

Question Part A - Solution		
Part a		
For an expenditure to be deductible, it needs to meet all the requirements of the section 11(a), read with section 23	1	
In order for an amount to be deductible it needs to meet all the requirements of s 11(a) which requires a deduction from income of such person so derived	1	
Expenditure and losses		
Actually incurred		
During the year of assessment		
In the production of income		
Not of a capital nature	2.5	Definition
Either in part or full laid out or expended for the purposes of trade - s 23(g)	1	
The onus of proof is on the taxpayer in terms of section 102 of the Tax Administration Act, to prove the amount is deductible.	1	
<u>Damages to driver of other vehicle</u>		
The issue is whether the amount is in the production of income	1	
There must be a very close connection between the trade or business carried on and the cause of liability for damages. (PE Electric Tramway)	1	Bonus Mark for Case
In order for an amount to be in the production of income, it needs to be a necessary concomitant of business operations (Joffe)	1	Bonus Mark for Case
The employment of drivers was necessary for carrying on of the business of the company.	1	
Even though the expenditure incurred related to negligence on the part of the driver it is a necessary concomitant of trade . Also, the negligence was not on the part of Alright (Pty) Ltd	1,1	
Therefore the amount of R70 000 is deductible in terms of s11(a)	1C	
	15.5 marks	
	AVAILABLE	
	MAXIMUM	12 marks
Part b		
<u>Speeding fines</u>		
The speeding fines are expenses incurred in the ordinary course of business as a result of business operations. Therefore, in terms of s 11(a) it would appear that this amount may be deductible.	1	
However, in determining whether an amount is deductible s 11(a) should be read together with s 23.	1	
In terms of s 23(o) or unlaw activities , amounts relating to fines etc. are not allowed as a deduction.	1	
Therefore the R2 500 relating to speeding fines is not allowed as a deduction	1	
	AVAILABLE	4 marks
	MAXIMUM	3 marks

Part B (2) Solution	Marks
In terms of s 64E(4)(a) the interest-free loan results in a deemed dividend.	1
S 64E(4)(a) applies when, during a year of assessment, an amount is owing to a company by a person who is a resident, but not a company, who is a connected person in relation to the company or a connected person in relation to this connected person and was made by virtue of shareholding.	1
Mr Andy David is a resident and not a company. He is a connected person to Palmer CC as he holds at least 20% of the equity shares of the company. He owns 100% of the company.	1 1
The loan was granted by virtue of the shares that Mr Andy David holds in Palmer CC.	1
S 64E(4)(b) states that the amount of the dividend that is deemed to have been paid is deemed to be equal to the greater of – <ul style="list-style-type: none"> • the market-related interest for that debt, less the amount of interest that is payable to that company for that debt for that year of assessment, or • Rnil. 	1 1
The 'official rate of interest' is 6% from 1 October 2013 to 31 January 2014 and 6,5% from 1 February 2014 to 30 June 2014. The amount of the 'deemed' dividend made by Palmer CC to Mr Andy David is therefore R47 083 ((R1 000 000 × 6% × 4/12) + (R1 000 000 × 6.5% × 5/12))	2
This 'deemed' dividend is then deemed to have been paid on the last day of the year of assessment (i.e. 30 June 2014).	1,1
Dividends tax is then R7 062 (R47 083 × 15%)	1
Since this is a dividend in specie,	1
Palmer CC is liable for the dividends tax.	1
The dividend tax should be paid to SARS by 31 July 2014	1
Available	15
Maximum	12

Part B (1) Solution	Marks
- Palmer CC is a close corporation	1
- All the holders of shares in the close corporation must at all time during the year of assessment be natural persons. Mr Andy David is the only member and is a natural person.	1
- The gross income of the close corporation must not exceed R20 000 000 for the year of assessment ending 12 months ending on 31 March 2015. This requirement is also met as :- R Sales 19 000 000 Recoupment 100 000 Interest 226 200 Dividends 352 941 (300 000x100/85) Total Gross Income 19 679 141	1 0.5 0.5 0.5 1
- No member of Palmer CC may at any time during the year of assessment have any interest in any other company.	1
- Mr Andy David did not hold shares in another company throughout the year of assessment.	1
- The close corporation is not a personal service company.	1
- Not more than 20% of the total receipts and accruals of the close corporation may consist collectively of investment income and income from rendering personal services.	1
- This requirement has been met as there is no personal service income and the investment income does not exceed 20% of the total receipts and accruals (R226 200 + R352 941) = R579 141/R19 679 141= 2.94%	1
Available	11.5
Maximum	8

Part C - Solution

Marks

The overseas holiday is a **fringe benefit in terms of para i , of the definition of gross income.**

1

The cash equivalent of the fringe benefit is determined in terms of para 2d and 9 and para 2e and 10 **of the Seventh Schedule** for the holiday accommodation and for the overseas flight respectively

1

The cash equivalent of the fringe benefit for the holiday accommodation **is the cost of the accommodation borne by the employer - R80 000** as the accommodation **is not owned by the employer.**

1+1

The cash equivalent of the fringe benefit for the flights is the **cost to the employer in rendering the service- R40 000**
Therefore the entire taxable fringe benefit is R120 000

1

The **R120 000 cash prize will be included in gross income in terms of para c, of the definition of gross income.**

1P

In both cases, the R120 000 will be included in gross income however, **the tax payable for the cash prize will be payable out of the R120 000 received.**

1+1

Whereas , with the fringe benefit, there is no attached cash flow and the tax will have to paid by Ash Naidoo out of her own pocket

1

The option of the overseas trip will affect Ash Naidoo's cash flow with respects to the tax that she will have to pay on the R120 000 taxable fringe benefit. **Therefore the cash option would be more beneficial from a tax perspective**

1C

Total	10
Max	9

Solution Part D					
Right of use of a company car - in terms of s 8(1)(b)(iv) deemed not to be granted			0	1	
Lease payments from company - deemed not to have been received			0	1	
In terms of s 8(1)(b)(iv) - rental received for leased car is deemed to be a travel allowance – (6 000 x 12)		72 000		1 +1	
Total kilometres travelled = 42 600 – 16 700	25 900				
MV: R205 200	205 200				
Fixed cost per table:	66 530			1	
Fixed cost per Kilometer: R66 530/ 25 900 * 365/365	2.57			1 +1	
Fuel cost per kilometer:	1,12			1	
Maintenance cost per kilometer:	0.381			1	
Total cost	4,071				
Business kilometers (12 500 - 3 400) (Travel from home to work is not regarded as business km's)	9100			1	
Allowable deduction: (R4,071 * 9 100)		-37046		1	P
Therefore included in taxable income			34954	1	P
		Available		12	
		Max		11	