

TAX PLANNING AND COMPLIANCE

July-August 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) Mr. Y has not yet submitted his income tax return for the assessment year 2021-2022 and has not applied for time extension for submission of income tax return under Section 75(6) of the ITO, 1984. The DCT concerned issued notice under Section 93 of the ITO, 1984, alleging escape of tax payment on 28 February 2022. Mr. Y has heard about imposition of penalty where Section 93 of the ITO, 1984 is applied. He met you, a Chartered Accountant in practice, to discuss the steps to be taken with regard to the notice issued by the DCT.

Requirement:

Mr. Y seeks your advice on how to deal with the notice issued under section 93 of the ITO, 1984.

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- b) X Limited ("X"), a cement manufacturing company, has been successfully operating in Bangladesh for the last 10 years. Y Limited ("Y"), another manufacturer, has started its venture in Bangladesh five years back. Due to stiff competition, Y could not gain expected market share and is still running with around 6% to 8% market share. Consequently, Y incurred huge losses, which include accumulated losses as well as unabsorbed depreciation losses. Although Y has been incurring losses, it has a state of art manufacturing plant, which is far better than X has in terms of quality and capacity. Considering this, X offered Y limited to become merged and start as an amalgamated company, namely XY Limited. While preparing the amalgamation scheme both the management of X and Y discussed about what to do on the tax treatments on accumulated losses and unabsorbed depreciation losses of Y as there is no provision on this in the Tax Ordinance based on the Tax law updated by Finance Act 2021.

Requirements:

- i) Based on the tax law updated by Finance Act 2021, enumerate as to how tax treatments on accumulated losses and unabsorbed depreciation losses in an amalgamation scheme should be carried out by XY Ltd. Give necessary advice.
- ii) NBR is now preparing the National Budget for the year 2022-2023 and has requested for your advice as to what provisions may be made with regard to income tax treatments on accumulated losses and unabsorbed depreciation losses to give fiscal benefits for amalgamation of companies in Bangladesh.

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2. a) Curser Ltd ("Curser") is a global company contemplating to come to Bangladesh upon incorporating as a public company. Taking the applicable tax laws into account, Curser is looking for a tax efficient salary structure for its employees, who will be appointed for the new company so that from employer's point of view there is less disallowances in terms of excess perquisite, and at the same time the employees can maximize their take-home salary after deduction of tax and provident fund contribution. You are given with following options to find out the most efficient salary structure for Curser:

Salary Component	Option-1	Option-2	Option-3
Basic salary	65%	55%	48%
House Rent	25%	25%	24%
Conveyance	5%	10%	8%
Incentive Bonus	5%	10%	20%

Additional information:

- 1) Company will pay 10% of the basic salary as Provident Fund contribution, while the employees will also make the same contribution from their salary each month
- 2) As per the proposed gratuity scheme of the company, it will have to make provision for 2 basic salary per annum
- 3) Perquisite limit allowable per employee per annum is Tk. 550,000
- 4) Consider company tax rate is 22.5% and average tax rate for individual employee is 20% on total income, considering gross salary and company's contribution to provident fund
- 5) Consider your computations to be based on tax law applicable for the assessment year 2021-2022

You are required to review the above under all three options considering one employee only, whose gross salary including incentive bonus is to be considered as Tk. 500,000 per month.

Requirements:

- i) Compute Annual impact for the employer considering impact on dividend payout 3
 - ii) Compute Annual impact for the employee considering: 6
 - (a) Overall take-home salary
 - (b) Overall employee benefit
 - iii) Identify the best option considering Annual impact of the employer under (i) above and take-home salary of the employee 2
- b) You are a chartered accountant and have been working in a group of company as Supply Chain Controller. One of your local raw material suppliers used to supply one of the key raw materials, which attracted Withholding Tax (WHT) @ 5% and it falls under minimum tax provision u/s 82C of the Ordinance. However, since the tax liability of the supplier based on his actual profit was same, there was no shortfall or excess payment of tax based on the WHT amount. Problem arises, when the WHT rate was increased to 7%. Consequent to this, to maintain the same level of payment and profit after tax, you agreed to compensate this by increasing the price proportionately so that after deduction of tax, the supplier gets as the same amount and his after-tax profit is also the same as what he was getting based on WHT @5%. Considering the supply value as Tk. 100, you are provided with the existing scenario based on WHT rate @ 5% as follows:

Particulars	Rate	Amount (Tk.)
Supply value without VAT		100.00
Withholding Taxes (WHT)	5%	5.00
Payment after WHT		95.00
Net profit before tax	16.67%	16.67
Tax on profit	30%	5.00
Minimum tax higher between WHT and tax on profit		5.00
Net profit after tax		11.67

Requirements:

- i) Compute the increased price of supply based on 7% WHT so that payment after WHT and after-tax profit is same under WHT @ 5%. 2
 - ii) What would be the revised supply value, if the WHT rate is reduced to 4% maintaining the after-tax profit same as is under WHT @ 5%? 2
3. P Limited is a public limited company listed with both DSE and CSE. The company locally manufactures and sells consumer products. In addition, it sells some finished products by importing them from China and India. As a distributor, it also sells the products of another local company. The key information related to income tax for the year ended 2020-21 is as follows:

- 1) Revenue, Profit and Tax deducted or collected at source at import and supply stages:

Business / Product lines	Revenue (Taka)	Tax deducted or collected at source (Taka)	Gross profit (Taka)	Profit before Tax (Taka)
Regular business	66,376,296	1,158,000	18,439,680	6,585,600
B2B business	1,382,840	148,180	862,800	215,700
Imported finished goods	18,437,860	497,276	3,060,100	612,032
Distribution business	5,992,305	8,645	384,250	38,425
Total	92,189,300	1,812,101	22,746,830	7,451,757

- 2) Excess perquisite of all business lines was Taka 3,70,000.
- 3) Actual sample cost of all business lines was Taka 1,944,000.
- 4) Actual business promotion cost related to regular business was Taka 1,160,000.
- 5) Donation to City Corporation was Taka 1,10,000.
- 6) The depreciation cost as per accounting principle and tax law are as follows:

Particulars	As per accounting (Taka)	As per tax return (Taka)
Regular business	800,000	11,58,000
B2B business	120,000	1,48,180
Imported finished goods	350,000	4,97,276
Distribution business	11,500	8,645

- 7) Dividend income recognized in the income statement was Taka 80,000 (net of tax). This dividend is related to regular business.
- 8) An amount of Taka 90,000 was charged to income statement as rent. No tax was deducted at the time of rent payment.
- 9) Salary paid in cash Taka 460,000 to an employee whose monthly salary was over Taka 30,000.
- 10) Payment made to transporters for delivering goods to buyers without deducting VAT, although tax was deducted as per law.
- 11) 80% of the sales collection of regular business was in cash and rest was made through banking channel.
- 12) An old machine related to regular business was sold for Taka 200,000, the written down value of which was Taka 110,000 as per accounts and Taka 80,000 as per tax return. The cost of the machine was Taka 150,000. The profit from sales of the old machine was recognized in the income statement while preparing the financial statements. The company has purchased another machine for Taka 140,000 to modernize the packaging line in the factory.
- 13) As per the consistent practice, tax authority while making assessment allocates common expenses over the business lines based on their proportionate revenue.

Requirements:

Every year the management of P Limited takes your service to ascertain the taxable income and tax liability in order to ensure claiming all benefits available under the law. Accordingly, the management has sought the same service for this year too.

Ascertain for the Assessment year 2021-22:

- a) The taxable income; and
- b) Tax liability of P Limited.

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Assume that gross receipt equals revenue of respective business line.

4. After living almost 8 years in country A, Mr. Karim, a renowned economist and a Bangladeshi national by birth, arrived in Bangladesh on 21 December 2021. Upon arrival in Bangladesh, he has found numerous opportunities to work as a consultant in many organizations in Bangladesh. Accordingly, he changed his mind and decided to settle down in Bangladesh. Thereafter, he is engaged in several advisory and consultancy works in Bangladesh in his personal capacity. Recently, he got to know that if he stays more than 181 days in Bangladesh within 30 June 2022, he will be treated as a residential taxpayer and his total income for the income year 2021-22 will be comprised of both local income and foreign income. As a result, he would suffer huge income tax liability in Bangladesh. On receiving this information, as part of his own tax planning, he has become keen to visit Country A to limit his stay in Bangladesh below 182 days in the current financial year. But before taking such decision, he wants to assess the impact of having residential status on his total income and tax liability that would arise in Bangladesh for the income year 2021-22. Consequently, Mr. Karim paid a visit to your firm and shared the following information:
 - 1) A sum of Taka 400,000 was earned by doing a contractual job during July and August 2021 in country A. The money was brought in Bangladesh on 28 December 2021 though it was first credited to his bank account maintained in country A.
 - 2) A service fee of Taka 310,000 was earned in Country B in October 2021 and received in Bangladesh on 23 January 2022 through banking channel.
 - 3) An amount of Taka 80,000 was received in country A on account of dividend in October 2021 which was paid by a Bangladeshi company.
 - 4) Interest on term deposit received in country B for Taka 20,000 on 30 November 2021.
 - 5) Income earned from business in Country B for Taka 25,000 during September 2021. This business was directed by him while he had a visit to country B.
 - 6) Taka 30,000 was earned by letting out house property in country B which was received in Country A.
 - 7) A sum of Taka 600,000 is due from a company against the service rendered in Bangladesh. If Mr. Karim decides to travel to Country A, the payment to the extent of Taka 300,000 will be received there and rest will be credited to his Bank account maintained in Bangladesh.
 - 8) If the incremental tax for becoming resident taxpayer in the income year 2021-22 is not more than 20% of the tax that would be payable as a non-resident taxpayer, Mr. Karim will exercise the option of enjoying the status of resident taxpayer in Bangladesh.

Requirements:

By considering the above information, assist Mr. Karim with the following:

- a) Compute the total income of Mr. Karim as resident and non-resident taxpayer. 5
- b) Ascertain the incremental tax if he elects to become resident taxpayer in the income year 2021-22. Should he elect to enjoy the tax resident based on his benchmark he set for additional tax? Assume that the individual income tax rates given in the Finance Act 2021 remain unchanged for the income year 2021-2022. 2
- c) As part of tax planning, prescribe at least two means that will allow him to reduce his tax burden if he decides to enjoy residential status. 2

Relevant assumption:

- Bangladesh does not have any DTA agreement with country A and Country B.

5. a) Mr. X, a Bangladeshi national, has been working for a multinational company in Bangladesh for the last 5 years. During 1st July 2020 to 31st December 2020, Mr X was in Australia on an assignment, where he received his salary after deduction of tax. Mr. X wants to know, since Bangladesh and Australia do not have any double tax avoidance agreement, whether he would be eligible for any tax relief under the Income Tax Ordinance 1984 applicable in Bangladesh. Advise Mr. X. 4
- b) BBC Limited (BBC) manufactures TV monitor for its associated enterprise (AE) under a long term buy and supply arrangements. Similar TV monitors are manufactured by several other unrelated companies including ATC PLC (ATC). Both BBC and ATC manufacture the identical product. Details of the transactions of both the parties (per unit) are given below:

Particulars	Amount in BDT	
	BBC	ATC
Selling price	14,000	15,950
Manufacturing cost	10,000	10,500
Cost of packaging	-	200
Warranty charge (standard 1 year)		300

BBC assembles 50,000 TV monitors (AE) for its AE during the year.

Requirement:

Calculate the arm's length price (ALP) of each TV monitor and total adjustment required. 6

6. MM Limited has made a business plan to introduce a new product. According to the plan, the product will be produced in its Gazipur Factory. Upon production, the product will be transferred to its four depots located in Dhaka, Chattogram, Khulna and Rajshahi. Then the product will be sold to its distributors across the country. The other key information of the plan is as follows:
 - i) The product is VAT exempted at manufacturing stage and taxable at trading stage.
 - ii) The total monthly revenue is estimated to be Taka 200 million excluding VAT. This revenue is estimated based on the invoices to be raised by depots to its distributors. The transfer price from factory to depots is usually fixed at 10% lower than the price from depots to distributors. This means, the total margin/ value addition at depots level is estimated to be 10% of Taka 200 million.
 - iii) Of revenue Taka 200 million, 70% will be input cost. Out of total input cost, 60% is imported materials which are VAT exempted at import stage and rest 40% input will be locally procured. VAT is to be payable @15% on locally procured input.
 - iv) The margin/ value addition at depot level will be comprised of 4% transportation cost, 2% rent, 1% electricity cost and rest is employee & other cost. VAT payable on transportation cost is 10%, on rent is 15% and on electricity is 5%.
 - v) The company has two alternatives to raise invoice from depots to distributors. One is raising invoice by charging VAT at the standard rate (15%) and taking rebate against input tax and the other is raising invoice by charging VAT at 5% as a trader.

Requirements:

As you are the leader of the VAT Management Team of the company, the management has forwarded the above information and asked you to address the following matters:

- a) Compute the net VAT payable that will arise under both alternatives- paying VAT at standard rate or paying VAT at 5% as a trader. What would be the consequence of input tax that will be paid against the locally procured raw materials? 6
- b) Based on your knowledge and expertise, could you suggest the company any other alternative that can create opportunity to reduce the VAT payment legitimately? 2

7. A private limited company engaged in manufacturing and distribution of home care and air care products. Moreover, it also imports different cosmetics items in finished form and sell them with regular distribution channel. The information of VAT related transactions of the company for the month of May 2022 are as follows:
- i) Revenue from standard rated goods exclusive of VAT was Taka 8,40,00,000 and revenue from imported finished goods exclusive of VAT was Taka 1,00,00,000. The VAT rate on the sale of imported finished goods was 5%.
 - ii) A sum of Taka 2,80,000 included in revenue from imported finished goods was earned by selling goods to an institution. VAT was withheld at source at the rate 7.5% but the VDS certificate was not received so far.
 - iii) The company received a payment of Taka 1,85,000 (net of VDS at 7.5%) from an institutional customer and a certificate in the form of Mushak 6.6 against the supply of last month.
 - iv) Import of raw materials for Taka 4,20,00,000 against which VAT was paid Taka 63,00,000 and AT was paid Taka 12,60,000 while releasing the goods from port.
 - v) Import of finished goods for Taka 65,00,000 against which VAT was paid Taka 9,75,000 and AT was paid Taka 3,25,000 at import stage.
 - vi) Packaging materials purchased from local sources for Taka 15,00,000 exclusive of VAT. This included Taka 1,75,000 exclusive of VAT that was purchased from a turnover enlisted person.
 - vii) Raw materials purchased from local sources for Taka 1,80,000 with 15% VAT, the payment of which was made through cheque, but the cheque was dishonoured due to overwriting and subsequently the payment was made in cash to meet the urgency of supplier.
 - viii) VAT paid against machinery purchase was Taka 1,36,000 and furniture purchase was Taka 12,500.
 - ix) The company has withheld VAT while making payment to its supplier for an amount of Taka 4,36,000.
 - x) Goods worth of Taka 3,25,000 (exclusive of VAT) was distributed among customers as free. VAT was paid at the factory level by issuing proper VAT challan. This transaction was related with Standard rated goods.
 - xi) Transportation cost was Taka 360,000 exclusive of VAT. This cost was related to inbound and outbound logistics.
 - xii) Technical fee for Taka 500,000 was paid to a foreign consultant against which VAT was paid Taka 75,000 through treasury deposit.
 - xiii) While reviewing the return of previous months it was found that VAT was paid less than by Taka 12,600 inadvertently.

Requirement:

Being the Head of Indirect Tax Team of the company, calculate the output tax, input tax credit, increasing adjustment and decreasing adjustment for the month of June 2022 based on the above information. Make necessary assumptions where necessary.

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8. a) Your company (the company) published a notice by seeking quotation from different suppliers to supply material "X" for y quantity in the prescribed manner. The key information regarding VAT obtained from the quotations submitted by the suppliers are follows:
- i) A person being trader has submitted the quotation with a value of Taka 250,000 (inclusive of VAT). While delivering the goods, the trader shall issue VAT challan with 5% VAT and at the time of making payment the company shall be able to withhold VAT upto the amount mentioned in the VAT Challan as the trader's applicable VAT rate is 5%.
 - ii) A turnover tax enlisted person applied for supplying the goods asking the price of Taka 230,000. The company shall be able to withhold VAT at applicable rate as per law while making payment.
 - iii) One manufacturer asked the price for supplying the product with Taka 240,000. This price is excluding of VAT and the manufacturer shall issue VAT challan at the standard VAT rate. No VAT can be deducted by the company while making payment.
 - iv) Another manufacturer submitted the quotation at a price of Taka 245,000. The goods will be supplied from its warehouse (separately registered as trader) instead of its factory with 7.5% VAT challan. No VAT can be deducted from the bill by the company while making payment.
 - v) A supplier having no VAT registration asked the price for Taka 230,000. VAT can be withheld while making payment by the company as per law.

Requirement:

Being the manager of VAT team and a member of the procurement committee, you are required to review the terms of above quotations individually and provide your recommendation keeping the VAT law in the context. Based on your observations and recommendations, the company will select one supplier to supply the materials. Assume that there is no scope of negotiation with suppliers for changing any terms they put in the quotations.

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- b) TC Limited and SP Limited engaged in the same business activities. In order for gaining economies of scale and financial strength both the companies designed a merger plan whereby TC Limited will acquire the business of SP Limited. Under the plan all assets, liabilities and management setup of SP Limited will be transferred to TC Limited for a certain purchase consideration which will be satisfied by issuing equity shares of TC Limited in favour of the shareholders of SP Limited. As part of process, TC Limited made financial and legal due diligence on the affairs of SP Limited. Apart from several suggestions, the due diligence team has advised the management of TC Limited to consult with competent VAT counsel in order to understand the implication of VAT over the merger and acquisition process as per the VAT & SD Act, 2012. Accordingly, the management of TC Limited made a request to you to provide your opinion about the effect of VAT that can create on account of business take over as well as the procedures that need to be observed to ensure proper compliance in the context VAT law.

Requirements:

Make draft notes on the followings before framing the opinion:

- i) What is the specific value-added tax (VAT) consequence that can arise due to the business transfer?
- ii) What are the procedures that are to be followed during the execution of takeover to ensure VAT compliance in line with VAT & SD Act, 2012?

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9. Childcare Ltd regularly imports “mango pulp” as one of the key raw materials from Pakistan for manufacturing of its world-renowned Infant Cereal products in its factory located in Savar, Dhaka. This raw material is eligible for SAFTA benefit under the H.S. Code declared by Childcare Ltd, which they have been enjoying for many years. With SAFTA benefit the duty rate is 5%, otherwise the normal duty rate without SAFTA benefit is 25%. For a recent consignment imported from Pakistan, Customs authority did not accept the H.S. Code declared by Childcare Ltd, and determined a different H.S. Code, which do not have SAFTA benefit. Considering this, Childcare Ltd applied for releasing the goods under provisional assessment u/s 81 of the Customs Act 1969, where they will pay the duties and taxes in cash as per their declared HS code and will furnish a bank guarantee for the differential duties and taxes between the HS code determined by the Customs authority and H.S. Code declared by them. Customs authority accepted the application of Childcare Ltd.

In relation to this, further details are as follows:

Particulars	Amount in BDT	
	As per HS code declared by Childcare Ltd	As per HS code determined by Customs Authority
Total imported quantity in kg	5,000	
Assessable value based value in US\$	10,000	10,000
Basic duty applicable	5%	25%
Regulatory duty	3%	3%
Supplementary duty	20%	20%
Value Added Tax	15%	15%
Advance Income Tax	5%	5%
Advance Tax (VAT)	3%	3%

Requirements:

- a) Determine the total amount of duties and taxes under both the H.S. Codes
- b) Determine the Total VAT amount that can be claimed as input VAT credit and Advance VAT
- c) Amount of bank guarantee to furnish covering the shortfall of duties and taxes

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Note: Conversion rate for this consignment was US\$ 1= 90.00

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