

# INSTRUCTOR SOLUTIONS MANUAL

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## **Byrd & Chen's Canadian Tax Principles 2020-2021 Edition**

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## CHAPTER ONE SOLUTIONS

### Solution to Assignment Problem One-1

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There is, of course, no one solution to this problem. Further, student answers will be limited as, at this point, their understanding of tax concepts and procedures is fairly limited. However, the problem should provide the basis of an interesting discussion. What we have provided here are some suggested comments related to the various qualitative characteristics.

**Equity Or Fairness** The increase provides both horizontal and vertical equity. Individuals with the same income will receive the same treatment, while individuals with different income will be treated differently.

**Neutrality** The increase is not neutral. It targets high-income individuals and is likely to influence their economic decisions.

**Adequacy** While the increase was intended to create additional revenues, there is some evidence that the opposite has happened. This reflects the fact that individuals with high levels of income are sometimes in a position to move some, or all, of that income out of Canada (e.g., move their residence to the U.S.).

**Elasticity** This increase is unlikely to respond to changing economic or social conditions.

**Flexibility** With respect to flexibility, the rate can be changed at any time. However, as a practical matter, such changes would need to be on an annual basis.

**Simplicity And Ease Of Compliance** This change would not appear to present any compliance issues.

**Certainty** The increase makes it clear to individual taxpayers the amount of taxes that they will be required to pay.

**Balance Between Sectors** Unfortunately, this change will increase the imbalance in the Canadian tax system between corporate and individual taxpayers. Before the change, individuals were already paying a disproportionate share of tax revenues. The intent of this change was to further increase this imbalance.

**International Competitiveness** This increase further widens the gap between Canadian and U.S. tax rates, making Canada far less competitive with the U.S. However, Canadian tax rates are not out of line with tax rates in other industrialized countries.

## **Solution to Assignment Problem One-2**

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**Instructor Note** There is obviously no definite solution to this problem. What follows represents only possible comments that could be made.

For the Canadian tax system to be more competitive with the United States, both individual and corporate tax rates in this country would have to be lowered. The most obvious conflict that would arise would be with **ADEQUACY** of revenues. Tax rate reductions reduce revenues and would create additional problems with the large budget deficits that are currently being experienced in Canada.

Another issue is **BALANCE BETWEEN SECTORS**. The Canadian system is already heavily dependent on individual income taxes as opposed to corporate income taxes. Lowering corporate rates would further exacerbate this problem.

The question of **NEUTRALITY** could also be involved. Trying to match either U.S. individual or U.S. corporate rates could have an impact on economic decisions.

Any change in tax rates has an impact on **CERTAINTY** in that such changes alter expectations.

Depending on whether changes are made to corporate rates or, alternatively, individual rates, this could have an impact on **FAIRNESS** or **EQUITY**.

Trying to match rates in the U.S. reduces the **FLEXIBILITY** of the Canadian tax system.

As noted, other comments could be appropriate.

## Solution to Assignment Problem One-3

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- A. **Diamonds, South Africa** In a monopoly, the tax will probably be entirely shifted to employees and/or consumers. The incidence shift will depend on competition in world markets and employment levels. If the international diamond market is price sensitive and there is high unemployment in South Africa, then the tax will be shifted almost entirely to employees.

The shifting assumptions affect evaluation of the tax using the characteristics of a “good” tax system. A tax that is entirely shifted to employees is similar to one on wages and is non-neutral, as it affects the decisions of employees to continue working. Some employees will work less and thus increase the excess burden resulting from the imposition of the tax.

- B. **Diamonds, Sierra Leone** The taxing authorities will find it difficult to enforce the tax, due to their inability to track diamond movements. Records maintained by the mine will likely be inaccessible, and those presented will be incomplete. The tax will not be effective and the tax revenue will be uncertain and inadequate.

- C. **Principal Residences, Canada** This exemption is non-neutral because investment decisions are affected by the tax preference. Given the choice of investing in real estate to hold for resale or a principal residence, both of which are likely to appreciate, a taxpayer will invest in a principal residence so that the gain on disposition is tax exempt.

It is also vertically inequitable because it benefits high-income families who can invest in more expensive residences, which have the potential of earning greater returns.

This tax expenditure is spread among all taxpayers, and general tax revenue must be larger to compensate for the revenue forgone.

- D. **Business Meals, Canada** This restriction adds complexity to accounting for deductible expenses, as all business meals have to be accounted for and accumulated separately from other promotion expenses. The tax could be shifted to consumers, employees, and/or shareholders. If it is shifted to consumers, it could be more advantageous to raise personal taxes so that incidence is more certain. If it is shifted to shareholders or employees, then it would be non-neutral as it could affect investment decision making and willingness to work.

- E. **Head Tax** A head tax is neutral as it does not affect economic choices. However, it is vertically inequitable, based on the ability to pay concept of equity, as all taxpayers, regardless of their income levels, are taxed the same. The head tax is very inelastic. This tax serves the objectives of certainty, simplicity, and ease of compliance. It could promote stability in the economy.

## Solution to Assignment Problem One-4

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While there is not one “correct” solution to this problem, the following solution contains comments on each of the listed qualitative characteristics.

**Equity Or Fairness** The toll is clearly regressive in nature in that it is assessed almost exclusively on lower-income individuals. In general, regressive taxes are viewed as being less fair. While the toll has horizontal equity (individuals with the same Taxable Income would pay the same amounts), it lacks vertical equity (the higher-income residents of the island would not normally be subject to the tolls).

**Neutrality** The concept of neutrality calls for a tax system that interferes as little as possible with decision making. The toll may influence employment decisions. If the non-residents have off-island employment opportunities, they may choose not to work on the island.

**Adequacy** While we do not have any information on this, it would be safe to assume that the toll was established at a level that would be adequate for the funding requirements related to the bridge.

**Elasticity** Tax revenues should be capable of being adjusted to meet changes in economic conditions, without necessitating tax rate changes. It is not clear from the problem whether economic conditions would influence the number of individuals who work on the island and pay the toll.

**Flexibility** This refers to the ease with which the tax system can be adjusted to meet changing economic or social conditions. The tolls can be easily adjusted and therefore get high marks for this characteristic.

**Simplicity And Ease of Compliance** A good tax system is easy to comply with and does not present significant administrative problems for the people enforcing the system. The toll would receive high marks in this regard.

**Certainty** Individual taxpayers should know how much tax they have to pay, the basis for payments, and the due date. There is no uncertainty associated with a clearly posted toll rate.

**Balance Between Sectors** A good tax system should not be overly reliant on either corporate or individual taxation. The toll is, of course, totally reliant on the taxation of individuals.

**International Competitiveness** If a country’s tax system has rates that are out of line with those in comparable countries, the result will be an outflow of both business and skilled individuals to those countries that have more favourable tax rates. Although international competitiveness would not appear to be an issue with the toll, it would affect the ability of the city to maintain and attract workers.

## Solution to Assignment Problem One-5

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### ***Solution According to Textbook***

Mr. Valmont would be considered a part year resident and would only be assessed for Canadian income taxes 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. Valmont departed from Canada in May 2020, he will be considered a Canadian resident until his family's departure on June 30, 2020. The fact that his family remained in Canada would lead to this conclusion. While not essential to this conclusion, the fact that he did not sell his Canadian residence until after that date would provide additional support.

His Canadian salary from January 1, 2020, to May 27, 2020, would be subject to Canadian taxes. In addition, his U.S. salary for the period May 27, 2020, through June 30, 2020, will be subject, first to U.S. taxes, and then subsequently to Canadian taxes. In calculating his Canadian taxes payable, he will receive a credit for the U.S. taxes that he has paid on this income. However, because Canadian tax rates at a given income level are usually higher than those that prevail in the U.S., it is likely that he will be required to pay some Canadian income taxes in addition to the U.S. taxes.

### ***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-F1-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. Valmont 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 May 27, 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 30 is the date residency is terminated in Canada, it is probable that the foreign jurisdiction (the U.S.) would consider Mr. Valmont to be resident under their own rules effective May 27th. In effect, the period between May 27th and June 30th 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.

## Solution to Assignment Problem One-6

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**Note To Instructors** This problem is based on a Tax Court Of Canada case, *Hamel vs. The Queen* (2012 DTC 1004). The actual year in question is 2007, with the judgment being rendered in 2011. We have moved the dates in the problem up by 10 years. It is our opinion that, since this judgment was rendered, there have been no legislative or other changes that would alter the conclusions reached by Tax Court judge in this case.

### **Background**

The minister assessed Mr. Hamel on the basis of his not giving up Canadian residency on January 13, 2007 (the original date in the case). Mr. Hamel appealed to the Tax Court of Canada, which resulted in *Hamel vs. The Queen* (2012 DTC 1004).

The solution that follows is the judge's analysis and decision in the case (note that it was translated from French). The judge's conclusion also contained a long section of references to other cases, which we have not included in this solution. The original dates in the solution have been changed to correspond to the dates in the problem.

### **Judge's Analysis and Decision**

The respondent's main argument is that every person must have a residence. Presuming the appellant had not resided in Qatar, she found that he must necessarily have resided in Canada.

After arriving at this conclusion, she relied on the following facts:

- The appellant came to Canada a few times.
- The appellant had two bank accounts in Canada, which he used to make all his payments, in particular for his credit cards, which were also issued in Canada.
- The appellant had some money in an RRSP.
- The appellant had no postal address in Qatar.

As for the other elements, for example, not having a driver's licence, not having property such as furniture, clothing, accommodations, or vehicles, and not having a health insurance card, the respondent claims that they have no impact one way or the other.

The evidence clearly showed that the appellant's decision came after a lengthy period of reflection. It also showed that the appellant did not have any deep roots and did not hesitate to leave when his son, who was ill, let him go with no regrets.

His relationship with his wife was so tense that they tolerated one another only because of their shared concern about their son who was ill.

The appellant had a very good position. He did not want to run away from his responsibilities. He gave all his property and agreed to pay generous support payments before leaving; he has always complied with these commitments. He did not apply for a new Canadian driver's licence when his was suspended, even though the evidence showed it was important for him to be able to use a car if he wanted an international driver's licence or even a driver's licence from the country in which he was living.

He specifically gave up his health card in 2018.

Regarding the beginning of the relevant period of the appeal, the beginning of 2017 (the original year), it must be considered that a reasonable person would be careful. The appellant stated he could only get a work permit if a medical exam showed he was in good health, otherwise he had to return to his country of origin. The same can be said for the position, the duration of which generally depends on the employer, not the employee. In other words, there is, normally, a reasonable delay before a permanent break. This explains the time between the beginning of the period in question and the time the appellant gave up his health insurance.

As for the argument that the appellant never had a residence in Qatar, I do not believe it is cogent, because the appellant was employed and had a residence. The appellant's strong interest in

staying in Qatar was shown by the intensive courses he took to get a driver's licence, when he could have travelled with coworkers, even though he had cancelled his Canadian driver's licence. When his employment ended in Qatar, the appellant returned to the country to see the people with whom he had worked and the work he had done.

In particular, in view of the following facts, I find that, on the preponderance of the evidence, the appellant's position must be accepted:

- The family context was special and conducive to a permanent departure.
- The appellant left after disposing of all his own property.
- The appellant waived his right to obtain a new driver's licence a few months before leaving Canada.
- The appellant returned to Canada a few times for very short stays that were for the purpose of visiting his two sons, his mother, and friends.

After leaving Qatar upon the expiry of his work contract, the appellant returned to meet friends and business acquaintances, thereby showing he had been happy there.

The break came after a long period of thorough reflection.

The appellant has set out all the facts showing his intention to sever ties with this country permanently.

Although the relevance of prior facts is limited, they tend to confirm that the appellant severed his ties with Canada in mid-January 2017.

For these reasons, I conclude that the appellant ceased being a resident of Canada as of January 13, 2017. As a result, the appeal is allowed with costs in favour of the appellant.



## Solution to Assignment Problem One-7

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### 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 Gary's family did not leave Canada until June 30, 2020, Gary would be considered a Canadian resident until that date. Provided he has no intention of returning to Canada, he would be a Canadian resident for the period January 1, 2020, through June 30, 2020. He would be subject to Part I tax on his worldwide income during this period. He would not be subject to Part I tax on his rental income subject to that date.

**Note to Instructors** As will be discussed in Chapter 20, the tax on the rental income would not be subject to Part I tax. It would be Part XIII tax.

### Case B

As noted in S5-F1-C1, "Determining an Individual's Residence Status", commuting from the U.S. for employment purposes does not make an individual a deemed resident under the sojourner rules. Therefore, Sarah would not be considered a Canadian resident for income tax purposes.

Sarah would be subject to Canadian tax on her 2020 Canadian employment income. She would not be subject to Canadian tax on her U.S. savings account interest.

### Case C

Byron's cruise 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 cruise is for a limited time and he will not be establishing residency in another country.

Byron's departure does not appear to be a true departure in that he has only taken a leave of absence from his job. In addition, he has retained some residential ties.

Given these facts, Byron will remain a Canadian resident during his cruise and would be subject to Canadian tax on his worldwide income during all of 2020.

### Case D

As she is exempt from taxation in Germany because she is the spouse of a deemed Canadian resident, Hilda would be a deemed resident of Canada for income tax purposes during 2020 [(ITA 250(1)(g)].

Hilda would be subject to Canadian tax on her worldwide income during 2020.

### Case E

Because she has an employment contract that requires her to return to Canada in 2023, Jessica 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.

Jessica will be subject to Canadian tax on her worldwide income during 2020.