes functional analysis, transfer pricing methodology and comparability. This documentation should be updated on a yearly basis to consider any changes in transactions, the business operations of the multinational and update comparables. Chapter V of the OECD Guidelines covers documentation, including country-by-country documentation. This information would potentially be of a benefit to tax administrations.

MARKING KEY – 10 marks for identifying and discussing at least one available option.

SOLUTION FIVE

- (a) The scope of the term “intangible property” under regulation 18 of the Income Tax (Transfer Pricing) Regulations includes, inter alia, a patent, invention, secret formula or process. Transfer of intangible property between associated persons falls within the scope of controlled transactions. Since ABC Inc. and Rho Ltd. are subsidiaries of the same holding company and are governed by the same board, ABC Inc. and Rho Ltd. are deemed to be associated persons under section 97A(1) of the Income Tax Act. Therefore, the transfer of process patents by Rho Ltd. to ABC Inc. is a controlled transaction, and the transfer pricing provisions of the Income Tax Act and the Income Tax (Transfer Pricing) Regulations are attracted in this case.

MARKING KEY - 5 marks for correctly identifying that the transaction is a controlled transaction due to the parties coming within the definition of associated enterprises.

- (b) Delta Ltd and Omega Limited are associated enterprises since they are subsidiaries of the same company. Therefore, transactions between them are controlled transactions that are subject to the arm’s length principle. Since Omega Ltd sold steel to Delta Ltd at a price lower than the fair market value, this suggests that the transaction may not have been at arm’s length and may, therefore, subject the transaction to transfer pricing scrutiny by the ZRA. If it is determined, following such scrutiny, that the sale price was indeed lesser than what would have been charged if the transaction was between independent persons (i.e. not at arm’s length), an upward adjustment to the sale price may be made by the ZRA.

MARKING KEY – 2 marks for correctly identifying that the transaction is a controlled transaction and 3 marks for correctly discussing the transfer pricing implications of the transaction being priced below market value requirements.

- (c) Regulation 21 of the Transfer Pricing (TP) Regulations imposes an obligation on a person that is party to a controlled transaction to prepare, on an annual basis, and have in place contemporaneous documentation that verifies that conditions in respect of its controlled transactions for the relevant tax year are consistent with the arm’s length principle. A non-exhaustive list of required contemporaneous documentation is provided in Regulation 21(4). The obligation applies to any person whose annual turnover is more than K 50 million in any tax year. Tamanga Holdings will, therefore, be required to comply with this requirement if its annual turnover exceeds this threshold.

Regulation 22A of the TP Regulations further requires the ultimate parent entity of an MNE group that is tax resident in Zambia with an annual consolidated group revenue exceeding K4,795,000,000 in the immediately preceding accounting year to file a country-by-country report with the Commissioner-General with respect to its reporting accounting year. The CbC report must be filed within a period of twelve 12 months from the end of the said reporting accounting year for which the report is being furnished. Since the Tamanga group’s consolidated is less than the prescribed threshold, the filing of a CbC report will not be required.

MARKING KEY – 3 marks for identifying and discussing the requirements under regulation 21 of the TP Regulations, and 2 marks for identifying and discussing the requirement for a CbC report under regulation 22A.

- (d) The interest rates charged on the loans contracted by ABC Ltd. from its related companies appear to be in excess of what independent lenders would charge, looking at the average rate of 10% in the market. As such, these intra-group lending transactions may be subject to transfer pricing rules under the Income Tax Act as they may result in ABC Ltd paying lower income tax due to high interest expense deductions. If the lending transactions are found not be in compliance with the arm's length principle, relevant adjustments may be made by the tax authority to the taxable income of ABC Ltd. For instance, some of the interest may be adjusted to a rate that would be payable had ABC Ltd borrowed from independent lenders.

MARKING KEY –5 marks for identifying that the company's interest deductions may be limited if the borrowings from related parties are found not to be on arm's length terms.