***Canadian Tax Principles, 2021-2022 Volume 1* (Byrd/Chen)**

**Chapter 1 Introduction to Federal Taxation in Canada**

1.1 Online Exercises

1) The major source of federal revenues is the personal income tax. Indicate three other types of taxes that contribute to federal revenues.

Answer: The other sources of federal revenues that are shown in Figure 1-1 of the text are:

• Corporate income taxes.

• Non-resident income taxes.

• GST.

• Customs and import duties.

• Other excise taxes.

• EI premiums.

2) What is the meaning of "person" when the term is used in the ITA?

Answer: In the ITA, the term "person" refers to an individual, a corporation, or a trust or an estate.

3) Briefly describe the procedures used in calculating provincial or territorial income tax for individuals in other than individuals residing in Quebec.

Answer: Provincial or territorial income taxes for individuals are calculated by applying a provincial or territorial income tax rates to taxable income for federal income tax purposes. Provincial or territorial personal income tax credits are then applied to the resulting gross income tax. The provincial and territorial income tax brackets may differ from the federal income tax brackets. In addition, provincial and territorial personal tax credits may be different than the federal personal tax credits.

4) The Canadian income tax system is often used to achieve various economic objectives. Give three examples that illustrate this point.

Answer: There are many examples that could be used here. The text divides them into resource allocation (e.g., public health care), distribution effects (e.g., federal GST credit), stabilization effects (e.g., deficit reduction), and fiscal federalism (e.g., allocations to various levels of government).

5) Provide an example of how taxation policy can be used to influence resource allocation.

Answer: Examples provided in the text are as follows:

• Tax revenues are used to provide public goods and services.

• Excise taxes are used to discourage the consumption of alcohol and tobacco products. There are, of course, many other examples that could be cited.

6) The government pays a Canada Child Benefit to the parents of children who are under 18 years of age. The payments are reduced by a percentage of income above a certain amount. What objectives are achieved by this benefit system?

Answer: The Canada Child Benefit system is designed to assist low income families with children. The government is encouraging population growth. In addition the benefits are targeted to those most in need being low income families.

7) Indicate three disadvantages of a tax system that uses progressive rates.

Answer: There are a number of possibilities here. They include that progressive rates:

• Increase the complexity of the system.

• Are unfair to individuals with highly variable income streams.

• Are unfair to single income family units.

• Lead to pressure for various types of tax concessions.

• Discourage high income individuals from making additional efforts.

• Encourage tax evasion.

8) A regressive tax is one that taxes high income individuals at lower effective rates. Explain why a sales tax levied at a flat rate of 8% can be regressive.

Answer: While the sales tax rate is the same for all individuals without regard to their income level, lower income individuals normally spend a higher percentage of their total income. Since the sales tax is charged on the amounts spent, this means that the sales tax paid by lower income individuals represents a larger percentage of their total income. As a consequence, they are generally considered to be regressive in nature.

9) Distinguish between horizontal equity and vertical equity as these terms are used in describing tax systems.

Answer: Horizontal equity is achieved when taxpayers in similar economic circumstances are subject to similar levels of tax. Vertical equity is achieved when taxpayers in different economic circumstances are subject to taxes in a different manner.

10) What are some of the factors that have led to the entrenched use of tax expenditures as opposed to program spending?

Answer: The reasons that are listed in the text are as follows:

• It is less costly to administer tax expenditures than it is to administer government funding programs.

• More decisions are left to the private sector so that funds may be allocated more efficiently.

• Tax expenditures reduce the visibility of certain government actions. This is particularly beneficial if some social stigma is attached to the programs. For example, a child tax benefit system is more acceptable than increasing social assistance (welfare) payments.

• Tax expenditures reduce the progressivity of the tax system. As many of the tax expenditures, such as tax shelters, are more available to higher income taxpayers, they serve to reduce effective tax rates in the higher rate brackets.

11) While the Sections of the ITA are numbered 1 through 281, there are actually more than 281 Sections. Explain why this is the case.

Answer: This situation reflects the fact that when a new Section is added, it has been more convenient to attach a decimal designation to the new Section, as opposed to renumbering all of the Sections that follow the new Section. As an example, over several years, the Department of Finance has added six new Sections after Section 12. They have been numbered Section 12.1 through Section 12.6. If they had used whole numbers for these new Sections, it would have been necessary to renumber all of the remaining Sections in the Act each time a new Section was added.

12) What purposes are served by Canada's international tax treaties?

Answer: The purposes of these treaties are as follows:

• They impose measures on countries to avoid double taxation where a person is liable for income tax on the same income in both countries

• They tare used to create an exchange of information for the purposes of combatting tax evasion.

13) List four non-legislative sources of income tax information.

Answer: The required four items can be selected from the following:

• CRA Web Site

• Interpretation Bulletins

• Income Tax Folios

• Information Circulars

• Income Tax Technical News

• CRA News Releases, Tax Tips, and Fact Sheets

• CRA Guides

• Advance Income Tax Rulings

• Technical Interpretations

14) What is the meaning of "taxation year" as the expression is used in the ITA?

Answer: For individuals and trusts (except graduated rate estates), the taxation year is the calendar year of January 1 to December 31. In contrast, the taxation year for corporations are defined in terms of a fiscal period. A fiscal period can end on any date, with the only constraint being that it cannot exceed 53 weeks. Graduated rate estates are permitted to use a non-calendar taxation year.

15) Under what circumstances will a person who is not resident in Canada be liable for Canadian income tax?

Answer:

• The non-resident person earns employment income in Canada.

• The non-resident person carries on a business in Canada.

• The non-resident person has a gain on the disposal of taxable Canadian property.

16) What is the importance of residence in Canadian income taxation?

Answer: As stated in the text, residence is the cornerstone of Canadian income taxation. If a person is considered a resident of Canada in a given year, that person will be subject to Canadian income tax for that year on all sources of income. Alternatively, if the person is a non-resident, Canadian Part I tax will only apply to Canadian employment income, Canadian business income, and gains on the disposition of Taxable Canadian Property.

17) When an individual leaves Canada, the CRA may take the position that the individual has retained Canadian residence status. What are the three primary factors that the CRA considers in determining whether an individual has, in fact, ceased to be a resident of Canada?

Answer: As stated in S5-F1-C1, the primary factors that will be considered by the CRA are as follows:

• Whether the individual is continuing to maintain a dwelling in Canada.

• Whether the spouse or common-law partner of the individual remains in Canada.

• Whether the individual has dependants who remain in Canada.

18) List three factors that would be considered in the determination of whether or not an individual is a resident of Canada.

Answer: The main factors here would be:

• Does the individual have a dwelling in Canada?

• Does the individual's spouse or common-law partner live in Canada?

• Do the dependants of the individual live in Canada? Other factors that could be mentioned include:

• Owning personal property in Canada (such as furniture, clothing, automobiles, and recreational vehicles).

• Social ties with Canada (such as memberships in Canadian recreational and religious organizations).

• Economic ties with Canada (such as employment with a Canadian employer and active involvement in a Canadian business, and Canadian bank accounts, retirement savings plans, credit cards, and securities accounts).

• Hospitalization and medical insurance coverage from a province or territory of Canada.

• A driver's license from a province or territory of Canada.

• A vehicle registered in a province or territory of Canada.

• A seasonal dwelling place in Canada or a leased dwelling place.

• Holding a Canadian passport.

• Membership in Canadian unions or professional organizations.

19) If an individual leaves Canada for a temporary absence, this raises the question of whether the individual was a Canadian resident during the period of absence, particularly if some residential ties have been retained. What are the major factors that are considered in determining whether an individual continues to be a Canadian resident during a temporary absence?

Answer: As noted in the text, S5-F1-C1 identifies the following factors:

**Intent** - The issue here is whether the individual intended to permanently sever residential

ties with Canada. If, for example, the individual has a contract for employment, if and

when he returns to Canada, this could be viewed as evidence that he did not intend to

permanently depart. Another factor would be whether the individual complied with the

rules related to permanent departures (i.e., as noted in Chapter 8, there is a deemed

disposition of an individual's property at the time of departure from Canada, resulting in

the need to pay taxes on certain gains).

**Frequency Of Visits** - If the individual continues to visit Canada on a regular and continuing basis, particularly if other secondary residential ties are present, this would suggest that she did not intend to permanently depart from Canada.

**Residential Ties Outside Of Canada** - A further consideration is whether or not the individual establishes residential ties in another country. If someone leaves Canada and travels for an extensive period of time without settling in any one location, it will be considered as evidence that the individual has not permanently departed from Canada.

20) One of your friends is leaving Canada and would like to know when he will no longer be considered a Canadian resident. Briefly explain the general rules related to terminating an individual's status as a Canadian resident.

Answer: A Canadian resident normally becomes a non-resident on the latest of the following days:

• on leaving Canada,

• when a spouse and/or dependants leave Canada, and

• on becoming a resident of another country.

21) For the current year, Jane Doe, a resident of the U.S., spent 210 days in Canada. Since she was physically present in Canada for 183 days or more (e.g. sojourned in Canada) she is deemed to be a resident of Canada. In addition, Jack Fawn, a long-time resident of Manitoba, was considered a part year resident for the first 210 days, after which he permanently departed from Canada. Explain how these two individuals will be taxed in Canada.

Answer: As a sojourner, Jane would, as a deemed resident, be liable for Canadian income tax on her world wide income for the entire year. As she would not be considered a resident of a province, she would be charged an additional federal income tax of 48% based on her federal tax payable.

In contrast, Jack would only be liable for Canadian income taxes on his world wide income for the 210 day period prior to his departure from Canada. In addition, he would be liable for provincial income tax in Manitoba for the same 210 day period. Jack would be considered a non-resident of Canada for the remainder of the year.

22) It is possible that an individual could be considered resident in more than one country. In such situations, "tie-breaker" rules are used to deem the individual to be resident in one of the two countries. These tie-breaker rules are designed to avoid the individual being subject to taxation in both countries. List and describe three of the tie-breaker rules common to Canada's income tax treaties.

Answer: The tie-breakers rules are as follows:

**Permanent Home** - If the individual has a permanent home available in only one country, the individual will be considered a resident of that country. A permanent home means a dwelling , rented or purchased, that is continuously available at all times. For this purpose, a home that would only be used for a temporary period would not be considered a permanent home.

**Centre of Vital Interests** - If the individual has permanent homes in both countries, or in neither, then this test looks to the country in which the individual's personal and economic relations are greatest. Such relations are virtually identical to the ties that are examined when determining factual residence for individuals.

**Habitual Abode** - If the first two tests do not yield a determination, then the country where the individual spends more time will be considered the country of residence. The number of days spent in each country is often used in applying this test.

**Citizenship** - If the tie-breaker rules still fail to resolve the issue, then the individual will be considered a resident of the country where the individual is a citizen.

**Competent Authority** - If none of the preceding tests resolve the question of residency then, as a last resort, the so-called "competent authority procedures" are used. Without describing them in detail, these procedures are aimed at opening a dialogue between the two countries for the purpose of resolving the conflict.

23) Is a corporation incorporated in Canada that carries on a business always considered to be resident in Canada? Explain your conclusion.

Answer: The carrying on of a business by a corporation is generally irrelevant to the determination of whether the corporation is a resident of Canada. Corporate residency is determined on a factual or deemed basis and a corporation may also be deemed to be a non-resident of Canada if the corporate tie-breaker rule of a tax treaty concludes that the corporation is only a resident of the other country and not Canada.

Corporations are factually resident where their Board of Directors regularly meets. Corporations are deemed to be resident in Canada if the corporation was in Canada after April 26, 1965. However, if the company is incorporated in Canada prior to April 27, 1965, it will only be considered resident in Canada in those situations where it either:

• it carried on business in Canada at any time after that date; or

• was factually resident in Canada at any time after that date.

In general the corporate tie-breaker rule in Canada's income tax treaties generally provides that the corporation is resident in the country in which it was incorporated.

24) Limon Inc. was incorporated in the U.S. five years ago. However, all of the members of the Board of Directors meet in Montreal. In which country would Limon Inc. be taxed?

Answer: Limon Inc. is a U.S. resident because it was incorporated in the U.S. It is however considered a factual resident of Canada based on where the Board of Directors meet. In such dual residency cases, the corporate tie-breaker rule of the Canada/U.S. tax treaty deem the corporation to be a resident of the country in which it was incorporated. That means that Limon Inc. would be considered a non-resident of Canada and only subject to Canadian income tax under Part I if it carried on a business in Canada or disposed of Taxable Canadian property, both of which are subject to other tax treaty provisions.

25) What are the components of net income?

Answer: The components of net income are employment income or loss, business income or loss, property income or loss, net taxable capital gains (taxable capital gains minus allowable capital losses), other miscellaneous sources of income, subdivisions e deductions and allowable business investment losses.

26) ITA 3(b) reads that a taxpayer should "determine the amount, if any", by which taxable capital gains exceeds allowable capital losses.Does this wording mean that negative amounts are not possible?

Answer: ITA 257 adds a rule that says to ignore negative numbers unless the context requires otherwise. The phrase "the amount, if any" is generally used throughout the ITA to indicate that only positive or nil amounts are acceptable.

27) What is the difference between tax avoidance and tax deferral?

Answer: Tax avoidance is a form of tax planning in which a taxpayer, through means that are acceptable for income tax purposes , arranges their affairs to avoid the payment of income tax. Tax planning to achieve tax deferral involves either the delayed recognition of income, or the accelerated recognition of deductions. The ultimate payment of tax is delayed, as opposed to permanently avoided.

28) What is income splitting? Under what circumstances will it provide tax benefits to an individual?

Answer: Income splitting involves efforts to share or split income of an individual with family members or other related persons. It will only benefit a taxpayer who is in a high tax bracket in those circumstances where there are family members or other related persons who are in lower tax brackets.

29) Contributions to a Registered Retirement Savings Plan (RRSP) can be deducted to reduce the income taxes of an individual in the year that they are made. However, these contributions will be subject to income tax when they are withdrawn from the plan. What type of tax planning is involved in this arrangement?

Answer: The basic type of tax planning that is involved in RRSPs is tax deferral – a tax savings results from making contributions that will have to be paid back at a later point in time. There may also be an element of avoidance in that, after retirement, an individual may be in a lower tax bracket than he was during his working years. If this is the case, there will be an absolute reduction in taxes.

30) Your client, a government employee, would like to reduce his income taxes. He is trying to decide whether he should contribute $5,000 to an RRSP this year. He has an RRSP as does his spouse, a part time employee at a day care centre.

Briefly describe the basic goals of tax planning. What advice would you give your client regarding his RRSP contribution? Explain your conclusion.

Answer: The basic goals of tax planning can be summarized as follows:

• Tax avoidance - To permanently avoid the payment of some amount of tax.

• Tax deferral - To delay the recognition of certain types of income or accelerate the timing of certain deductions.

• Income splitting - To have a family aggregate taxable income allocated as evenly as possible among family members.

He should contribute the $5,000 to a spousal RRSP. By contributing to a spousal RRSP he will be deferring taxes. By contributing to a spousal RRSP he is also income splitting and there may be possible tax avoidance if his spouse is taxed at a lower rate when the funds are withdrawn by her.

31) A partnership is a taxable entity for income tax purposes.

Answer: FALSE

Explanation: A taxpayer must be a person. Partnerships are not persons. In general only individuals, corporations, trusts and estates are taxable entities for income tax purposes.

32) A partnership is a taxable entity for GST purposes.

Answer: TRUE

Explanation: Partnerships engaged in commercial activity are specifically included as taxable entities for GST purposes.

33) In general, provincial income taxes for individuals are based on a specified percentage of federal income tax payable.

Answer: FALSE

Explanation: In general, provincial income taxes are based on a specified percentage of federal taxable income.

34) The federal government does not collect personal or corporate income taxes for Ontario or Quebec.

Answer: FALSE

Explanation: The federal government collects personal and corporate income taxes for Ontario.

35) A sales tax is a regressive tax even when it is applied at a single rate on all transactions.

Answer: TRUE

Explanation: Even if the rate is the same on all transactions, it will be a higher rate on the taxable income of lower income individuals because they spend a larger percentage of their income.

36) A major advantage of progressive tax rates is that their use encourages economic growth.

Answer: FALSE

Explanation: Progressive rates discourage both employment and investment, thereby limiting economic growth.

37) Tax expenditures are less costly to administer than direct funding programs.

Answer: TRUE

Explanation: Tax expenditures are less costly to administer than direct funding programs.

38) Part I of the ITA is the largest and most important part.

Answer: TRUE

Explanation: Part I of the ITA is the largest and the most important part.

39) The citation ITA 61(4)(b)(ii) would be read Paragraph 61, Subparagraph 4, Section b, Subsection ii.

Answer: FALSE

Explanation: The citation ITA 61(4)(b)(ii) would be read Section 61, Subsection 4, Paragraph b, Subparagraph ii. This is often shortened by referring to the last description such as subparagraph 61(4)(b)(ii).

40) Any taxpayer can choose the calendar year as their taxation year.

Answer: TRUE

Explanation: While individuals and inter vivos and testamentary trusts (with the exception of Graduated Rate Estates (GRE)) must use a calendar taxation year, other taxpayers, corporations and GREs, can choose to use the calendar year as their taxation year.

41) If there is a conflict between an income tax treaty and the ITA , the ITA overrides the tax treaty.

Answer: FALSE

Explanation: The provisions of an income tax treaty override the ITA.

42) An income tax is payable for each taxation year on the taxable income of every person resident in Canada at any time in the year.

Answer: TRUE

Explanation: An income tax is payable for each taxation year on the taxable income of every person resident in Canada at any time in the year. ITA 2(1)

43) Canadian citizens are required to file a Canadian income tax return, without regard to where they reside.

Answer: FALSE

Explanation: Canadian income taxes under Part I are assessed on residents of Canada.

44) When an individual is absent from Canada for some period of time, the length of their absence is an important factor in determining whether they continued to be a Canadian resident during the period of their absence.

Answer: FALSE

Explanation: S5-F1-C1 makes it clear that the length of the period of time during which the individual is absent from Canada is not a determining factor with respect to residency.

45) If an individual moves to Canada and is here less than 183 days prior to the end of the year, that individual will be subject to Part I tax on their worldwide income for the entire year.

Answer: FALSE

Explanation: Such part year residents will only be taxed on their worldwide income for the portion of the year subsequent to their moving to Canada.

46) The residency of a trust depends on the country in which the central management and control of the trust takes place, not where the beneficiaries reside.

Answer: TRUE

47) If an individual leaves Canada, the three most significant factors in determining whether the individual has ceased to be a resident are:

• Whether he continues to own a dwelling in Canada.

• Whether he is accompanied by his spouse or common-law partner.

• Whether he maintains social ties in Canada.

Answer: FALSE

Explanation: Whether the individual continues to maintain social ties is not one of the three most significant factors. the three factors are (1) having a dwelling in Canada, (2) having a spouse or common-law partner in Canada and (3) having other dependants in Canada.

48) If an individual returns to Canada after an absence of less than two years the individual will be considered to have retained Canadian residency during his absence.

Answer: FALSE

Explanation: The length of the period of absence from Canada is not considered a factor in determining whether an individual has remained a resident.

49) A part year resident for the current year is an individual who either establishes residency in Canada during the current year or, alternatively, terminates residency in Canada during the current year.

Answer: TRUE

Explanation: A part year resident for the current year is an individual who either establishes residency in Canada during the current year or, alternatively, terminates residency in Canada during the current year. In other words the individual is not resident for all 365 days of the year (366 for leap years).

50) A sojourner is any individual who has been present in Canada for 183 consecutive days in one year.

Answer: FALSE

Explanation: The 183 days do not have to be consecutive.

51) Which of the following types of taxes is not currently in use by the federal government of Canada?

A) Excise Taxes

B) Custom Duties

C) Head Tax

D) Transfer Tax

Answer: C

Explanation: C) Head Tax

Topic: Canadian income tax system

52) Which of the following is **NOT** a taxable entity for Canadian income tax purposes?

A) Darklyn Ltd., a Canadian resident corporation.

B) Ms. Sarah Bright, a Canadian resident.

C) Walters and Walters, a CPA partnership.

D) The Martin family trust.

Answer: C

Explanation: C) Walters and Walters, a group of CPAs operating as a partnership.

Topic: Canadian income tax system

53) Which of the following could be required to file a GST return?

A) Chan's Clothing Store (a business carried on as a sole proprietorship)

B) The Chan Foundation (a registered charity)

C) Min Chan (an individual)

D) All of the above could be required to file a GST return.

Answer: D

Explanation: D) All of the above could be required to file a GST return.

Topic: Canadian income tax system

54) Which of the following forms of taxation provides the largest component of federal government taxation revenues?

A) Personal income tax

B) Corporate income tax

C) GST

D) Employment insurance premiums

Answer: A

Explanation: A) Personal income tax

Topic: Canadian income tax system

55) With respect to provincial income taxes, other than Quebec, which of the following statements is **NOT** correct?

A) Each province can apply different rates to as many brackets for individuals as it wishes.

B) The federal government collects the provincial income tax for individuals for every province except Quebec.

C) Each province can establish its own tax credits to apply against income tax payable for individuals.

D) Each province can establish rules for determining the taxable income of individuals.

Answer: D

Explanation: D) Each province can establish rules for determining the Taxable Income of individuals.

Topic: Canadian income tax system

56) Which of the following groups of entities are all subject to income tax?

A) Individuals, proprietorships and corporations

B) Proprietorships, corporations and trusts

C) Individuals, trusts and corporations

D) Individuals, partnerships and corporations

Answer: C

Explanation: A) Proprietorships are not entities

B) Same as A

C) Individuals, trusts and corporations

D) Partnerships are not taxpayers

Topic: Canadian income tax system

57) Which of the following statements with respect to Canadian tax policy is **NOT** correct?

A) The economic burden of a particular tax may not fall on the same group that has the legal liability to pay the tax.

B) Extremely high rates of tax will always encourage individuals to work harder so that they will have more after tax income.

C) The inability to harmonize the GST in some provinces has increased the complexity of tax compliance.

D) A progressive tax system is unfair to individuals with incomes that fluctuate significantly from year to year.

Answer: B

Explanation: B) Extremely high rates of tax will always encourage individuals to work harder so that they will have more after tax income.

Topic: Tax policy concepts

58) Which of the following goals is **NOT** a current economic policy objective of the Canadian tax system?

A) Ensure the continued provision of public goods.

B) Redistribute income and wealth among taxpayers.

C) Ensure fairness in the allocation of resources to different levels of government.

D) Economic stabilization such as stimulating the economy or creating jobs.

Answer: C

Explanation: C) Ensure fairness in the allocation of resources to different levels of government.

Topic: Tax policy concepts

59) Which of the following can be considered an advantage of an income tax system based on progressive rates?

A) A progressive rate system is simpler to administer.

B) A progressive rate system provides greater stability in the context of changing economic conditions.

C) A progressive system discourages tax evasion.

D) A progressive system encourages greater effort on the part of individuals.

Answer: B

Explanation: B) A progressive rate system provides greater stability in the context of changing economic conditions.

Topic: Tax policy concepts

60) Which of the following statements accurately describes a regressive tax?

A) A tax which results in higher effective tax rates for higher income taxpayers.

B) A tax which results in lower effective tax rates for higher income taxpayers.

C) A tax in which the same effective rate applies to all levels of income.

D) A tax that is shifted to consumers through price increases on the goods purchased.

Answer: B

Explanation: B) A regressive tax is one which results in lower effective tax rates for higher income taxpayers.

Topic: Tax policy concepts

61) Which of the following statements with respect to using tax expenditures rather than program spending is **NOT** correct?

A) It is more costly to administer tax expenditures as opposed to program spending.

B) Tax expenditures reduce the visibility of government actions.

C) Tax expenditures leave fewer decisions in the hands of the private sector, thereby providing for more efficient allocation of resources.

D) Tax expenditures reduce the impact of progressive rates on higher income taxpayers.

Answer: A

Explanation: A) It is more costly to administer tax expenditures as opposed to program spending.

Topic: Tax policy concepts

62) "Taxpayers who earn $100,000 in dividends should pay the same amount of tax as taxpayers who earn $100,000 in capital gains." This statement reflects which of the following qualitative characteristics of an effective tax system?

A) Vertical equity.

B) Neutrality.

C) Flexibility.

D) Horizontal equity.

Answer: D

Explanation: D) Horizontal equity.

Topic: Tax policy concepts

63) Which of the following statements with respect to tax reference materials is correct?

A) Income Tax Folios are a legislative source of guidance.

B) Income Tax Regulations are gradually being replaced by Income Tax Folios.

C) Interpretation Bulletins are gradually being replaced by Information Circulars.

D) The *ITA* is the most important source of information for dealing with matters related to the federal income tax.

Answer: D

Explanation: D) The *Income Tax Act* is the most important source of information for dealing with matters related to the federal income tax.

Topic: Income tax reference materials

64) With respect to the structure of the ITA, which of the following statements is correct?

A) The major components of the ITA are called Divisions.

B) The *ITA* has Parts numbered I through XVII, reflecting the fact that there are 17 Parts in the Act.

C) All Parts of the ITA have Divisions.

D) All Parts of the ITA contain at least one Section.

Answer: D

Explanation: D) All Parts of the *ITA* contain at least one Section.

Topic: Income tax reference materials

65) Of the following publications, indicate the one that is **NOT** a legislative source.

A) *Income Tax Act*.

B) Income Tax Folios.

C) Income Tax Application Rules.

D) International Tax Treaties.

E) Income Tax Regulations.

Answer: B

Explanation: B) Income Tax Folios.

Topic: Income tax reference materials

66) Of the following publications, indicate the one that is **NOT** published by the CRA.

A) Income Tax Folios.

B) Information Circulars.

C) Court decisions.

D) Income Tax Technical News.

Answer: C

Explanation: C) Court decisions.

Topic: Income tax reference materials

67) Where would an individual find the formula for determining the prescribed rate?

A) The *Income Tax Act.*

B) The Income Tax Regulations.

C) A CRA Income Tax Folio.

D) A CRA Information Circular.

Answer: B

Explanation: B) The Income Tax Regulations.

Topic: Income tax reference materials

68) Which of the following statements is **NOT** correct?

A) Most major income tax changes are introduced in the annual Federal Budget.

B) Outstanding legislation that has not been passed may be affected by a Federal election.

C) Proposed changes in tax law are usually introduced to parliament in the form of a Notice of Ways and Means Motion.

D) When there is a conflict between the ITA and an international agreement, the terms of the *IITA* override the treaty.

Answer: D

Explanation: D) When there is a conflict between the ITA and an international agreement, the terms of the ITAoverride the treaty.

Topic: Income tax reference materials

69) Of the following statements related to liability for Canadian income tax, which statement is **NOT** correct?

A) As used in the ITA, the term person refers to individuals, trusts, and corporations.

B) Corporations must use the calendar year as their taxation year.

C) Part I tax is assessed on residents of Canada.

D) Part I tax is assessed Canadian employment income earned by a non-resident.

Answer: B

Explanation: B) Corporations must use the calendar year as their taxation year.

Topic: Liability for income tax

70) An individual is liable for income tax in Canada if the individual:

A) is a resident of Canada.

B) is a citizen of Canada.

C) has lived in Canada at any time during the year.

D) All of the above are required.

Answer: A

Explanation: A) is a resident of Canada.

Topic: Liability for income tax

71) Which of the following persons is **NOT** liable for Part I income tax?

A) Pheap Chom, an individual who has resided in Canada for the past 15 years.

B) Chom Incorporated, a resident corporation.

C) Phon Im, a resident of the United States who earns employment income in Canada.

D) Bunly Im, a resident of the United States who earns investment income that is interest in Canada.

Answer: D

Explanation: D) Bunly Im, a resident of the United States who investment income that is interest in Canada.

Topic: Liability for income tax

72) Which of the following types of income earned by a non-resident is **NOT** subject to income tax under Part I of the ITA?

A) Employment income earned in Canada

B) Business income earned in Canada

C) Rental investment income earned in Canada

D) Income from the disposition of Canadian real estate

Answer: C

Explanation: C) Rental income earned in Canada

Topic: Liability for income tax

73) Which of the following is an essential factor in determining whether an individual has ceased to be a resident of Canada?

A) The individual has closed his Canadian savings account.

B) The individual has given up his membership in the Canadian club.

C) The individual has become a resident of another country.

D) The individual has given up their provincial or territorial driver's licence.

Answer: C

Explanation: C) The individual has become a resident of another country.

Topic: Residence of individuals

74) All of the following statements are true, except:

A) Canadian residents must report their worldwide income for tax purposes.

B) If an individual is a resident of Canada for part of the calendar year, that individual only has to report his worldwide income during the period of residency for Canadian income tax purposes.

C) An individual who immigrates to Canada during the year is a resident of Canada for income tax purposes for the full calendar year.

D) An individual can be a resident of Canada for income tax purposes, even if she is not a Canadian citizen.

Answer: C

Explanation: C) An individual who immigrates to Canada during the year is a resident of Canada for tax purposes for the full calendar year.

Topic: Residence of individuals

75) Of the following individuals, who would be a resident or deemed resident of Canada for income tax purposes this year?

• Alex is a U.S. citizen who commutes each day to Canada for employment purposes.

• Bob is a U.S. citizen who lives in Canada during the week for employment purposes, but returns to the U.S. on weekends to the house he shares with his wife and children.

• Charles is a Canadian citizen who lived in Toronto until March of last year, at which time he left for a four year aid mission in Africa under an agreement with the Canadian International Development Agency.

• Dick is a Canadian citizen who goes to school in the U.S. for eight months of each year but returns to Canada to live with his parents each summer.

A) Alex, Bob and Charles.

B) Bob, Charles and Dick.

C) Bob and Charles.

D) Alex and Dick.

Answer: B

Explanation: B) Bob, Charles, and Dick.

Topic: Residence of individuals

76) With respect to the residency of an individual, which of the following statements is **NOT** correct?

A) To be a resident for income tax purposes, an individual must be a Canadian citizen.

B) If an individual permanently departs or enters Canada with the intention of permanently staying in Canada in the current year, the individual will be considered a part-year resident for income tax purposes.

C) An individual is a Canadian resident for income tax purposes if their principal residential ties are in Canada.

D) An individual is considered to be a Canadian resident for income tax purposes if the individual visits for 183 days or more in a calendar year.

Answer: A

Explanation: A) To be a resident for income tax purposes, an individual must be a Canadian citizen.

Topic: Residence of individuals

77) Which of the following factors would **NOT** be relevant under the Canada/U.S. tax treaty tie-breaker rules for determining the residence of an individual?

A) The country in which the individual carries on a business.

B) The country in which the individual is a citizen.

C) The country in which the individual has a permanent home available to him.

D) The country in which the individual has a habitual abode.

Answer: A

Explanation: A) The country in which the individual carries on a business.

Topic: Residence of individuals

78) Jamal, his wife and two teenage children are all Canadian citizens. For the last 2 years he and his family have been living in Mexico while he works for the Mexican subsidiary of a Canadian company. Jamal still owns his house in Canada but has purchased a home in Mexico. His wife and children visit Canada for 2 months in the summer and he spends 4 weeks a year in Canada. The rest of the time the house is empty as his wife visits family in Canada regularly. Jamal has no intention to return to Canada and loves living in Mexico. However, since his mother-in-law is very ill, it is possible that his wife will have to return to Canada for at least 6 months to nurse her mother. Which of the following statements is correct?

A) Jamal is considered a part-time resident of Canada for the 4 weeks he spends in Canada.

B) If Jamal's wife returns alone to Canada to care for her mother, Jamal is considered a part-time resident of Canada for the 6 months she is in Canada.

C) Jamal is considered a non-resident of Canada.

D) Since Jamal owns a house in Canada that is not rented out under a long-term lease he is considered a Canadian resident for income tax purposes.

Answer: C

Explanation: C) Jamal is considered a non-resident of Canada.

Topic: Residence of individuals

79) Of the following individuals, who is most likely to be considered a part-year resident of Canada for the current taxation year?

A) Ravi is a citizen of India, where he was born and lived until moving to Canada on March 1 of the current year with his wife and child. He was transferred by his employer to its Canadian head office.

B) Helga had lived and worked in Canada for 10 years. She was transferred by her employer to its flagship hotel in Switzerland on March 1 of the current year for a 1 year training assignment. Her husband remained in Canada to complete his MBA.

C) Marc is a French citizen who lives in Paris. On March 1 of the current year he begins work as a translator in Ottawa. It is a 1 year assignment.

D) Billy Bob is a U.S. Marshall on loan to the RCMP detachment in Nunavut. It is a 9 month assignment.

Answer: A

Explanation: A) Ravi is a citizen of India, where he was born and lived until moving to Canada on March 1 of the current year. He was transferred by his employer to its Canadian head office.

Topic: Residence of individuals

80) Dominique, a Canadian citizen, lives in Buffalo, NY, USA. Throughout the current year she commutes to Fort Erie, Ontario, Canada, where she is the bartender at the Cross Border Bar. She normally works 7 pm to 3 am Tuesday through Saturday. She never stays overnight in Canada. Dominique is:

A) a deemed resident (sojourner).

B) a non-resident.

C) a full-time resident.

D) a part-year resident.

Answer: B

Explanation: B) A non-resident

Topic: Residence of individuals

81) Which of the following corporations would **NOT** be considered a resident of Canada? Ignore treaty implications.

A) Dram Inc. was incorporated in Alberta in 2005. While it carries on business in both the U.S. and Canada, its central management has always been located in New York.

B) Craser Ltd. was incorporated in Ontario in 2010 where it carries on its only business. Its central management is located in Toronto.

C) Alor Inc. was incorporated in British Columbia in 2004. The company carries on most of its business in Canada but its central management is situated in Seattle.

D) Exeter Ltd. was incorporated in Alberta in 1956. However, it has never carried on business in Canada and its central management has always been situated in Montana.

Answer: D

Explanation: D) Exeter Ltd. was incorporated in Alberta in 1956. However, it has never carried on business in Canada and its central management has always been situated in Montana.

Topic: Residence of corporations

82) Of the persons described, which one would **NOT** be considered a Canadian resident?

A) A person who lives in Leamington, Ontario and commutes to work each day in Detroit, Michigan.

B) A corporation that was incorporated in North Dakota, but carries on all of its business in southern Manitoba.

C) A member of the Canadian armed forces who has, for the last 3 years, been stationed in Germany.

D) A corporation that was incorporated in Winnipeg, but carries on all of its business in North Dakota.

Answer: B

Explanation: B) A corporation that was incorporated in North Dakota but carries on all of its business in southern Manitoba.

Topic: Residence of individuals and corporations

83) In which of the following situations is the person considered a non-resident of Canada, in 2021, for income tax purposes?

A) James Arder, a recently qualified CPA, based in Montreal, accepted a transfer to an office in Sydney, Australia for the period May 1, 2021 to August 31, 2021. James is not married and had lived at his parent's house in Montreal.

B) Karen Cotin, a computer programmer, had been employed by ABC Systems Ltd. in Toronto. In 2020, she accepted a minimum two-year contract with CS Services Inc. in London, England. Her position with CS Services Inc. started October 1, 2020. Before moving to England, where she will join her fiance, Karen terminated the lease on her apartment in Toronto and sold her car. It is her intention to remain in England.

C) N Limited was incorporated in Canada in 1997 and, until May 2020, its manufacturing plant was located in Mississauga, Ontario. In May 2020, it moved all of its operations, including the manufacturing plant, to North Carolina, U.S.A.

D) B. Bath, a member of the Canadian Armed Forces, who was stationed in Lahr, Germany from September 1, 2019 to February 1, 2022.

Answer: B

Explanation: B) Karen Cotin, a computer programmer, had been employed by ABC Systems Ltd. in Toronto. In 2019, she accepted a minimum two-year contract with CS Services Inc. in London, England. Her position with CS Services Inc. started October 1, 2019. Before moving to England, where she will join her fiance, Karen terminated the lease on her apartment in Toronto and sold her car. It appears Karen has severed all ties with Canada.

Topic: Residence of individuals and corporations

84) Which of the following statements accurately describes the ITA view of income?

A) Net income is determined by adding revenue based on recognition at the point of sale and deducting expenses which are determined based on generally accepted accounting principles.

B) Net income is based on the source concept that matches revenue with expenses based on the type of activity.

C) Net income is the amount paid to an employee after an employer deducts CPP, EI, income taxes and any other source deductions from employee pay.

D) Net income is the total increase in a taxpayer's net worth or overall wealth for the year.

Answer: B

Explanation: B) Net income is based on the source concept that matches revenue with expenses based on the type of activity.

Topic: Alternative concepts of income

85) With respect to the determination of net income (ITA 3), which of the following statements is correct?

A) Property losses are deducted from business income before the deduction of RRSP contributions.

B) Allowable capital losses can be deducted to the extent of other positive sources of income.

C) If not used during the current period, all subdivision e deductions can be carried forward to subsequent periods.

D) If a business loss exceeds all other sources of income, net income will be equal to nil.

Answer: D

Explanation: D) If If a business loss exceeds all other sources of income, net income will be equal to nil.

Topic: Calculation of net income

86) With respect to the calculation of net income (ITA 3) , which of the following statements is **NOT** correct?

A) Subdivision e deductions are subtracted from the total of all positive sources of income.

B) Allowable capital losses for the year can only be deducted to the extent of taxable capital gains for the year.

C) Business losses can be netted against employment income in determining the positive amounts to be included under ITA 3(a) and 3(b).

D) Property losses can only be deducted after the subtraction of Subdivision e deductions.

Answer: C

Explanation: C) Business losses can be netted against employment income in determining the positive amounts to be included under ITA 3(a) and 3(b).

Topic: Calculation of net income

87) Minjie Liu has the following sources of income and deductions:

|  |  |
| --- | --- |
| Employment income | $35,000 |
| Interest income | 5,000 |
| Taxable amount of dividend income | 7,000 |
| Taxable capital gain | 5,000 |
| Allowable capital loss | 12,000 |
| Subdivision e deductions | 2,000 |

What is Minjie's net income?

A) $47,000

B) $40,000

C) $45,000

D) $49,000

Answer: C

Explanation: A) $47,000 (this answer does not deduct the subdivision e deductions of $2,000)

B) $40,000 (this answer incorrectly deducts the full amount of allowable capital loss

C) $45,000

D) $49,000 (this answer adds the subdivision e deductions instead of subtracting them).

Topic: Calculation of net income

88) Tanya Turek has the following sources of income and deductions:

|  |  |
| --- | --- |
| Gross Salary | $35,000 |
| Employment income | 34,000 |
| Business loss | 14,000 |
| Taxable capital gain | 4,000 |
| Allowable capital loss | 2,000 |

What is Tanya's net income?

A) $23,000

B) $22,000

C) $36,000

D) $24,000

Answer: B

Explanation: A) $ 23,000 (This answer incorrectly uses Gross salary)

B) $ 22,000 ($34,000 + ($4,000 - $2,000) - $14,000)

C) $36,000 (this answer does not deduct the business loss)

D) $24,000 (this answer fails to deduct the allowable capital loss)

Topic: Calculation of net income

89) Fadel Ghanem has the following sources of income and deductions:

|  |  |
| --- | --- |
| Employment income | 34,000 |
| Property income | 6,000 |
| Business loss | 54,000 |
| Taxable capital gain | 4,000 |
| Allowable capital loss | 7,000 |

What is Fadel's net income?

A) $40,000 Income

B) Nil

C) $44,000 Income

D) $12,000 Loss

Answer: B

Explanation: B) Nil, with a business loss that can be used in either the previous 3 years or in the next 20 future years of $12,000 (34,000 + 6,000 + 4,000 — 2,000 — 54,000)

D) Net income means a positive amount or nil. Negatives or not recognized.

Topic: Calculation of net income

90) ITA 3(b) requires the taxpayer to "determine the amount, if any, by which taxable capital gains exceed allowable capital losses". The rule that is established by this phrase is:

A) that allowable capital losses in excess of taxable capital gains during a year are never deductible from net income.

B) that the current year allowable capital losses can only be deducted to the extent that there are taxable capital gains during the current year.

C) that taxable capital gains are only included in income in a year when there are also allowable capital losses that can be used to reduce the effect on income.

D) that unused allowable capital losses are deductible against any type of income in one of the past 3 years or in a future year.

Answer: B

Explanation: B) That the current year allowable capital losses can only be deducted to the extent that there are taxable capital gains during the current year.

Topic: Calculation of net income

91) Fred Hopkins has employment income of $45,000, a business loss of $14,000, capital gains of $20,000, capital losses of $12,000, and subdivision e deductions of $3,000. Fred's net income is:

A) $36,000.

B) $50,000.

C) $39,000.

D) $32,000.

Answer: D

Explanation: D) $32,000 [$45,000 + (1/2)($20,000 - $12,000) - $3,000 - $14,000]

Topic: Calculation of net income

92) Which one of the following items is a taxable income deduction?

A) A deduction for spousal support payments made during the year.

B) A deduction for the extra costs related to living in prescribed areas of the Canadian north (ITA 110.7).

C) Current year allowable capital losses in excess of current year taxable capital gains.

D) Current year business losses in excess of other positive sources of income.

Answer: B

Explanation: B) A deduction for the extra costs related to living in prescribed areas of the Canadian north. (ITA 110.7)

Topic: Net income to taxable income

93) Which of the following amounts is **NOT** a taxable income deduction?

A) Losses of other years.

B) The lifetime capital gains deduction.

C) A stock option deduction.

D) The excess of allowable capital losses over taxable capital gains for the year.

Answer: D

Explanation: D) The excess of allowable capital losses over taxable capital gains for the year.

Topic: Net income to taxable income

94) Which of the following items does not result in tax avoidance?

A) Use of the capital gains deduction.

B) Employer contributions to group disability plans.

C) Employer contributions to private health service plans.

D) Accelerated depreciation (CCA).

Answer: D

Explanation: D) Accelerated depreciation (CCA) on rental properties.

Topic: Tax planning

95) Providing employees with private health service plan benefits involves what type of tax planning?

A) Tax evasion.

B) Tax deferral.

C) Income splitting.

D) Tax avoidance.

Answer: D

Explanation: D) Tax avoidance.

Topic: Tax planning

96) Making contributions to an RRSP always involves what type of tax planning?

A) Tax avoidance and tax deferral.

B) Tax deferral.

C) Tax avoidance.

D) Income splitting.

Answer: B

Explanation: A) Tax avoidance may occur depending on the circumstances but it will not always occur.

B) Tax deferral.

Topic: Tax planning

97) Which of the following will always result in tax avoidance?

A) Making contributions to a registered retirement savings plan.

B) Making contributions to an employer's registered pension plan.

C) Making use of the capital gains deduction.

D) Making maximum capital cost allowance deductions.

Answer: C

Explanation: C) Making use of the capital gains deduction.

Topic: Tax planning

98) Which of the following entities could be required to file an income tax return?

• Sally Forbes (an individual)

• Forbes Boutique (a sole proprietorship)

• Forbes and Delaney (a partnership)

• The Forbes family trust (a trust)

• Forbes Ltd. (a corporation)

• The Forbes Foundation (an unincorporated charity)

Answer: Sally Forbes, the Forbes family trust, and Forbes Ltd. could be required to file income tax returns. Forbes Boutique, Forbes and Delaney, and the Forbes Foundation are not taxable entities for income tax purposes. These latter entities may be required to file information returns with the CRA but not actual income tax returns.

Topic: Taxable entities for income tax purposes

99) Which of the following entities could be required to file a GST return?

• Sally Forbes (an individual)

• Forbes Boutique (a sole proprietorship)

• Forbes and Delaney (a partnership)

• The Forbes family trust (a trust)

• Forbes Ltd. (a corporation)

• The Forbes Foundation (an unincorporated charity)

Answer: Under the ETA , all of the listed entities could be required to file a GST return. Where only individuals, corporations and trusts can be required to file an income tax return, the definition of a person (i.e., taxable entity) is much broader for GST purposes. As is explained in detail in Chapter 21, whether an entity is required to file a GST return is dependent on the level of commercial activity.

Topic: Taxable entities for GST/HST purposes

100) Joan Smith has taxable income of $37,500. For the current year her federal income tax rate is 15%, while the corresponding provincial rate is 8.2%. Determine Ms. Smith's combined federal and provincial income tax payable, before consideration of any available credits against income tax payable.

Answer:

Federal Tax Payable [(15%)($37,500)] $5,625

Provincial Tax Payable [(8.2%)($37,500)] 3,075

Total Tax Payable [(15% + 8.2%)($37,500)] $8,700

Topic: Federal and provincial/territorial income taxes payable

101) Karla Ho has taxable income of $26,700. For the current year her federal income tax rate is 15% and the corresponding provincial rate is 10%. Determine Ms. Ho's combined federal and provincial income tax payable, before consideration of any available credits against income tax payable.

Answer:

Federal Tax Payable [(15%)($26,700)] $4,005

Provincial Tax Payable [(10%)($26,700)] 2,670

Total Tax Payable [(15% + 10%)($26,700)] $6,675

Topic: Federal and provincial/territorial income taxes payable

102) Ms. Michelle Walker, a U.S. citizen, has Canadian employment income of $42,000 and U.S. employment income of $40,000 Canadian. She lives in Seattle, Washington and is a resident of the United States for the entire year. Ms. Walker does not believe that she is subject to taxation in Canada.

Is she correct? Explain your conclusion ignoring the tax treaty.

Answer: She is not correct. As a non-resident of Canada she would be subject to ITA 2(3) which imposes Canadian income tax on non-residents who earn employment income in Canada. As a non-resident Canada would have no right to tax her U.S. employment income.

Topic: Non-resident liability for income tax

103) Daniel Bourne is a U.S. citizen who lives in Fargo, North Dakota. For many years, he has had a cottage on Manitoba's Lake Winnipeg. In recent years, however, he has made little use of this property and, given this, he has sold the property. While there was a gain of $50,000 on the sale, Daniel assumes that he will not pay Canadian taxes on this amount because he is a U.S. citizen.

Is he correct? Explain your conclusion ignoring the tax treaty.

Answer: He is not correct. As a non-resident of Canada he would be subject to ITA 2(3) which imposes Canadian income tax on non-residents who dispose of Taxable Canadian Property.

Topic: Non-resident liability for income tax

104) At the end of the current year, Michael Resner departed from Canada when he accepted permanent employment in Mexico. He was accompanied by his common-law partner and their children, as well as their personal property that had not been sold. He has no intention of returning to Canada except to visit friends and family on occasion. He was unable to sell his residence at a satisfactory price and decided instead to rent it out for a period of two years. He retained his membership in the CPA (Chartered Professional Accountants) Alberta. After his departure, would he still be considered a Canadian resident for income tax purposes? Explain your conclusion.

Answer: Based on the facts the intention to sever residency with Canada and establish residency in Mexico is supported by the facts. One would normally expect and individual to dispose of their principal residence if their is no intention to return however circumstances must first be considered in evaluating why the residence was not sold. Examples include situations where the market is in a downturn and expected to recover in years to come or when an individual decides that keeping a Canadian residency effectively provides an opportunity for a vacation property or the individual simply sees the residence as a viable investment. In this case the market appears to be at a low point which supports a delayed sale. In the interim rental income is being earned. The retention of his membership in the CPA Alberta would not be viewed as a relevant consideration given the facts. The facts support a conclusion that the individual severed Canadian residency on his departure from Canada.

Topic: Residential ties

105) Mary is a Canadian citizen who is employed by a corporation operating in Canada and the U.S. While she has worked for many years in the Canadian office of this organization, she agreed to transfer to the corporation's U.S. head office in New York City. Before leaving , she disposed of her residence and other personal property that she did not wish to move. She canceled her Saskatchewan driver's licence and health care card, and closed all of her Canadian banking and brokerage accounts.

Because her boyfriend remained in Regina, she found herself flying back to Canada at least once a month. After two years, she concluded that between the high cost of living in New York City and the travel required to maintain the relationship with her boyfriend, she would return to Canada. Would Mary be considered a Canadian resident during the two years that she was absent from Canada? Explain your conclusion.

Answer: Residency determinations begin with the intent of an individual which is then evaluated in terms of whether the intent matches ones actions. In this case the actions to dispose of the principal residence and personal property are supportive of an intent to sever residency with Canada. She would therefore be considered a non-resident of Canada on her departure and re-establishing Canadian residency once she decided to return to Canada and took action to re-establish the connection with Canada.

Topic: Temporary absences

106) John Acheever is employed by Research In Limbo. He has worked for a number of years in their office in Kitchener, Ontario. However, he has become convinced that he would have greater advancement opportunities if he transferred to their office in New York City. He requests this transfer and moves in September, 2020. Before leaving he cancels his apartment lease, sells all of the personal property that he does not wish to move, and cancels his Ontario driver's licence. However, he retains his Canadian banking and brokerage accounts and, because of concerns about the cost of U.S. health care, he does not cancel his Ontario health care card (he changes the address to that of his parents in Waterloo, Ontario). He has also left his dog , Bart with his parents.

After the move, he is shocked to realize how much he misses Bart. He finds himself flying back to Kitchener at least twice a month to spend the weekend caring for Bart. By February, 2022, after not being able to find a suitable dog-friendly apartment in New York City, John returns to his position in Kitchener. He has no plans to return to the U.S. Would John be considered a Canadian resident during the 18 months that he was absent from Canada? Explain your conclusion.

Answer: Residency determinations begin with the intent of an individual which is then evaluated in terms of whether the intent matches ones actions. Based on the facts it would appear that John has severed Canadian residency. This is further supported by his actions including continuing to find accommodation in New York that would accept pets. Retaining Canadian bank accounts is not a significant tie and is often quite common until one has settled in another country. Cancelling one's driver's license and not cancelling healthcare coverage in the same province would alert the provincial government that there is a potential concern. The Ontario government allows individuals who spend little time in Canada to retain their healthcare coverage for up to a couple of years as long as the individual's primary place of residency is in Ontario. The fact that the individual may not legally be entitled to retain Ontarion healthcare coverage is not determinative as to the individual's residency status for income tax purposes. In summary the facts suggest that he became a non-resident of Canada when he departed for New York.

Topic: Temporary absences

107) Melissa is a Canadian citizen who has been employed in Vancouver for the last five years. She has accepted new employment in the United States and, as of March 15 of the current year, flies to New Mexico to begin her responsibilities. She has been granted a green card to enable her to work in the U.S. Her husband remains behind with the children until July 1, after the end of their school year. On that date, they fly to New Mexico to join Melissa. Their residence is sold on August 1 of the current year, at which time a moving company picks up their furniture and other personal possessions. The moving company delivers these possessions to their new house in New Mexico on August 15. Explain Melissa residency status with Canada during the current year.

Answer: Melissa became a non-resident of Canada in the current year. The question however would be at what point in time during the current year that she actually became a non-resident of Canada. The answer depends upon the facts together with the laws of the two countries. In Canada the CRA has a general policy that an individual severs Canadian residency at the latest of (1) the date the individual leaves Canada, (2) the date the individual establishes residency in the other country and (3) the date that members of the immediate family leave Canada (e.g. spouse, common-law partner and dependants). The period of Canadian residency would be the period January 1 through July 1, the date that her husband and children fly to the U.S. July 1 would be the latest of: the date that Melissa leaves Canada (March 15), the date that Melissa establishes U.S. residency (March 15), and the date that her husband and children depart Canada (July 1).

Topic: Part year residence

108) Barton Vader is a Canadian citizen who has always lived in London, Ontario. He has a spouse and two school-aged children. As of May 2020, he accepts a permanent employment in Akron, Ohio. On October 1, 2020, he moves to Akron to locate housing for his family. In order for his children to finish the school term, his family remains in London until January 1, 2021. When they move, John severs all residential ties with Canada other than the family home. The home is put up for sale in January, 2021. However, it remains unsold as of December 31, 2021.

While Barton was scheduled to begin working in the U.S. in early 2021, he is unable to obtain the required residency documents until July 1, 2021.

Explain Barton's Canadian residency status for 2020 and 2021.

Answer: For residency purposes the CRA has a general policy designed to assist individuals in determining the actual date that the individual has become a non-resident of Canada. This administrative policy recognizes that the specific facts determine that date but that individuals can rely upon this policy if they so choose. The CRA policy is that an individual is considered to have ceased being a resident of Canada at the latest of three dates:

1. The date the individual leaves Canada.

2. The date the individual's family leaves Canada.

3. The date the individual establishes residency in another country.

In Barton's case the latest of the dates would be July 1, 2021, the date on which he receives the required residency documents. Given this, Barton would be considered a Canadian resident for all of 2020. In addition, he would be a part year resident for the period January 1, 2021 through June 30, 2021. Note that thus date may cause issues where there is residency overlap with the U.S.

Topic: Part year residence

109) Mary Sothor is the Canadian ambassador to Tanzania. She was a resident of Canada immediately prior to her appointment as ambassador. Living with her in Tanzania's capital city are her husband and two children. Her husband was born in Canada and was a Canadian resident at the time of their marriage. He is exempt from Tanzanian taxation because he is the spouse of a foreign diplomat. Her 25 year old son was born in Canada and works for a Tanzanian company. His income exceeds $30,000 annually. Her 16 year old son was born in Kenya and is a full time student with no income of his own. Which of these individuals would be considered Canadian residents for income tax purposes? Explain your conclusions.

Answer: Under ITA 250(1)(c)(i), Mrs. Sothor would be a deemed Canadian resident because of her position as a Canadian ambassador and the fact that she was a Canadian resident at the time she was appointed to this post. As her husband is exempt from Tanzanian taxation due to his relationship to a deemed resident, he is a deemed resident of Canada under ITA 250(1)(g). Of her two children, the younger son would be a deemed resident under ITA 250(1)(f) as he is a Canadian ambassador's dependent child. However, the older son would not be a deemed resident because his income exceeds the base for the basic personal tax credit for 2021 of $13,808 and he would therefore not be considered a dependant.

Topic: Individual residency

110) Ms. Sharon Washton was born 26 years ago in Bahn, Germany. She is the daughter of a Canadian High Commissioner serving in that country. Her father still holds this position. However, Ms. Washton is now working in Prague, Czechoslovakia. The only income that she earns in the year is from her Prague marketing job and is subject to taxes in Czechoslovakia. She has never visited Canada. Determine the residency status of Sharon Washton.

Answer: While Ms. Washton is the child of a Canadian High Commissioner, it appears that she is no longer a dependant of this individual. It would also appear that she has income in excess of the base for the basic personal tax credit for 2021 of $13,808. As a consequence, she would not be considered a deemed resident under ITA 250(1).

Topic: Individual residency

111) Nixon Inc. was incorporated as an Ontario corporation in 2012. However, since 2015, all of the Company's business has been carried on outside of Canada. Determine the residency status of Nixon Inc.

Answer: As the Company was incorporated in Canada after April 26, 1965, it would be deemed to be a Canadian resident under ITA 250(4). While the problem does not provide enough information to determine this, it is possible that the Company has dual residency with the country or countries where it carries on business. This could result in resorting to a tax treaty to resolve any dual residency issues. Note that the location of where a corporation carries on its business is not relevant to a residency determination.

Topic: Corporate residency

112) Wolfhowl Ltd. was incorporated in Banff, Alberta in 1961. The company has never carried on business in Canada. However, until 1971, all meetings of the Board of Directors were held in Banff. Since 1971, all board of directors meetings have been held in the U.S. in Wyoming. Determine the residency status of Wolfhowl Ltd.

Answer: As Wolfhowl Ltd. was incorporated in Canada prior to April 27, 1965, it will only be considered to be a Canadian resident if it carried on business in Canada or was a factual resident of Canada subsequent to April 26, 1965. As the director's meetings were held in Canada until 1971, this would suggest that the "mind and management" of the Company was in Canada during this period and therefore that the company was a factual resident. As a result the company would be considered a deemed resident of Canada.

However, as the mind and management of the corporation is in the United States, it would be considered a factual resident of the U.S. In such dual residency situations, the Canada/U.S. tax treaty tie breaker rules would consider the company to be a resident of the country of incorporation, which in this case would be Canada.

Topic: Corporate residency

113) Acton Enterprises was incorporated in Montana in 1964. Until 2015, all of the company's directors were residents of Bozeman, Montana, with all meetings held in that city. However, in 2015, all of the directors moved to Calgary, Alberta, with all subsequent meetings held in that city. Determine the residency status of Acton Enterprises for the taxation year ending December 31, 2021.

Answer: While Acton Enterprises was not incorporated in Canada, it would appear that the "mind and management" of the Company is now situated in Canada and as a result the company would be considered a factual resident of Canada for the 2020 year. However, as it was incorporated in the U.S., it would also be considered a resident of that country. In such dual residency situations, the tie breaker rules would consider the company to be a resident of the country in which it was incorporated. This would mean that Acton Enterprises would be deemed to be a non-resident of Canada for its 2021 taxation year.

Topic: Corporate residency

114) Ms. Sonia Nexus is a computer specialist with employment income of $66,000. During the current year she has:

• a taxable capital gain on the sale of land of $13,500,

• an allowable capital loss on the sale of shares of $24,000,

• interest income of $10,250,

• rental loss of $6,750, and

• a loss from a business carried on as a sole proprietorship of $28,000.

In addition, she makes deductible spousal support payments of $14,000 and makes a deductible contribution to her RRSP of $3,000. Determine her net income for the current year and indicate the amount and type of any loss carry overs that are available for the year. Show all of your calculations.

Answer: Ms. Nexus' current year net income would be calculated as follows:

Income under ITA 3(a):

Employment Income $66,000

Interest Income 10,250 $76,250

Income under ITA 3(b):

Taxable Capital Gains $13,500

Allowable Capital Loss (24,000) Nil

Balance from ITA 3(a) and (b) $76,250

ITA 3(c) Deductions:

Spousal Support (14,000)

RRSP Contributions (3,000)

ITA 3(c) $59,250

Deductions under ITA 3(d):

Rental Loss (6,750)

Business Loss (28,000)

Net Income $24,500

She has a current year net capital loss n of $10,500 ($24,000 - $13,500).

Topic: Net income

115) Harvey Nicastro has current year employment income of $45,000. In addition, he has the following additional sources of income, gains, and losses:

• A loss from a business carried on as a sole proprietorship of $23,000.

• Interest income of $4,500.

• A taxable capital gain of $13,500.

• An allowable capital loss of $18,200.

• Deductible spousal support paid of $24,000.

• A rental loss of $14,500.

Determine Harvey's minimum current year net income and indicate the amount and type of any loss carry overs for the year. Show all of your calculations.

Answer: Mr. Nicastro's current year net income would be calculated as follows:

Income under ITA 3(a):

Employment Income $45,000

Interest Income 4,500 $49,500

Income Under ITA 3(b):

Taxable Capital Gains $13,500

Allowable Capital Loss (18,200) Nil

Balance from ITA 3(a) and (b) $49,500

ITA 3(c) Deductions:

Spousal Support (24,000)

ITA 3(c) $25,500

Deductions under ITA 3(d):

Business Loss (23,000)

Rental Loss (14,500)

Net Income Nil

At the end of this year, Mr. Nicastro would have a current year net capital loss of of $4,700 ($13,500 - $18,200). In addition, he would have a current year non-capital loss of $12,000 (($23,000 + $14,500) - $25,500).

Topic: Net income

116) Mr. Jack Bronson makes a $5,000 contribution to his RRSP. What type of tax planning is involved in this transaction? Explain your conclusion.

Answer: This transaction involves tax deferral, in that the contribution will be deductible and the earnings on the contribution within the RRSP trust will accumulate on a tax free basis. However, all of these amounts will be taxable when they are withdrawn from the RRSP trust. There may also be tax avoidance. This will happen if Mr. Bronson is taxed at a lower rate when the funds become taxable. There could also have been income splitting had a contribution been made to a spousal or common-law partner RRSP where the spouse or common-law partner was in a lower tax bracket than the contributing spouse.

Topic: Tax planning

117) Ms. Sarah Bloom convinces her employer to provide her with a private drug plan instead of additional salary. What type of tax planning is involved in this transaction? Explain your conclusion.

Answer: This transaction involves tax avoidance in the sense that Ms. Bloom can receive the benefit of having the employer pay for the drug plan insurance premiums without the benefit being included in her employment income as a taxable benefit. In comparison the additional salary would have been taxable.

Topic: Tax planning

118) Mr. John Lenonovitz is an unemployed poet. As Mr. Lenonovitz has no sources of income, his spouse Natasha, a successful painter, has decided to make contributions to an RRSP on his behalf, rather than making contributions to her own plan. What type of tax planning is involved in this decision? Explain your conclusion.

Answer: Natasha is involved in income splitting , tax deferral, and possibly tax avoidance. She is getting the deduction from net income immediately and her spouse will only be subject to income tax on amounts subsequently withdrawn from the RRSP. The tax deferral occurs as the contribution is currently deductible and the earnings on the contribution within the RRSP trust will accumulate on a tax free basis. However, all of these amounts will be taxable when they are withdrawn from the plan. Tax avoidance will occur if the income tax rate to John at the time of withdrawal is less than Natasha's income tax rate for the year in which she claimed an RRSP deduction.

Topic: Tax planning

119) Ms. Tricia Jones makes contributions to an RPP (Registered Pension Plan) sponsored by her employer. What type of tax planning is involved in this transaction? Explain your conclusion.

Answer: Employee contributions to an RPP are deductible in the year in which they are made. The contributions with the RPP trust are not subject to income tax until retirement benefits are received under the terms of the plan. This involves tax deferral and, if Ms. Jones is subject to income tax at a rate that is lower than the rate in effect when he made the contributions then there will also be tax avoidance.

Topic: Tax planning

120) Mrs. Janice Theil gives $50,000 in Canada Savings Bonds to her 27 year old, unemployed daughter. What type of tax planning is involved in this transaction? Explain your conclusion.

Answer: This transaction involves income splitting. It would appear that her daughter is likely in a lower income tax bracket than Mrs. Theil. This means that the interest income on the Canada Savings Bonds will be subject to income tax at a lower rate than would have applied had the bonds not been gifted to the daughter.

Topic: Tax planning

121) Since it came into power in 2015, the Liberal government has made a number of changes in the Canadian tax system. A brief description of three of these changes follows.

**Reduction To Tax Free Savings Account (TFSA) Contributions Limit** — The TFSA provision allows non- deductible contributions to be made to a registered account where earnings accumulate on a tax free basis. Withdrawals from these accounts are not taxed. For 2016 and subsequent years, the maximum annual contribution has been reduced from $10,000 to $5,500.

**Small Business Tax Rate** — For many years, the federal tax rate on active business income earned by Canadian Controlled Private Corporations was 11 percent, 4 percentage points less than the rate applicable to most other corporate income. In 2015, the Conservative government announced that the rate would gradually be reduced to 9 percent. The rate was reduced to 10.5 percent for 2016 but the further planned reductions were cancelled. However, in 2017, the planned reductions were re -instated, with the rate going to 10 percent for 2018 and 9 percent for 2019.

**Early Child Educator School Supply Tax Credit** — The government introduced a new tax credit equal to 15 percent of eligible expenditures for supplies (e.g., paper, glue, paint for art projects, etc.). The maximum base for the credit will be $1,000 of eligible supplies in each year. To qualify, the taxpayer must have a certificate or diploma in early childhood education.

**Required:** Analyze each of the described changes using two of the qualitative characteristics of tax systems that are listed in your text. For your convenience, the list of qualitative characteristics presented in the text is as follows:

• equity or fairness

• neutrality

• adequacy

• flexibility

• simplicity and ease of compliance

• certainty

• balance between sectors

• international competitiveness

Answer: **Note** — The descriptions of these tax measures are significantly simplified. The objective of this problem is to present the basic ideas so they can be understood by students at this introductory level, while still providing a basis for discussion. It is obvious that there is no definitive solution to this problem. The analysis provided below is intended to be no more than suggestive of possible points that could be made. There are, of course, many alternative solutions.

*Reduction In Contributions To Tax Free Savings Accounts*

Possible comments here would be as follows:

**Adequacy** — The reduction in the 22 percent tax bracket to 20.5 percent and several new and expensive programs have increased the government's need for additional revenues. Reducing this limit on the amount of investment income that can be earned tax free will increase revenues.

**Balance Between Sectors** — As this provision is only available to individuals, the ability to earn tax free investment income reduces taxes for this group of taxpayers. A reduction in the maximum contribution has the effect of increasing taxes for the group. This serves to increase the already heavy tax burden on this group of taxpayers.

***Small Business Tax Rate***

Possible comments here would be as follows:

**Certainty** — The fact that the reductions were scheduled, cancelled, and then reinstated has reduced certainty

**Neutrality** — As changes in the small business rate affect specific taxpayers, the reductions in this rate are not neutral. They favour the shareholders of the corporations that qualify for this rate.

***Early Child Educator School Supply Tax Credit***

Possible comments here would be as follows:

**Simplicity And Ease Of Compliance** — The large number of existing tax credits and the fact that new ones are added nearly every year, has greatly increased the complexity of the Canadian tax system. Another addition will exacerbate this problem. Additional complexity is also created by issues such as defining eligible supplies and determining who qualifies for the credit.

**Neutrality** — This credit results in a benefit related to the costs associated with being a particular type of employee. It is not neutral in that it does not provide similar benefits for the costs associated with other types of employment (e.g., construction workers cannot deduct the cost of protective clothing).

Topic: Qualitative characteristics

122) Mr. Desmond Morris has spent his entire working life with his current employer, the Alcorn Manufacturing Company. In his first years with the Company, he was located in Winnipeg, Manitoba as a production supervisor. More recently, he was transferred to the Company's Calgary based subsidiary, where he has served as a manufacturing vice president until the current year.

Early in the current year, Mr. Morris was asked to move to the United States by April 1 to oversee the construction of a new manufacturing operation in Sarasota, Florida. It is expected that when the facility is completed, Mr. Morris will remain as the senior vice president in charge of all of the Florida operations. He does not have any intention of returning to live in Canada during the foreseeable future.

On April 1, Mr. Morris left Canada. In preparation for his departure, he had taken care to sell his residence, dispose of most of his personal property, and resign from all memberships in social and professional clubs. However, because Mr. Morris and his wife had three school age dependent children, it was decided that they would remain in Canada until the end of the current school year. As a consequence, Mrs. Morris and the children did not leave Canada until June 30. Until their departure, they resided in a small furnished apartment, rented on a month to month basis.

**Required:** For purposes of determining Canadian income taxes, determine when Mr. Morris ceased to be a Canadian resident and the portion of his annual income which would be subject to Canadian income tax. Explain your conclusions.

Answer: Mr. Morris would fall under the part year resident rules and would only be liable for Canadian income taxes on worldwide income during the portion of the year prior to his ceasing to be a resident of Canada.

By selling his house, disposing of other personal property, and resigning from various social and professional clubs, Mr. Morris's actions support an intention to establish that he had made a clean break from Canada as of April 1. However, S5-F1-C1 indicates that, in general, the CRA will view an individual as becoming a non-resident on the latest of three dates:

• The date the individual leaves Canada.

• The date the individual's spouse or common-law partner and dependants leave Canada.

• The date the individual becomes a resident of another country.

Because of the continued presence in Canada of the spouse and dependent children of Mr. Morris, he would be considered a resident of Canada until June 30, the latest of the relevant dates.

In terms of income tax consequences, he would be subject to Canadian income taxes on his salary until March 31. He would then be subject to U.S. taxes on income earned in that country after March 31.

However, he would also be liable for Canadian income taxes during the period April 1 through June 30. While he would be eligible for a tax credit for U.S. taxes paid on this income, the fact that Canadian taxes are generally higher than those in the U.S. would probably result in a liability for Canadian taxes during this period until his family departs from Canada. Note that the facts suggest that he became a non-resident of Canada on his departure April 1 which when properly supported would avoid some of these difficulties.

Topic: Residency after departure from Canada

123) Mr. Valone is a U.S. citizen. However, since obtaining permanent residence status in Canada in 2007, he has been employed on a full time basis in London, Ontario. His employer is a Canadian subsidiary of a multi-national corporation that operates in a number of different countries. The head office of the company is in the United States.

Mr. Valone has been very successful in his position with the Canadian subsidiary. Based on this, he has been offered a promotion which involves a significant increase in salary. However, this promotion is conditional on his moving to the company's head office in Philadelphia no later than March 1, 2021. Given the sizable increase in remuneration, Mr. Valone finds this offer too good to pass up.

As he is a U.S. citizen, he has no difficulty getting the appropriate documentation to establish his residency in the U.S. He relinquishes his Canadian driver's licence, as well as his provincial health care card. As required by his employer, he is at his desk in the new work location in the U.S. on March 1, 2021.

Mr. Valone and his spouse have two children who are attending a private school in London Ontario. The current semester at this school lasts until June 15, 2021. In order to provide continuity in their education, Mrs. Valone decides that she and the children will remain in Canada until the current semester is finished. They depart on June 20, 2021.

The real estate market in London has been somewhat slow of late. As a consequence, the Valone's house is not sold until October 5, 2021.

**Required:** Determine when Mr. Valone ceased to be a resident of Canada and the portion of his annual income which would be subject to Canadian income taxes. Explain your conclusions.

Answer:

***Solution According To Textbook***

Mr. Valone would be considered a part year resident and would only be subject to Canadian income tax on worldwide income during the portion of the year prior to his ceasing to be a resident of Canada.

S5-F1-C1 indicates that, in general, the CRA will view an individual as becoming a non-resident on the latest of three dates:

• The date the individual leaves Canada.

• The date the individual's spouse or common-law partner and dependants leave Canada.

• The date the individual becomes a resident of another country.

While Mr. Valone departed from Canada on March 1, 2021, he will be considered a Canadian resident until his family's departure on June 20, 2021 if he abides by the CRA administration policy. The fact that he did not sell his Canadian home until that date would provide additional support.

His Canadian salary from January 1, 2021 to March 1, 2021 would be subject to Canadian income tax. In addition, his U.S. salary for the period March 1, 2021 through June 20, 2021 will be subject, first to U.S. income tax, and Canadian income tax. In calculating his Canadian income tax, he will receive a credit for the U.S. taxes which he has paid on this income. However, because Canadian tax rates at a given income level are usually higher than those which prevail in the U.S., it is likely that he will be required to pay some Canadian income taxes in addition to U.S. income tax.

***Note To Instructors***

The preceding solution reflects the content of the text with respect to departures from Canada and students should be evaluated on that basis. However, S5-FI-C1 qualifies the general departure rules as follows:

**Paragraph 1.22** - An exception to this will occur where the individual was resident in another country prior to entering Canada and is leaving to re-establish his or her residence in that country. In this case, the individual will generally become a non-resident on the date he or she leaves Canada, even if, for example, his or her spouse or common law partner remains temporarily behind in Canada to dispose of their dwelling place in Canada or so that their dependants may complete a school year already in progress.

On the assumption that Mr. Valone was a resident of the U.S. prior to his working years in Canada, this exception would mean that he would cease to be a resident of Canada on March 1, 2020, the date that he departs from Canada.

The textbook does not deal with the residency rules of countries other than Canada. Although this solution concludes that June 20 is the date residency is terminated in Canada, it is probable that the foreign jurisdiction (the U.S.) would consider Mr. Valone to be resident under their own rules effective March 1. In effect, the period between March 1 and June 20 would become a dual residency period. We would not expect students to come to this conclusion, but include this to illustrate the complexities of international issues in taxation.

Topic: Residency after departure from Canada

124) For each of the following persons, determine the residency status of the individuals , whether they will be subject to income tax in Canada and the income that would be subject to Canadian income tax for the 2021 taxation year.

**Case A** — John is a citizen of the U.K. who has landed immigrant status in Canada. He has lived and been employed in Canada for over 15 years. In 2020, he won $1.5 million in a lottery. He has decided to use the winnings to spend two years touring Europe and Asia. His wife and children will remain at the family home in New Brunswick. He was not physically present in Canada during any part of 2021.

**Case B** — In 2020, Jane's Canadian employer asked her to spend three years working in their Hong Kong office. Her employment contract requires her to return to Canada in 2023. Jane severs all of her residential ties with Canada and moves to Hong Kong in November, 2020. She is not physically present in Canada during any part of 2021.

**Case C** — Laura is married to a member of the Canadian armed forces who is serving in Ghana. She is a citizen of Ghana and has never visited Canada. She is not subject to income tax in Ghana because of an exemption in the tax treaty between Canada and Ghana as a result of her spouse's employment with the Canadian government.

**Case D** — Martha Mendoza is a U.S. citizen who lives in Buffalo, New York. During 2021 she is employed 5 days per week in Fort Erie, Ontario. Her 2021 salary is $52,000. In addition, she has $2,000 (Canadian) of interest on a savings account with a U.S. bank.

**Case E** — Barry Long is a Canadian citizen who has lived and worked in Canada all of his life. He is offered a significant increase in salary if he accepts a permanent employment position in Spain. He accepts the offer and moves to Spain on March 1, 2021, While he immediately establishes residency in Spain, he is not joined by his wife and children until July 1, 2021. As they are unable to sell their Canadian home at an acceptable price, the property is rented under a long-term residential lease to an arm's length person.

Answer:

***Case A***

John's 2 year tour would be considered a temporary absence from Canada. Given the facts, it appears his intent is not to permanently sever residential ties with Canada. This position is evidenced by the fact his tour is for a limited time and he will not be establishing residency in another country.

John remain a factual Canadian resident during his tour and would be subject to Canadian income tax on his worldwide income during 2021.

***Case B***

Because she has an employment contract that requires her to return to Canada in three years, she will be viewed as having retained Canadian residency. Although she has severed her ties with Canada, the requirement to return would show that she does not intend to permanently leave Canada.

Jane will be subject to Canadian income tax on her worldwide income during 2021.

***Case C***

As she is exempt from taxation in Ghana because she is the spouse of a deemed Canadian resident, Laura would be a deemed resident of Canada for income tax purposes during 2021 [(ITA 250(1)(g)].

Laura would be subject to Canadian income tax on her worldwide income during 2021.

***Case D***

Commuting from the U.S. for employment purposes does not make an individual a deemed resident under the sojourner rules. Therefore, Martha would be considered a non-resident of Canada.

She would be exempted by the Canada/U.S. tax treaty under ITA 2(3) if the amount of employment income was less than $10,000, or if she was physically present in Canada for less than 183 days. Her employment income was more than $10,000 and, because she was working 5 days a week, it appears that she was physically present in Canada for more than 183 days. Given these facts, she would not be exempted from Canadian taxation because of the Canada/U.S. tax treaty.

Martha would be subject to Canadian income tax on her 2021 Canadian employment income. She would not be subject to Canadian income tax on her U.S. savings account interest since she is a non-resident of Canada.

***Case E***

Residency terminates at the latest of:

• the date the individual leaves Canada;

• the date the individual's family leaves Canada; and

• the date that individual establishes residency elsewhere.

As Barry's family did not leave Canada until July 1, 2021, Barry would be considered a Canadian resident until that date if he accepts to choose the CRA administrative policy. Provided he has no intention of returning to Canada, he would be subject to Canadian income tax on his worldwide income for the period January 1, 2021 through July 1, 2021. In addition, he would be subject to Canadian income tax on his 2021 rental income. The rental income will be subject to Canadian income tax under Part XIII (discussed in Chapter 20).

Topic: Residency of individuals

125) Indicate which of the corporations described in the following Cases would be considered factual or deemed residents of Canada or deemed non-residents for the current year. Explain the basis for your conclusion.

**Case A** — Bonix Ltd. was incorporated in Canada in 1981. While the company carried on business in Canada for a number of years, its central management and control relocated to the United States in 2008.

**Case B** — Dorad Inc. was incorporated in Ohio in 2003. For several years, all of its directors were residents of Canada, with board meetings being held in Windsor, Ontario. However, in 2008, all of the directors moved to Toledo, Ohio where all meetings are held.

**Case C** — Upton Inc. was incorporated in Delaware in 2008. However, the head office of the corporation is in Halifax, Nova Scotia. All of the directors of the corporation are Canadian residents and all meetings of the board of directors are held in Halifax.

**Case D** — Carlin Inc. was incorporated in Canada in 2005. However, its directors have always been residents of the United States, where Board Of Directors meetings are held.

Answer:

***Canada/U.S. Tax Treaty Tie Breaker Rule***

In cases of dual residency for corporations, where a corporation could be considered a resident of both countries, the Canada/U.S. tax treaty resolves the situation by deeming the corporation to be resident in the country in which it was incorporated.

***Case A***

While Bonix is no longer carrying on business in Canada, it was incorporated in Canada and, as a result, it is deemed to be a resident of Canada. However, as the mind and management of the Company is currently situated in the United States, the Company would be a factual resident of the U.S. Using the tax treaty tie breaker rule, Bonix will be considered a resident of Canada only.

***Case B***

Dorad Inc. was not incorporated in Canada and its mind and management are not currently situated in Canada. As a result the company is neither a deemed or factual resident of Canada. Dorad would be considered a non-resident of Canada.

***Case C***

The central mind and management of Upton Inc. is situated in Canada and, as a result, the company is a factual resident of Canada. However, as Upton Inc. was incorporated in the U.S., it is also a resident of the U.S. Using the tax treaty tie breaker rule, Upton Inc. will be considered a resident of the U.S. and a deemed non-resident of Canada.

***Case D***

Carlin Inc. was incorporated in Canada which means Carlin is a deemed resident of Canada. However, because the central mind and management of the Company is in the U.S., it is a factual resident of the U.S. Using the tax treaty tie breaker rule, Carlin Inc. will be considered a resident of Canada only.

Topic: Residency of corporations

126) For each of the following individuals and corporations, determine their residency status. Your answer should explain whether the individual or corporation is a Canadian resident, what income would be subject to Canadian income tax and the basis for your conclusions.

A. Molly London was born in Salmon Arm, British Columbia. On October 31, she quit her job, left Salmon Arm and moved all her belongings to San Diego, California.

B. Daryl Bennett is a Canadian citizen living and working in Sault Ste. Marie, Michigan. He has a summer cottage in Sault Ste. Marie, Ontario, where he spent July and August. As his only sister lives in Sault Ste. Marie, Ontario, he spent a total of 27 days during the year staying with her in her home.

C. Tweeks Inc. was incorporated in Vermont in 1980 by two U.S. citizens who were residents of Quebec. All of the directors are residents of Quebec and all meetings of the Board of Directors have been held in Montreal since incorporation.

D. Bordot Industries Ltd. was incorporated in British Columbia on September 29, 1973. However, the directors of the corporation have always lived in Blaine,Washington. All of their meetings have been held at a large waterfront property just south of Blaine.

Answer:

A. Molly London would be considered a part year resident of Canada until October 31, the date of her departure and would be subject to Canadian income tax on her worldwide income for this period. Since she was not visiting Canada prior to her departure the sojourning rules would not have applied.

B. Daryl Bennett is a factual resident of the U.S. and a non-resident of Canada. would not be considered a Canadian resident. He could have been subject to the deemed residency sojourner rule had he spent 183 days or more visiting Canada but that is not the case for the current year. As a result, none of his income would be subject to Canadian income tax. His Canadian citizenship would not affect his residency status.

C. The company is a factual resident of Canada since the central mind and management are situated in Canada. The company is also a resident of the U.S. since it was incorporated in the U.S. As a result the company is a dual resident (resident of both Canada and the U.S.). Given this dual residency, the tax treaty tie-breaker rules resolve the issue by considering the company to be a resident of the U.S. only where the company was incorporated/ The company would therefore be a deemed non-resident of Canada.

D. Bordot Industries would be deemed to be a resident of Canada because it was incorporated in Canada subsequent to April 26, 1965 [ITA 250(4)(a)].

However, because the central mind and management of the Company is in the U.S., the company would be a factual resident of the U.S. As a result the company is a dual resident. The tax treaty tie-breaker rules would resolve the situation by considering the Company a resident of Canada where it was incorporated. This would make Bardot Industries a resident of Canada, with its worldwide income taxed in Canada. It would be a non-resident of the U.S.

Topic: Residency of individuals and corporations

127) Pertinent facts are given for a different individual or corporation in each of the Parts of this problem. For each Part, indicate whether or not the individual or corporation would be considered a resident of Canada for income tax purposes during the current year. Briefly explain your conclusion.

**Part A** — Dorothy is married to Jack, who is a member of the Canadian armed forces serving in Indonesia. Other than a brief visit to Jack's parents' home in Halifax, she has never been to Canada in her life. Because Jack is a member of the Canadian armed forces, neither he nor his wife is subject to taxation in Indonesia.

**Part B** — Alice is a U.S. citizen living in Seattle,Washington. While she leaves many of her belongings at her parent's home in Seattle, she spends at least four days every week living with her boyfriend in Burnaby, British Columbia. They plan to be married at some future date.

**Part C** — Last year, John transferred to the Cayman Islands office at the request of his Canadian employer for a three year period. His three year employment contract calls for him to return to work in Canada after its completion. On his departure from Canada, he severed all residential ties with Canada except for his medicare coverage.

**Part D** — Millicent is a U.S. citizen who, until last year, had lived and worked in Canada as a landed immigrant for over 20 years. Last year, after winning $2 million in an Ontario lottery, she left Canada on a two year pleasure trip that will take her to virtually every country in the world. Her husband and children, all Canadian citizens, continue to live at the family home in Port Hope, Ontario.

**Part E** — Berkly Management Inc. was incorporated in Alberta in 1964. Until 1989, its only director resided in Alberta. In that year, the director was replaced by an individual resident in Fresno, California.

**Part F** — Lorris Ltd. was incorporated in Wisconsin in 1985. Until 1994, all of the directors of the corporation lived and met in Kenora, Ontario. Beginning in 1994, all of the directors have been residents of Green Bay, Wisconsin where all the meetings are currently held.

Answer:

***Part A***

As she is exempt from income tax in Indonesia because she is related to a deemed resident of Canada, Dorothy would be a deemed resident of Canada for income tax purposes during the current year under ITA 250(1)(g).

***Part B***

As she is present in Canada on a temporary basis for 183 days or more in the year she would be considered a sojourner. Under ITA 250(1)(a), this would make her a Canadian resident for income tax purposes for all of the current year subject to the tax treaty between Canada and the U.S.

***Part C***

Because he has an employment contract that requires him to return to Canada, he will be a Canadian resident for income tax purposes during the current year. Although he has severed his ties with Canada, the requirement to return would show that he does not intend to permanently leave Canada.

***Part D***

Millicent would be a factual resident of Canada for income tax purposes during the current year. An individual is not considered to have departed from Canada until the latest of the departure date, the date of departure for their spouse and children, and the date on which residence is established in a different country. As her family is staying in Canada and Millicent will not be establishing residency in another country, she will remain a Canadian factual resident during her trip.

***Part E***

ITA 250(4)(c) deems a corporation incorporated in Canada prior to April 27, 1965 to be resident in Canada if it either carried on business , or was factually resident in Canada, in any taxation year ending after April 26, 1965. Since those conditions were met the company would be deemed to be a resident of Canada. The company is also a factual resident of the U.S. since its central management and control is situated in the U.S. In this case the company is therefore a dual resident. The tie-breaker rule of the tax treaty deems the corporation to only be resident in the country in which it is incorporated. Given this, Berkley Management would be a resident of Canada.

***Part F***

The company was not incorporated in Canada and the central mind and management of the company is not in Canada. As a result the company the company would not be a deemed or factual resident of Canada/ Lorris Ltd. is a non-resident of Canada.

Topic: Residency of individuals and corporations

128) The following two Cases make different assumptions with respect to the amounts of income and deductions of Ms. Leslie Burke for the current taxation year:

**Case A** — Ms. Burke had employment income of $17,000 and rental income of $8,500. She carries on a business as a sole proprietor and experienced a current year business loss of $12,300. As the result of dispositions of capital property, she realized taxable capital gains of $17,400 and allowable capital losses of $19,200. Her Subdivision e deductions for the year totalled $6,300. Fortunately for Ms. Burke, she won $1,000,000 in a lottery on March 3.

**Case B** — Ms. Burke had employment income of $42,100, interest income of $8,200, and a loss from a business she carries on as a sole proprietor of $51,000. As the result of dispositions of capital property, she realized taxable capital gains of $22,400 and allowable capital losses of $19,200. Her Subdivision e deductions for the year amounted to $4,200.

**Required:** For both Cases, calculate Ms. Burke's current year net income. Indicate the amount and type of any current year loss carry overs.

Answer:

***Case A***

The Case A solution would be calculated as follows:

Income under ITA 3(a):

Employment Income $17,000

Rental Income 8,500 $25,500

Income under ITA 3(b):

Taxable Capital Gains $17,400

Allowable Capital Losses (19,200) Nil

Balance From ITA 3(a) And (b) $25,500

Subdivision e Deductions (6,300)

ITA 3(c) $19,200

Deduction Under ITA 3(d):

Business Loss (12,300)

Net Income for the current year $ 6,900

In this Case, Ms. Burke has a current year net capital loss of $1,800 ($19,200 - $17,400). The lottery winnings are not considered a source of income.

***Case B***

The Case B solution would be calculated as follows:

Income under ITA 3(a):

Employment Income $42,100

Interest Income 8,200 $50,300

Income under ITA 3(b):

Taxable Capital Gains $22,400

Allowable Capital Losses (19,200) 3,200

Balance From ITA 3(a) And (b) $53,500

Subdivision e Deductions (4,200)

ITA 3(c) $49,300

Deduction Under ITA 3(d):

Business Loss (51,000)

Net Income for the current year Nil

In this Case, Ms. Burke's current year net income is nil. There would be a current year non-capital loss of $1,700 ($51,000 - $49,300).

Topic: Net income

129) The following two Cases make different assumptions with respect to the amounts of income and deductions that are available to Carl Suzak, a Canadian resident, for the current year.

**Case A** — Carl had employment income of $126,100, as well as income from a business carried on as a sole proprietorship of $14,100. A rental property owned by Carl experienced a loss of $4,600. Dispositions of capital property during the current year had the following results:

Capital Gains $56,400

Capital Losses 72,300

In compliance with the terms of his divorce agreement, Carl paid deductible spousal support of $7,200. In addition to the preceding items, Carl had a winning lottery ticket which resulted in his receiving a prize of $562,000.

**Case B** — Carl had employment income of $89,000, interest income of $3,100, and rental income of $8,600. Carl also carried on a business as a sole proprietor. Unfortunately, during the current year, it experienced a loss of $187,400. Dispositions of capital property during the current year had the following results:

Capital Gains $46,200

Capital Losses 26,300

Also during the current year, Carl made deductible contributions of $8,600 to his RRSP.

**Required:** For each Case, calculate Carl's current year net income. Indicate the amount and type of any current year loss carry overs.

Answer:

***Case A***

The Case A solution would be calculated as follows:

Income under ITA 3(a):

Employment Income $126,100

Business Income 14,100 $140,200

Income under ITA 3(b):

Taxable Capital Gains

[(1/2)($56,400)] $28,200

Allowable Capital Losses

[(1/2)($72,300)] (36,150) Nil

Balance from ITA 3(a) and (b) $140,200

Spousal Support Payments (7,200)

ITA 3(c) $133,000

Deduction under ITA 3(d):

Rental Loss (4,600)

Net Income $128,400

In this Case, Carl has a current year net capital loss of $7,950 ($36,150 -

$28,200). The lottery winnings would not be included in income because it is not a source of income.

***Case B***

The Case B solution would be calculated as follows:

Income under ITA 3(a):

Employment Income $89,000

Interest Income 3,100

Rental Income 8,600 $100,700

Income under ITA 3(b):

Taxable Capital Gains

[(1/2)($46,200)] $23,100

Allowable Capital Losses

[(1/2)($26,300)] (13,150) 9,950

Balance from ITA 3(a) and (b) $110,650

Deductible RRSP Contribution (8,600)

ITA 3(c) $102,050

Deduction under ITA 3(d):

Business Loss (187,400)

Net Income Nil

In this Case, Carl has a current year non-capital loss of $85,350 ($187,400 - $102,050).

Topic: Net income

130) Karla Gomez is a Canadian resident who lives in Toronto. In the following two Cases, different assumptions are made with respect to the amounts and types of current year income and deductions.

**Case One** — Karla had employment income of $62,350. Unfortunately, her flower shop business that she carries on as a sole proprietor suffered a business loss of $115,600. In contrast, she had a very good year in the stock market, realizing the following gains and losses:

Capital Gains $97,650

Capital Losses 5,430

Also during the current year, Karla made deductible contributions of $4,560 to her RRSP.

**Case Two** — Karla had employment income during the year of $45,600, business income of $27,310 and a rental loss of $4,600. As part of a divorce agreement from a previous year, Karla paid spousal support of $7,200 during the current year to her former common-law partner, Lucretia Smart. She realized the following results in the stock market during the year:

Capital Gains $31,620

Capital Losses 41,650

While Karla does not gamble on a regular basis, she enjoys the ambiance of the local casino. Given this, two or three times a year, she spends an evening dining and gambling with friends there. In March of this year, she got very lucky, winning $46,000 by hitting a slot machine jackpot.

**Required:** For each Case, calculate Karla's current year net income. Indicate the amount and type of any current year loss carry overs.

Answer:

***Case One***

The Case One solution would be calculated as follows:

Income under ITA 3(a):

Employment Income $62,350

Income under ITA 3(b):

Taxable Capital Gains

[(1/2)($97,650)] $48,825

Allowable Capital Losses

[(1/2)($5,430)] (2,715) 46,110

Balance from ITA 3(a) and (b) $108,460

Subdivision e Deduction:

Deductible RRSP Contribution (4,560)

ITA 3(c) $103,900

Deduction under ITA 3(d):

Business Loss (115,600)

Net Income Nil

In this Case, Karla has a current year non-capital loss of $11,700 ($115,600 - $103,900).

***Case Two***

The Case Two solution would be calculated as follows:

Income under ITA 3(a):

Employment Income $45,600

Business Income 27,310 $72,910

Income under ITA 3(b):

Taxable Capital Gains

[(1/2)($31,620)] $15,810

Allowable Capital Losses

[(1/2)($41,650)] (20,825) Nil

Balance from ITA 3(a) and (b) $72,910

Subdivision e Deduction:

Spousal Support Payments (7,200)

ITA 3(c) $65,710

Deduction Under ITA 3(d):

Rental Loss (4,600)

Net Income $61,110

In this Case, Karla has a current year net capital loss of $5,015 ($20,825 - $15,810). As Karla's gambling activity does not appear to be substantial enough to be considered a business, the $46,000 in winnings would not be considered a source of income.

Topic: Net income

131) The following four Cases make different assumptions with respect to the amounts of income and deductions of Kirsten for the current year:

**Case A Case B Case C Case D**

Employment Income $75,660 $107,380 $60,710 $43,420

Business Income (Loss) (15,990) (10,920) (80,990) (60,060)

Rental Income (Loss) 7,020 15,860 3,380 (23,790)

Taxable Capital Gains 41,080 20,280 15,080 30,030

Allowable Capital Losses (16,120) (30,420) (13,910) (32,110)

Subdivision e Deductions (5,330) (7,020) (15,080) (7,280)

**Required:** For each Case, calculate Kirsten's current year net income. Indicate the amount and type of any current year loss carry overs, or state that no carry overs are available.

Answer:

***Case A***

The Case A solution would be calculated as follows:

Income under ITA 3(a):

Employment Income $75,660

Rental Income 7,020 $ 82,680

Income Under ITA 3(b):

Taxable Capital Gains $41,080

Allowable Capital Losses (16,120) 24,960

Balance from ITA 3(a) and (b) $107,640

Subdivision e Deductions (5,330)

ITA 3(c) $102,310

Deduction Under ITA 3(d):

Business Loss (15,990)

Net Income $ 86,320

In this Case, Kirsten has no current year loss carry overs.

***Case B***

The Case B solution would be calculated as follows:

Income under ITA 3(a):

Employment Income $107,380

Rental Income 15,860 $123,240

Income under ITA 3(b):

Taxable Capital Gains $20,280

Allowable Capital Losses (30,420) Nil

Balance from ITA 3(a) and (b) $123,240

Subdivision e Deductions (7,020)

ITA 3(c) $116,220

Deduction Under ITA 3(d):

Business Loss (10,920)

Net Income $105,300

In this Case, Kirsten has a current year net capital loss of $10,140 ($30,420 - $20,280).

***Case C***

The Case C solution would be calculated as follows:

Income under ITA 3(a):

Employment Income $60,710

Rental Income 3,380 $64,090

Income under ITA 3(b):

Taxable Capital Gains $15,080

Allowable Capital Losses (13,910) 1,170

Balance from ITA 3(a) and (b) $65,260

Subdivision e Deductions (15,080)

ITA 3(c) $50,180

Deduction Under ITA 3(d):

Business Loss (80,990)

Net Income Nil

In this Case, Kirsten would have a current year non-capital loss of $30,810 ($80,990 - $50,180).

***Case D***

The Case D solution would be calculated as follows:

Income under ITA 3(a):

Employment Income $43,420

Income under ITA 3(b):

Taxable Capital Gains $30,030

Allowable Capital Losses (32,110) Nil

Balance from ITA 3(a) and (b) $43,420

Subdivision e Deductions (7,280)

ITA 3(c) $36,140

Deduction Under ITA 3(d):

Business Loss (60,060)

Rental Loss (23,790)

Net Income Nil

Kirsten would have a current year non-capital loss of $47,710 ($60,060 + $23,790 - $36,140) and current year net capital loss of $2,080 ($32,110 - $30,030).

Topic: Net income