

# Assignment #1 Solutions

(each component of a question is 3 marks for a total of 24 marks)

## Question 1

### Case A

---

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 Ethan's family did not leave Canada until July 31, 2017, Ben would be considered a Canadian resident until that date. Provided he has no intention of returning to Canada, he would be subject to Canadian taxes on his worldwide income for the period January 1, 2017 through July 31, 2017.

In addition, he would be subject to Canadian tax on his rental income for the entire year (Part XIII)

### Case B

---

Because Jane has an employment contract that requires her to return to Canada in three years, she will be viewed as having retained Canadian residence status. 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 tax on her worldwide income during 2017.

### Case C

---

Jason'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 (dwelling, spouse and dependants remain in 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.

Jason will remain a Canadian resident during his tour and would be subject to Canadian tax on his worldwide income during 2017.

### Case D

---

Commuting from the U.S. for employment purposes does not make an individual a deemed resident under the sojourner rules. Therefore, Masie would not be considered a Canadian resident for income tax purposes. She would be a non-resident of Canada and under ITA 2(3) she would be subject to Canadian tax on her 2017 Canadian employment income.

She would not be subject to Canadian tax under Part XIII on her U.S. savings account interest because the interest is with an arm's length party.

Note: Students are not expected to know the details of the Canada/US Tax Treaty for purposes of this course and therefore, students were not expected to comment on the following information pertaining to the Canada/US tax treaty. It is included here for interest only: Under ITA 2(3) Masie would be subject to Canadian tax on her 2017 Canadian employment income, unless exempted by the Canada/U.S. tax treaty. She would be exempted from paying Canadian tax on the employment income by the U.S. tax treaty if the amount of employment income was less than \$10,000, or if she was present in Canada for less than 183 days. Since her employment income was more than \$10,000 and, since 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.

## Question 2

### **Case A**

---

Car Inc. was incorporated in Canada after April 26, 1965. This means that, under ITA 250(4)(a), Car is a deemed resident of Canada.

### **Case B**

---

Disel Inc. was not incorporated in Canada and its mind and management are not currently located here. Therefore, Disel would not be considered a resident of Canada.

### **Case C**

---

Castleton Inc. would be considered a resident of Canada. This conclusion is based on the fact that, while the Company was not incorporated in Canada, the mind and management of the Company appears to be resident in Canada.

### **Case D**

---

While Bo Ltd. is no longer operating in Canada, it was incorporated here prior to April 27, 1965. If it had not carried on business in Canada after that date, it would not be a Canadian resident. However, it did carry on business in Canada after that date and, as a consequence, it is a deemed resident under ITA 250(4)(c).