

TAX PLANNING & COMPLIANCE

March-April 2022

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. (a) You are a Chartered Accountant working as a tax manager in a local group, where you have been working since January 2021. Your line manager, the Head of Tax and Compliance, is a non-professional and has been working there for the last 10 years. "X" is a Supplier, who submitted a bill to your company in June 2021 for a supply made in the same month. On this, in August 2021, when the bill was matured for payment you have noticed the following:
- 1) Although the goods supply and bill submission were made in June 2021, as per the credit policy of the Company the bill is due for payment in August 2021 only.
 - 2) At the time, when the bill was submitted upon making the supply in June 2021, it was exempted from withholding taxes (WHT) u/s 52 of the Ordinance.
 - 3) In the Finance Act 2021, applicable from 1st July 2021, a withholding tax @ 10% was introduced on such supplies u/s 52 of the Ordinance.
 - 4) Accounts Payable team approached to you for a decision as to whether there should be WHT while making the payment in August 2021 or it should be exempted based on the laws applicable prior to Finance Act 2021.
 - 5) On the above, to avoid any potential exposure from Tax Authority for WHT non-compliance, your line manager has advised you to consider the law at the time of making the payment.
 - 6) The Supplier requested not to deduct any tax as income against such supply was not taxable when the supply was made, and they will file their return without showing any tax on such income. Hence if any tax is deducted it will be excess for them.

Requirements:

- i) Advise on the legitimate steps that the company should follow in this circumstance and remedies available for the Supplier 3
- ii) Describe the legal implication if:
 - a) WHT is applicable but the payment is made without any WHT 3
 - b) WHT is not applicable but the payment is made after deduction of WHT 2

Note: Assume WHT, if made, shall not be treated as minimum tax u/s 82C of the Ordinance

- (b) Heed S.A., a foreign company incorporated in abroad, entered into an agreement with Zebra Ltd. (a Bangladeshi company incorporated in Bangladesh) for providing technical services to establish a chocolate factory in Bangladesh. Heed provided both off-shore and on-shore services to Zebra Ltd. For the technical services provided, Heed S.A. charged fees Tk. 1.50 crores for off-shore services and Tk. 2.00 crores for on-shore services. On taxability of such fees for technical services, Zebra Ltd has following views:
- a) In respect of fee of Tk. 1.50 crores for off-shore services, it is not taxable in Bangladesh as it is for rendering services outside Bangladesh
 - b) In respect of fee of Tk. 2.00 crores for on-shore services, it is taxable in Bangladesh as it is for rendering services inside Bangladesh

Requirement:

Discuss the correctness of the view of Zebra Ltd considering that Heed S.A. has been incorporated in a country (a) where there is no Double Tax Avoidance Agreement and; and (b) where there is a Double Tax Avoidance Agreement. For the purpose of forming a response, consider, the income under fees for technical services constitute a part of Business Profit. 4

2. (a) X Solar Ltd. (Company) is a private limited company incorporated in Bangladesh on 01 March 2020 under the Companies Act, 1994. Paid-up capital of the Company was Tk. 1 million at the time of incorporation, which was increased to Tk. 5 million on 01 October 2020. The Company imports and locally purchases required equipment and accessories for assembling solar plant of 5 MW capacity. The solar plant is set up in the rooftop of industrial customers and supply power produced by the plant. The excess of power produced by the solar plant is fed into national grid via net meter according to the scope of Net Metering Guidelines-2018.

The Company imported machinery and accessories of solar plant on 01 June 2020 and the first plant was set up on 01 January 2021. Due to Covid-19 pandemic, the progress of the project was very slow and remained stopped for several months. The trial operation was carried out on 01 October 2021 and the commercial production commenced on 01 November 2021. You are a practicing chartered accountant and the Company has appointed you on 01 March 2022 to guide it for adopting a proper tax planning strategy.

Requirement:

In this situation, the Company has requested you to check whether it is eligible for tax holiday benefit as physical infrastructure facility and major requirements for submission of application for approval of tax holiday scheme.

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- (b) Your company wants to buy a sedan car for the Managing Director of your company. Accordingly, your procurement team collected a quote from a reputed car dealer after a series of negotiations. The value of the car quoted is Tk. 1.65 million inclusive of 5% VAT and 5% withholding tax that your company will deduct as withholding tax from the car dealer on the net off VAT amount. You are a chartered accountant and working in this company as the tax manager. Hence your procurement team approached you to confirm the value of the Purchase Order which, as per their opinion, is Tk. 1.65 million.

Additional information:

1. This fully assembled car has been imported by the car dealer from Japan.
2. The Assessable value of the car is Tk. 5 million based on which 5% Advance Income Tax was paid at port point at the time of import.
3. You have strongly protested that the 5% withholding tax included in the quote should be removed as the car dealer will get full credit of the withholding taxes, which the car dealer agreed to reduce acknowledging that they were not aware of this.

Requirements:

- i) Identify the effective cost of the car that the company will capitalize. 2
- ii) Determine the net WHT that your company will deduct at the time of making the payment to the car dealer. 2
- iii) Determine the amount of depreciation that the company can claim in the first year, explaining the reason. 2

3. A, B, C are the three partners of ABC & Associates. The summary of Income Statement of ABC Associates for the year end date on June 30, 2021 is given below:

ABC & Associates
Income Statement for the period ended 30th June 2021

Particulars	Amount (Tk.)	Amount (Tk.)
Gross income from normal business activities		12,000,000
Less:		
Admin. Expenses	1,200,000	
Distribution Expenses	600,000	
Commissions	1,400,000	
Advertisements	1,500,000	
Donations to Football club	200,000	4,900,000
Interest on Capital:		
A:	250,000	
B:	125,000	
C:	125,000	500,000
Withdrawals		
A:	150,000	
B:	350,000	
C:	300,000	800,000
Total income		5,800,000

Other information:

- The partnership ratio between A:B:C is 2:1:1
- Tk. 100,000 of Commission is given to A for his special assignment
- On House property income partners are eligible for 25% allowances for repairs & maintenance cost
- On Agricultural income partners are eligible for 60% allowances for cultivation related cost
- Tk. 400,000 was earned as capital gain against which full tax has been paid at source
- The Firm did not have any investment for claiming investment rebate as per the Ordinance
- Partners also have income from different sources mentioned below:

Sources	A	B	C
Income from house property	-	900,000	-
Income from interest on securities	300,000	200,000	100,000
Agricultural income	600,000	400,000	1,200,000
Income from other sources	300,000	350,000	400,000

Requirements:

- Compute the total income of the firm 3
 - Compute the amount of tax liability of the firm 2
 - Distribute firm's income among the partners 3
 - Compute the amount of total income of the partners 2
 - Compute the amount of net tax liability of the partners 2
4. For installing a chocolate factory, Brown Bangladesh Ltd is contemplating to acquire a capital machine on 1st July 2021, for which the cost has been determined as Tk. 8 million, having expected useful life of 5 years and scrap value of Tk. 1 million after 5 years. The Company have the options to purchase the machinery either with its (1) own fund or (2) borrowed funds or (3) on lease. For borrowed funds, rate of interest will be 9% per annum considering that the loan will be fully repaid after completion of 5 years. For acquiring the machine through lease, lease rental will be Tk. 1.2 million per annum, payable each year.

Other available information are as follows:

- In year one Company's turnover is expected to be Tk. 300 million (excluding VAT), which is expected to increase by 10% every year till the next 5 years
- Book profit before tax and interest is expected to be 15% of the turnover
- Company follows a straight line depreciation method, and the rate of depreciation is 20%.
- For the purpose of tax, it follows reducing balance method and the depreciation rate will be 10%. In the first year, initial depreciation allowance will be available @ 25%

- 5) Promotional expenses is expected to be 2.5% of the turnover (as per u/s 30(p) of the Ordinance only 0.5% of the turnover is admissible)
- 6) Tax rate is to be considered as 30%

Requirement:

Advise Brown Bangladesh Ltd., considering net present value factor and purely from financial point of view, which option it should consider for acquiring the machine. The options are:

(i) Using own funds or (ii) Using borrowed funds or (iii) Using lease.

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Present value factor shall be taken considering company's opportunity cost @12%. At this rate present values of Taka 1.00 are: year 1: 0.8929; year 2: 0.7972; year 3: 0.7118; year 4: 0.6355; and year 5: 0.5674.

5. Cupid Bangladesh Ltd. is a subsidiary of a global conglomerate Cupid A.G. based in Germany. Cupid Bangladesh markets various FMCG products in Bangladesh market, some of which it produces in its factory in Savar and others it produces through contract manufacturer in Malaysia, Cupid Malaysia who is a subsidiary of Cupid A.G. as well. As per group's transfer pricing policy, the contract manufacturer Cupid Malaysia sold such goods to Cupid Bangladesh at cost plus 7 percent mark-up in 2020-2021 fiscal period.

The following table contains last three year's weighted average mark-up of uncontrollable comparable companies for contract manufacturing activities:

Sl. No.	Company	Last 3 year's weighted average mark-up
01.	ABC Ltd	2.7%
02.	DGF Ltd.	14.2%
03.	XYZ Ltd.	1.6%
04.	CDE Ltd.	6.9%
05.	HIJ Ltd.	5.4%
06.	MOQ Ltd.	8.1%
07.	ZAB Ltd.	12.7%
08.	QRS Ltd.	7.8%
09.	LMO Ltd.	9.5%

As per Income Tax Ordinance 1984, Bangladesh taxing authority measures the arm's length range by the interquartile range of results, which consists of the results ranging from 30% to 70%.

Requirements:

- a) Identify the arm's length mark-up range for contract manufacturing from the above table
- b) Identify the adjustment requirement if any in case the mark-up is (a) 7% and (b) 10%

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6. Montreux Ltd. is a manufacturing organization and has been engaged in the supply of food products manufactured by it from its registered premises located in Gazipur, Dhaka. Following details are available in respect of purchases made/services availed by Montreux during January 2022:

Sl. No.	Particulars
i.	Purchased sugar for using as a raw material. The VAT amount paid on such purchase was Tk. 300,000. However, due to space crisis, 50% of the goods were kept in a transit warehouse rented by Montreux Ltd.
ii.	Tk. 450,000 was deposited by Montreux through treasury challan on account of VAT against product testing done by BSTI. BSTI Authority did not issue any VAT challan as they are not registered under VAT and SD Act 2012, but on request of Montreux, provided the copy of the treasury challan endorsed by it.
iii.	For a H.S. Code dispute, Montreux released one consignment of milk powders upon furnishing a bank guaranty. In the Bill of Entry, which has been assessed under provisional assessment, total VAT amount mentioned was Tk. 900,000. For this consignment Montreux paid 75% duties and taxes in cash, and for rest 25% it submitted bank guarantee.
iv.	Paid Tk. 11,00,000 (inclusive of VAT) for Transport services for delivering products to distributors.
v.	Paid Tk. 23,00,000 (inclusive of VAT) for packaging materials for which 50% of the amount was paid in cash and rest 50% was through banking channel.

Requirement:

Determine the eligible Input tax credit available to Montreux for the month of January 2022 by giving brief explanations about fulfilling the conditions necessary for availing input tax credit.

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7. White Ltd. is a manufacturing organization and has been successfully running its operation in food sector of Bangladesh for the last 15 years. White has its factory in Gazipur, Mawna. Following information are relevant for the month of January 2022 for White Ltd.:

- 1) Value of goods supplied at standard rate Tk. 1,03,50,000
- 2) Value of services supplied at standard rate Tk. 13,80,000
- 3) Value of goods supplied at “0” rate for export to Nigeria Tk. 69,00,000
- 4) Under a newly launched instalment selling scheme, White sold goods having value of Tk. 10,00,000 (excluding VAT), which is payable in 10 instalments. The amount receivable for this month has been duly received
- 5) Raw materials purchased from local supplier at standard rate was Tk. 23,00,000, of which 80% has been received in the registered premises
- 6) For advertisement, agency sent bill of Tk. 11,50,000 at standard rate. However the amount will be paid after completion of the credit period of 3 months
- 7) Materials imported from India, for which VAT paid at customs port was Tk 345,600 and Advance tax (VAT) Tk. 69,120
- 8) White ordered for certain supply to Black Ltd for using those as inputs for a special supply for its reputed customer celebrating their 25th Anniversary in Bangladesh. Due to COVID, the program got cancelled. Consequently, White had to cancel the order with Black and had to pay a compensation of Tk. 300,000 as per the contract, although White also received an amount of Tk. 500,000 for cancellation of the program by that reputed customer
- 9) Transport charges for delivering goods to customers was Tk. 220,000 including VAT @ 10%
- 10) VAT deducted against suppliers’ payment was Tk. 155,000 and VAT deducted by service recipient was Tk. 330,000 for which Mushak 6.6 was duly issued
- 11) For products supplied earlier, Customers returned goods value of which at standard rate is Tk. 690,000 for which credit note was issued with appropriate VAT amount
- 12) For conducting product testing in Singapore Tk. 30,00,000 was paid to a company in Singapore. The nature of the services being import, White deposited the applicable VAT at the time of remittance (reverse charge method shall be applicable).

Requirement:

Compute the net VAT amount payable for the month of January 2022. Standard rate VAT is 15%. For the purpose of identifying the VAT amount, use VAT factor where applicable.

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8. (a) You went to buy a fridge from a show room. The fridge selected by you was priced at Tk. 207,000. The salesman offered the fridge at Tk. 190,000 on condition that he will not give you any VAT challan. The salesman’s intention in this regard was to avoid the VAT and gain Tk. 10,000, as the price of the fridge without VAT was Tk. 180,000. What will be the consequence of the seller?
- (b) X Ltd is contemplating to open a mobile apps based ride sharing transport services in rural areas, which will be primarily operated through motorcycle only as the road infrastructure is not sufficient for running other motor vehicles in all the rural areas. In relation to this, as part of its feasibility study, X Ltd shared the following information with you to assess the VAT implication:
 - 1) Revenue sharing ratio between motor cycle owner and X Ltd: 70 : 30
 - 2) Projected gross revenue for the month of April’22 is estimated as Tk. 5 million, out of which 70% will be retained by the motorcycle owners

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Requirement:

Determine the application of VAT on the whole revenue of Tk. 5 million and projected VAT liability of X Ltd. for the month of April’22 as per applicable VAT rates for mobile apps based ride sharing transport services

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9. (a) X Pharmaceuticals Ltd. will procure personalized pens with names of the doctors as a part of its promotional campaign. While procuring these pens, 15% VAT will be paid to the producer against valid Mushak 6.3. X Pharmaceuticals Ltd. plans to claim input VAT rebate for VAT paid on purchase of those pens. While discussing the issue with the local VAT circle office, the Revenue Officer said that expenditure for this type of gift will not be eligible for claiming input VAT rebate.

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- (b) A Ltd. is planning to purchase a capital machinery from a local manufacturer despite it knows the fact that carrying out manufacturing process will not be financially viable. Hence, A Ltd. will lease this capital machinery to B Ltd., a sister concern of A Ltd. B Ltd. has expertise in production and will supply the manufactured goods to the corporate customers. While procuring the capital machinery, A Ltd. will pay 15% VAT on the value of the said machinery and the seller will issue Mushak 6.3. The capital machinery is not eligible for exemption from VAT under rule 118Ga of the VAT & SD Rules, 2016. A Ltd. will issue Mushak 6.3 for leasing the capital machinery applying 15% rate of VAT. The goods produced and supplied by B Ltd. is subject to 7.5% VAT. A Ltd. does not have any other economic activity which attracts VAT.

According to the management of A Ltd., the aforementioned plan will not be financially viable if VAT paid on purchase of capital machinery is capitalized.

Requirement:

As a consultant of A Ltd., it requires your opinion as to the effect of VAT paid on purchase of the capital machinery and subsequent lease thereof.

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