

TAX PLANNING & COMPLIANCE

July-August 2023

Time allowed- 3:30 hours

Total marks- 100

[N.B. - The figures in the margin indicate full marks. Questions must be answered in English. Examiner will take account of the quality of language and of the manner in which the answers are presented. Different parts, if any, of the same question must be answered in one place in order of sequence.]

Marks

1. Rare-Source Global Plc is a large multinational corporation (MNC) registered in the Cayman Islands. The main business of the company is trading rare earth elements through its subsidiaries worldwide. Rare-Source BD Limited ("RSBD") is a 100% owned subsidiary of Rare-Source Global Plc ("RSGP") and primarily procures Neodymium, a rare earth element, from the overseas subsidiary of the group and supplies it to Symphony Mobiles Ltd, a local smartphone manufacturing company.

In the financial year ended 30 June 2023, RSBD imported 5,000 kg of Neodymium at a price of USD 750,000 from one of RSGP's subsidiaries in Dubai which was reported in its financial statements submitted with the tax authority. During an investigation by the Deputy Commissioner of Taxes ("the assessing officer"), it was revealed that the Neodymium was being sold in the international market at USD 130 per kg on the transaction date and company was paid USD 800,000 for the said import.

The assessing officer became aware through a global news report that RSGP has been engaging in aggressive tax planning strategies to minimize their tax liabilities. These strategies involve shifting profits to low-tax jurisdictions, taking advantage of loopholes in tax laws, and exploiting inconsistent enforcement practices in many countries. The assessing officer believes that RSBD pays significantly less taxes than the other similar local businesses, creating an unfair competitive advantage.

This scenario raises concerns about the tax principles and ethics of MNCs operating in Bangladesh.

Requirements:

You should assume that the tax law for the financial year 2022-23 continues to apply for the financial year 2023-24, and the Income Tax Ordinance 1984 is applicable.

- a) Discuss the ethical implications and potential violations of tax principles involved in the aggressive tax planning strategies employed by RSBD in Bangladesh. Additionally, propose measures that the tax authorities can undertake to ensure fair taxation practices and prevent such abuses in the future. 5
- b) Quantify the additional tax that the assessing officer should charge for the mismatch of the imported materials as discussed in the above scenario. Use conversion rate as 1 USD equals BDT 110. 2
2. You are a practicing Chartered Accountant recently employed by a Chartered Accountancy Firm, ABC & Co. Your firm provides tax advisory services to X Ltd, a Bangladeshi company has been operating in the FMCG sector in Bangladesh since 2015. The Tax partner of the firm assigned you to examine issues described below in relation to X Ltd:

On 1st March 2021, the Commissioner of Taxes, "XX" Tax Zone sent a notice to X Ltd u/s 120 of the ITO 1984 on the following grounds in relation to the assessment year 2018-19:

- i) X Ltd filed its tax return for the assessment year 2018-19 showing a turnover of Taka 1,800 million, which resulted in disclosure of lesser turnover to the extent of Taka 1,500 million, as the Commissioner identified as per VAT record its total Turnover should have been Taka 3,300 million.
- ii) Because of the above, the assessment order is erroneous as it is prejudicial to the interests of the revenue.

X Ltd filed its income tax return for the assessment year 2018-19 under Universal Self-Assessment u/s 82BB of the ITO 1984, accordingly the acknowledgement receipt of the return was deemed to be the assessment order of the DCT. This return was not selected for tax audit.

Upon examination of the relevant documents, you identified the following for the assessment year 2018-19:

- i) X Ltd had two VAT registered premises one for manufacturing of electronics items and other one is for the sales center. X Ltd did not have any central registration under the VAT law.
- ii) X Ltd transferred its manufactured goods from factory to Sales center, from where it sold all manufactured goods to third parties.
- iii) As per VAT record the value of goods transferred from factory to Sales center was Taka 1,500 million, while it was Taka 1,800 million for sales to third parties excluding VAT.

Being not registered under Central BIN, X Ltd had to pay VAT for the transfer of goods from Factory to Sales center.

Requirements:

- a) Prepare a note for X Ltd regarding the legal position of the matter. 4
- b) Describe at least four conditions under which an order shall be deemed to be erroneous u/s 120 of the ITO 1984. 2

3. You are working as a Senior Manager in a leading tax advisory firm based in Dhaka, Bangladesh. Maria Moon is employed as a bioengineer for an environmental consultancy firm in Dhaka. Ms. Moon has always been a tax resident in Bangladesh. You have received an email from Ms. Moon seeking advice on tax treatment as she anticipates a substantial change in her financial conditions. The extract from Ms. Moon's email is as follows:

"My current salary as an engineer is Tk. 3,600,000 per year. Other than my salary, I do not currently have any other income, contributions, or expenses. My employer deducts all taxes and contributions due from my monthly salary. The salary breakup, as agreed with my employer, is as follows:

Particulars	Amount, Tk.
Basic salary	2,900,000
House rent	450,000
Medical allowance	200,000
Conveyance allowance	50,000
Total	3,600,000

I made sufficient investment to obtain full investment tax credit each year. It is my understanding that my tax affairs are relatively simple at the moment, but there are potentially some changes to my future income, and I would like some advice in this respect. If possible, I would like to keep my tax affairs simple.

In December 2022 and February 2023, I went to Europe for holidays where all the costs were borne by my employer. Additionally, I spent a week in Singapore in the first week of June 2023 with my husband, two kids aged 8 and 12, and my cousin who is studying in a private university. Just to let you know, I spent USD 7,000 in December 2022, USD 6,000 in February 2023, and USD 10,000 on my last tour in Singapore. The money spent includes tickets, food and lodging, local travel, etc., and I assume USD 1,200 was used for my independent cousin. As per my employment contract, an overseas trip expenses in every two years shall be reimbursed. Note, I have not availed any foreign trip in the earlier years. My employer reimbursed USD 8,000 for the trip in December, USD 6,000 for the trip in February 2023 and half of the entire costs for Singapore trip. Although my employer assumed that there would be no tax implications for the trips, I would like your opinion on this matter.

I bought a flat in Niketon area of Gulshan for Tk. 23,000,000 in the year 2015. Recently, I inherited a house from my father, who is a UK national. The property is located in the UK. The cost of the property I inherited was GBP 4,00,000, and it is now rented. The local accountants sent me a note on projected income and expenses for the financial year 2022-23 for the house. I would like to know how this property and its income will affect my tax obligations in Bangladesh.

The rental income from the property is accumulated in a personal bank account in the UK, which I opened in 2022. During 2022, a net interest of GBP 500, after deducting source tax of GBP 50, was credited into this account. The closing balance in the UK bank account was GBP 12,000. I do not want to report my UK assets and income in my Bangladesh tax return.

Here is the projected income and expenses in the UK regarding my house property:

Particulars	Amount, GBP
Rental income	18,000
Municipal tax	(800)
Insurance	(400)
Repair and maintenance	(1,200)
Tax in UK	(2,500)
Net income	13,100

As an engineer, I have limited knowledge about the Bangladesh tax system. Therefore, I kindly request your advice on how to address all those matters in my tax return."

Requirements:

You should assume that the tax law for the financial year 2022-23 continues to apply for the financial year 2023-24, and the Income Tax Ordinance 1984 is applicable. Use the exchange rate of 1 USD equals Tk. 110 and 1 GBP equals Tk. 130

- a) Explain whether you agree with the employer's statement that there will be no tax for Ms. Moon in relation to foreign trips/holidays. You should provide a detailed computation in answering this question to figure out how much additional tax Ms. Moon shall be paid, if any. 8
- b) Explain how rental income from the UK property will affect Moon's tax obligations in the current year and onwards. Your answer should also include the disclosure requirements for UK property in her tax return, assuming that there is a double tax treaty between Bangladesh and the UK. 4

4. **Blue Ocean Fishing Private Limited (BOFPL)** is one of the oldest deep sea fishing companies in Bangladesh. The company is experiencing declining trends in profitability, crisis in working capital and in fact reported net loss during the last six years. Consequently, the shareholders have circulated their interest to divest their investment to potential bidders. Total number of shares outstanding in the company is 3,000,000 having a face value of BDT 100 each. Five individual shareholders having twelve-digit TIN hold all the shares of the company and may consider any beneficial take over scheme from the prospective buyers. The company discontinued its operation of the company from 01 July 2022 and terminated all of its employees beforehand. The audited statement of financial position of the company as on 30 June 2022 with fair values of assets and liabilities are provided as below.

Blue Ocean Fishing Private Limited Statement of financial position As at 30 June 2022		
Assets	Carrying amounts in BDT	Fair value in BDT
Non-current assets	580,000,000	920,000,000
Property, plant and equipment	500,000,000	800,000,000
Intangible assets	80,000,000	120,000,000
Current assets	50,500,000	40,000,000
Cash and cash equivalents	1,500,000	1,500,000
Accounts receivable	15,000,000	10,000,000
Inventories	30,000,000	25,000,000
Advance deposit and prepayments	4,000,000	3,500,000
Total Assets	630,500,000	960,000,000
Liabilities		
Noncurrent liabilities	250,000,000	340,000,000
Loan from bank	220,000,000	220,000,000
Deferred tax liability	30,000,000	120,000,000
Current liabilities	172,500,000	177,500,000
Current portion of loan from bank	11,000,000	11,000,000
Accounts payable	85,000,000	85,000,000
Provisions	46,500,000	51,500,000
Provision for current tax	30,000,000	30,000,000
Equity	208,000,000	442,500,000
Share capital	300,000,000	300,000,000
Revaluation reserve		234,500,000
Retained earnings/loss	(92,000,000)	(92,000,000)
Total liabilities and equity	630,500,000	960,000,000

The records of income tax assessments disclose the following positions.

Income year ended	Unabsorbed tax depreciation in BDT	Carried forward business loss in BDT
30 June 2016	30,000,000	-
30 June 2017	35,000,000	5,240,000
30 June 2018	38,700,000	4,640,000
30 June 2019	40,570,000	7,380,000
30 June 2020	42,300,000	8,856,000
30 June 2021	45,000,000	10,560,000

Considering the declining trend in profitability, no deferred tax asset was recognized on unabsorbed depreciation and carried forward business loss. Shareholders of BOFPL, have shortlisted the following two buyout proposals as described below and approached you to understand their tax implications and their net position.

- i. **Floating Fishing Private Limited (FFPL)** has offered to purchase the whole business i.e. all the assets (including licenses), liabilities (including potential tax liabilities) and take human resources of BOFPL. It has offered a transfer price of BDT 420,000,000. FFPL has to transfer and transport all the movable properties to the dockyard of FFPL. After the takeover, shareholders have to windup BOFPL by themselves. Shareholders of BOFPL anticipates a cost of BDT 3,000,000 for transferring the movable properties and a legal and professional fee of BDT 1,500,000. FFPL has agreed to bear equal share of such legal and professional fee. Shareholder so BOFPL further estimates a professional fee of BDT 2,000,000 to windup the company.
- ii. **Optimus Naval Drive Private Limited (ONDPL)** has proposed for an amalgamation with BOFPL. Under the scheme of arrangement, all the assets, licenses, recoverable claims from any party including the government and tax authorities and all liabilities would vest with ONDP. Upon approval of the scheme from the Court, the name of BOFPL would be struck off from the register RJSC. As a consideration, ONDPL would issue 3,800,000 ordinary shares of BDT 100 each and a cash consideration of BDT 42,500,000 to the shareholders of BOFPL. ONDPL estimated BDT 5,000,000 on account of professional fees and other related cost for the execution of the amalgamation. Considering the risk of hidden and potential liabilities, ONDPL stipulated for a three-year lock in period for transfer of shares to be held by the shareholders of BOFPL in the amalgamated company.

Requirements:

- a) Considering the proposal from FFPL, analyze and calculate the tax liability and net position of the Shareholders of BOFPL. 6
 - b) Considering the proposal from ONDPL, analyze and calculate the tax liability and net position of the Shareholders of BOFPL from the proposed amalgamation. 4
 - c) Describe the future tax consequences of the shareholders of BOFPL, if any, under amalgamation 2
 - d) Describe the implication for ONDPL from the proposed amalgamation. 4
 - e) Which of the two buy out proposals would you advise to the shareholders of BOFPL and why? 2
5. Moon Bangladesh Ltd (Moon), is a reputed industry member has been operating in electronics goods sector in Bangladeshi since 2000. As a standard business practice, Moon buys picture tubes for television from its parent company Amigo Technology Ltd. The picture tubes are branded under the global brand name of Amigo Technology for which Moon pays a royalty of Tk. 100 to Amigo Technology Ltd for every television it sold. Amigo Technology sold similar picture tubes to other unrelated customers in Sri Lanka, but do not charge any royalty. Considering the ongoing Forex crisis in Bangladesh, Amigo Technology Ltd offered a 6-month credit period to Moon, on the other hand for other customers, the credit period was 3 months. In 2021-22, 500,000 units of picture tubes were bought for a total sum of Tk. 500 crores from Amigo Technology Ltd (assume it was uniform throughout the financial year). Cost of capital of Amigo Technology was 10% per annum. For supply of identical quantity of similar picture tubes to other unrelated customers, Amigo Technology Ltd would have charged Tk. 480 crores (excluding interest component for the delay beyond 3 month). Assume the entire purchase was sold out by 30th June 2022.

Requirement:

Determine the arm's length price (ALP) of the transaction of purchase of picture tubes by Moon Bangladesh Ltd from Amigo Technology Ltd indicating the ALP method and its impact on the assessable income, if any, for the assessment year 2022-23. 10

6. Pioneer Plastics Limited is leading plastic goods manufacturer of the country. It pays VAT on sales adopting 15% output VAT rate. The chief accountant of the company is concerned about the VAT implications for the following transactions and events took place during the month of June 2023 and approached for your advice.

Requirements:

Prepare a memo to the chief accountant of the company elaborating the VAT implications, compliance requirements and penal exposure, if any.

- a) Pioneer Plastics Limited (PPL) had a wholly owned subsidiary namely Pioneer Industrial Cleaning Services Limited (PICSL). The company has recently transferred a total number of 100,000 shares PICSL for BDT 15 each to another private limited company. Face value of each of the shares of PICSL is BDT 10 and the company no longer remains a subsidiary of PPL. 4

- b) PPL has taken some software maintenance service from Genesis IT Services Limited (GISL) for a fee of BDT 1,000,000. The vendor issued a tax invoice adding 5% VAT. On the other hand, PPL sold some plastic furniture to GISL for BDT 500,000. PPL issued a tax invoice adding 15% VAT. PPL issued an account payee cheque for IT service fee after adjusting amount receivable from GISL. 4
- c) PPL sold plastic furniture of BDT 1,500,000 adding 15% VAT to renowned corporate house in Bangladesh on 05 May 2023. However, due to some error in the design of the furniture, it had to take return of the furniture 25 June 2023. PPL did not receive any payment from the purchaser but paid the VAT due on the supply before submission of the VAT return of May 2023. 4
- d) The company has supplied plastic products for modification and renovation of accommodation, sitting and dining facility with plastic fittings for an ocean going ship. The supply value is BDT 1,500,000. The vessel operator is a national flag vessel carrier and runs container carrier ship in international territory. 4
- e) Due to some technical difficulties, information of sales in the POS machine for the month of June got corrupted. The IT management team of the company could not recover the data and approached a professional data recovery consultant. The company needs extension of time from VAT authority for submission of VAT return for the month of June. Advise the company on procedure for seeking extension of time and penalty exposure, if any 4
7. Hope S.A. ("the Company") is a German based consumer goods company, contemplating to start its operation in Bangladesh as Hope Bangladesh Ltd as Bangladesh being considered as one of the emerging economies having a good consumer base, which exactly matches the consumer profile that the company has been operating across the world. Accordingly, the Company intends to open a manufacturing plant in Chittagong (the Factory), which it wants to operate through one mother warehouse in the factory and five sales centers across the country to market its homogeneous food products. In relation this, the company gathered following basic information in 2019 regarding VAT operation, which it could not initiate due to Covid-19 pandemic:
- (i) It will require separate registration for Factory and all five sales centers.
 - (ii) Accordingly, separate books and records need to be maintained in all the premises mentioned above and all VAT transactions (sales, purchase, deposit of VAT, etc.) for the month will require to be recorded separately in each location, which needs to be reported through separate VAT returns every month as well.
 - (iii) For transfer of goods from Factory location to any sales center or transfer between one sales center to another, will require issuance of VAT Challan (Mushak 6.3) and goods can be transferred only upon payment of VAT as per base value for VAT declared through Input-Output Coefficient (Mushak – 4.3) with the respective authorities.

Now, the Covid-19 pandemic being over, the company has reinitiated the process to start the Company operation in Bangladesh in 2023 and therefore wants to review the above in view of the provisions of prevailing VAT laws.

Requirement:

Advise the Company as to whether the above-mentioned procedures that it gathered in 2019 is the only way or there are other simpler options available highlighting the following areas:

- (i) VAT Registration
- (ii) Submission of Input-Output Co-efficient
- (iii) Submission of VAT return
- (iv) Applicability of VAT when goods will be transferred from factory to sales center or one sales center to another sales center or sales center to third parties.

You are a chartered accountant, has been working for a reputed tax advisory firm since 2020. As part of advisory services of your Firm, you received following queries from clients. Explain whether the clients can go ahead with approach, if not identify the possible exposures if any including remedies if required. 8

8. ABC Ltd is manufacturing concerns, has been marketing consumer goods under FMCG sector, which it manufactures in its factory located in Narayanganj. For the month of April'23, ABC Ltd obtained a service from a non-resident company abroad for which, it remitted US\$ equivalent to Tk. 10,00,000 upon depositing Tk. 150,000 as VAT through treasury challan.

Being this is import of service, the service provider did not issue any VAT Challan (Musak 6.3), however since section 46(3)(Gha) of the VAT & SD Act 2012 specified that the copy of treasury challan as proof of payment is acceptable as a supporting documents for the purpose of claiming input tax credit, the Tax Manager of ABC Ltd is confident that the company can claim this input VAT of Tk. 150,000 without any further formalities.

Requirement:

As a matter of precaution, the CFO of ABC Ltd, advised the Tax Manager to revalidate the position with the Consultant.

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9. Consider today's date as 1 July 2023.

You are an indirect tax manager at a leading practice firm in Dhaka. CoffeeKing Bangladesh Limited ("CKB") is a tax client of your firm. Yesterday, you received an email from the Managing Director of CKB, the extract of which is mentioned below:

"My name is Smith Williams. I have been appointed as the new Managing Director of CoffeeKing Bangladesh Limited, which is a 100% subsidiary of Coffee Manufacturing Limited, Brazil. I am impressed that the demand for coffee has dramatically increased over the years in Bangladesh, and I am proud to tell you that our business is also growing fast. Currently, we are planning to introduce more premium brand coffee into the Bangladesh market. Therefore, we are seeking your advice on our latest business plan.

Just to give you a quick background—CKB is one of the leading coffee importers from Brazil, and it operates 123 coffee outlets in Dhaka city and its adjacent areas. 'Smash Cocoa' is a premium branded roasted coffee that we offer to our customers mainly in the city of Dhaka, mixed with different flavours. This coffee has garnered significant attention among thousands of coffee lovers. CKB reported a 45% operating profit last year from the sale of 'Smash Cocoa'.

Inspired by the success of our existing coffee business, CKB is planning to expand its operations in Chattogram and Sylhet City. We are considering importing decaffeinated coffee called 'CocoaZero,' which is a superior quality coffee compared to 'Smash Cocoa.' As part of the group policy, the management of CKB aims to maintain a 20% profitability from the business of the 'CocoaZero' brand. Therefore, this time CKB has decided to import 'CocoaZero' at a price of USD 4 per kg.

Our accountant shared a copy of the customs circular, which mandates that all types of coffee should be assessed based on the minimum value set by the customs authority. He further confirmed that 'Smash Cocoa' was assessed based on the minimum value. Below is the extract of the minimum value as per the customs circular for your reference.

Heading	HS Code	Description	Unit	Minimum Value USD/Unit
09.01	All HS code	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitute containing coffee in any portion	Kg	4.50

Based on the above background, we would like to have your advice to understand some customs-related issues so that we can finally set a proper strategy for our business ahead."

Requirements:

You should assume that the customs law for the financial year 2022-23 continues to apply for the financial year 2023-24.

- How is the price of imported goods determined according to the Customs Act and the Customs Valuation (Determination of Price of Imported Goods) Rules, 2000? 5
- What would be the duties and taxes for 1,000 kg of CocoaZero coffee based on the minimum value, and are these duties and taxes eligible for credit? Apply the following rates of duties and taxes in answering this part of the question: Customs Duty - 25%, Value Added Tax - 15%, Advance Tax - 5%, Regulatory Duty - 20%, Advance Income Tax - 5%, and Supplementary Duty - 20%. 5
- What could be the critical factors in determining the assessable value of CocoaZero coffee at a value below the minimum value and what are the ways forward? 5

---The End---