uestion 11 - Hypothetical Facts - 30 marks

Gross benefit = $1,000,000 × 0.03 ÷ 12 = $2,500.

Reg. 4301(c): in July 2005 the prescribed rate of interest was 3%.

The use of the cottage for vacation might be a taxable rental value.

Simon's use of cottage while on MAD’s business is not included in shareholder's income.

Recognition of issue (shareholder benefit).

s. 85(1): the consideration must include shares.

The preferred shares were not authorized when the Land was transferred.

Dale (TCC): consideration may be executory.

Dale (TCC): it is sufficient if there is a binding obligation to issue shares.

Dale (TCC): shares may be issued after end of taxation year in which transfer occurs.

Dale (FA): the share issue may have been invalid, but not null.

Dale (dissent): shares should have been issued before year-end.

By electing at $225,000, Simon triggered capital gain of $25,000.

Capital gain = P/D – ACB.

Capital gain = $225,000 – $200,000 = $25,000.

s. 85(6) election must be filed by earliest filing-due date.

The election should have been filed by 30 April 2006.

The election was filed late.

s. 85(7): a late election will be accepted if a penalty is paid.

s. 85(8): formula for calculating penalty.

s. 227.1(3): standard of care = degree of care, diligence and skill that reasonably prudent person would exercise in comparable circumstances.

Peoples: standard of care is objective.

Peoples: the objective subjective standard is no longer applicable.

Analysis of whether Simon met standard of care.

Conclusion: Simon is likely liable for $5,000 source deductions.

Other

OTHER ISSUES

Other

OTHER ISSUES

Other

QUESTION 12 – Tax Plan and Steps – 25 marks

Associated Corporations

Recognition of issue (associated corporations).

s. 256(1)(c): two corporations are associated if they are controlled by related persons and one person holds at least 25% of the shares (other than shares of a specified class) of each corporation.

s. 256(1.1): definition of “specified class”.

MMH’s voting common shares are not shares of a specified class.

MMH and BRI are associated.

Reason: Albert controls MMH; Sonja controls BRI; Sonja owns 40% of shares of MMH.

Other
### Shared Small Business Deduction
Recognition of issue (shared SBD).
1.
- s. 125(2): associated corps. have a nil business limit, unless they agree otherwise.
1.
- s. 125(3): associated corps. may file an agreement to share business limit.
1.
- If MMH and BRI disassociate, they need not share business limit.
1.

### Reorganization of Capital
Recognition of issue (s. 86 reorg.).
1.
- s. 86(1) permits a corp. to reorganize its capital on a tax-deferred basis.
1.
- Under s. 86(1), MMH may change common shares held by Sonja into preferred shares which will be shares of a specified class.
1.
- s. 86(1): the shares must be held as capital property.
1.
- Sonja likely holds her shares of MMH as cap. property.
1.
- s. 86(1): all of Sonja’s shares of MMH must be disposed of.
1.
- s. 86(1): Sonja must receive new shares of MMH.
1.

### Other
**Steps**
- MMH must prepare articles of amendment (“A/A”).
1.
- A/A must authorize new class of preferred shares.
1.
- Preferred shares must satisfy criteria of s. 256(1.1).
1.
- Preferred shares must be non-voting.
1.
- Pref. shares’ dividend entitlement cannot exceed prescribed rate of interest.
1.
- Pref. shares’ redemption price cannot exceed FMV of Sonja’s common shares.
1.
- ABCA s. 173(1)(f): A/A should change Sonja’s common shares into preferred shares.
1.
- ABCA s. 173(1): A/A must be approved by special res.
1.
- ABCA s. 177(1): A/A must be filed with Registrar of Corporations.
1.

### Other Analysis or Steps

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**QUESTION 13 – Dividend – 5 marks**

<table>
<thead>
<tr>
<th>Question</th>
<th>Marks</th>
</tr>
</thead>
<tbody>
<tr>
<td>s. 82(1)(a)(i): a taxable dividend is included in income.</td>
<td></td>
</tr>
<tr>
<td>s. 82(1)(b)(i): if shareholder is an individual, ¼ of the dividend is included in income.</td>
<td></td>
</tr>
<tr>
<td>Taxable dividend = $120,000.</td>
<td></td>
</tr>
<tr>
<td>¼ × $120,000 = $30,000.</td>
<td></td>
</tr>
<tr>
<td>Income inclusion = $120,000 + $30,000 = $150,000.</td>
<td></td>
</tr>
<tr>
<td>s. 121(a): DTC = ⅓ of the gross-up.</td>
<td></td>
</tr>
<tr>
<td>DTC = ⅓ × $30,000 = $20,000.</td>
<td></td>
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</tbody>
</table>

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**DTC = ⅓**

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<th>Marks</th>
</tr>
</thead>
<tbody>
<tr>
<td>s. 121(a): DTC = ⅓ of the gross-up.</td>
<td></td>
</tr>
<tr>
<td>Taxable dividend = $120,000.</td>
<td></td>
</tr>
<tr>
<td>⅔ × $120,000 = $80,000.</td>
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</tbody>
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**SUBTOTAL**

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**CLASS PARTICIPATION**

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**TOTAL**

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**GRADE**

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