



“Investing in Africa’s future”
COLLEGE OF BUSINESS, PEACE, LEADERSHIP & GOVERNANCE

NMAC 402 : TAX LAW AND PRACTICE

END OF SECOND SEMESTER EXAMINATIONS

MAY 2021

LECTURER MR I. RARAMI

DURATION: 7 HOURS

INSTRUCTIONS

Answer **ONE** question

The marks allocated to each question are shown at the end of the question

Show all your workings where it is required

Credit will be given for presentations that are neat, logical and grammatically well constructed.

QUESTION ONE [100 MARKS]

A). There was an article in the newspaper stating that the cases of tax avoidance are rising. Mr Tiudzei, heard that you recently graduated from Africa University with a first class in Tax Law and Practice. He is asking you to explain in point form what you would consider as some of the motives for tax avoidance. **(10 marks)**

B). You recently graduated from Africa University with a first class in Tax Law and Practice and joined Rais Chartered Accountants based in Mutare. Pauro Muzoo the manager in the tax department was recently informed that you were undergoing your Certificate of Theory of Accounting (CTA) studies and was also aware that one of your core courses is taxation. Upon hearing this Pauro gave you two files that he had been working on in respect of queries that he got from his clients. He has therefore tasked you to come up with appropriate responses to the client's queries.

Muna Properties (Pvt) Ltd is a reputable company based in Mutare. The company owns properties which it leases out to domestic and commercial tenants under operating lease agreements. Over the years due to economic decline, Muna has seen its property occupants levels falls from highs of 90% seen soon after the dollarisation to the current level of 30%. Muna's Finance Manager, Damba Damba, requested your firm's assistance with the following queries.

Query 1

During the 2019 tax year one of Muna's tenants, Nyashie Venture Capital, decided to cancel the lease agreement they had with Muna as they were facing viability challenges. After intensive negotiations between the two parties, an agreement for the cancellation of the lease was reached on the following terms:

1. Nyashie has to pay Muna an amount of \$15 000 which is equivalent to 3 month's rental notice as required by the terms of the lease agreement.
2. Nyashie has to pay Muna an amount of \$25 000 in respect of rentals outstanding from the past year of occupation.
3. Nyashie forfeited their rights to a refundable deposit of \$10 000 that they had paid to Muna on inception of the lease.

Muna received the full amount of \$40 000 in respect of the agreement above on the 31st of July 2019. Damba Damba has requested your advice on whether they should include the above amounts as stipulated in the cancellation agreement as part of their gross income for tax purposes.

Query 2

Due to persistent low occupancy levels, a decision was made in May 2019 to dispose of one of the properties used by Muna for letting out, to alleviate cash flow problems which were now crippling the company. In August the property was sold for \$80 000 and a profit of \$20 000 was realised. Damba Damba is unsure of the amount to include under gross income.

With reference to the Income Tax Act and applicable case law, write an email to respond to the queries from Muna and advise Damba Damba on the amount to be included under gross income. **(25 marks)**

C). Mr Kusaziva, a business man in Mutare, had a tendency of approaching his tax advisers after things had already gone wrong. This time he proactively approached you for advice in tax planning with regards to Corporate Tax, Value Added Tax, Capital Gains Tax, Pay As You Earn (P.A.Y.E), Estate Duty and Stamp Duty.

Advise him on tax evasion and tax avoidance strategies as well as their implications. **(30 marks)**

D). Mr Kuziva is a furniture dealer. Last week he sold his personal old home furniture at his shop. He is not sure whether to include the sale of his personal old furniture in his business gross income. He heard that you are studying Tax Law and Practice at Africa University. He is confused because the definition of gross income excludes receipts or accruals of a capital nature.

Based on decided cases, explain to him the distinction between receipts or accruals of a capital nature and those of a revenue nature. **(35 marks)**

QUESTION TWO (100 MARKS)

This question consists of different independent scenarios. You should respond to each scenario by referencing the applicable legislation and using relevant case law to support your answer.

Scenario A

Sosana is employed as a tour operator for Shapie African Tours Limited (SAT Ltd), a Zimbabwean company running tours in South Africa, Zambia and Botswana. Sosana earns a fixed salary of \$1 200. Sosana currently works for one month out of Zimbabwe leading a tour. The next month she will be at home working from her office planning her next tour the following month. Sosana's son Gilbert is studying tax as part of his Bachelor of Accounting (BAcc) Honours at Africa University and recently told Sosana about the 'residency' test used when determining an individual's tax base. Sosana is now considering discussing with her employer whether she can spend more time outside Zimbabwe each year, in the hope that this will exclude her from the definition of resident and reduce her taxable income.

Required:

You are required to advise Sosana, as to whether her plan will exclude her from the definition of resident, and how else she might reduce Zimbabwean income tax on her salary. Justify your answer

(12 marks)

Scenario B

The Simba Active range of gyms and Crouching Super shoes intend brokering a deal, whereby Simba Active will offer free gym access to all Crouching Super Shoes employees, in return for which Crouching Super will supply free training shoes to Simba Active. The company will in turn provide the shoes to its employees. The two companies believe that this will result in no gross income for either company, since no money has changed hands, and what has been received is for the benefit of their employees.

A regular gym membership at Simba Active cost \$60, while the retail price of a pair of Crouch Super shoe is \$50.

Required

You are required to advise Simba Active with reasons whether their understanding of gross income is correct, and if not, how Zimbabwe Revenue Authority (ZIMRA) will view this transaction. **(15 marks)**

Scenario C

The managing director of Raise Machine Manufacturing Ltd (RMM Ltd), Mr Raramisai, comes to you, and asks whether it is advisable to form a consultancy company for the purpose of limiting his personal tax. He earns well in excess of \$1 000 000 per year, and he says that a friend he met at the golf course advised him that he should form a consultancy company to which his salary would be paid without P.A.Y.E being deducted.

You are required to advise Mr Raramisai on the tax issues in the above scenario. **(10 marks)**

Scenario D

Mrs Dhibhora is a widow who has been operating a furniture shop on a cash basis in Mutare for many years. Due to the increase in supplier prices, she has now decided to start selling the furniture on credit terms extending over two to three years.

She has now made sales amounting to \$1 000 000 and she estimates her profit to be more than \$500 000. She vaguely remembers that she is taxable on all profit she made in any year. She wants to know whether or not there is tax relief available since she will only receive the bulk of her income in future tax years.

Required

You are required to advise her accordingly. **(3 marks)**

Scenario E

Professor Prof run a used car business in Mutare. Prof pays a small firm of accountants keep his accounting records and file his tax returns. Prof's son Sammy, (a recently qualified tax accountant) recently sold his car, and Prof was surprised to hear that Sammy does not believe that he will pay tax on the sale, even though he made a profit on the sale. 'I pay a fortune in tax on my car sales' moaned Prof. 'Perhaps, I should get better accountant'

You are required to explain to Prof why his car sales are included in gross income, while his son Sammy sale is not (quoting cases), and

whether either Prof or Sammy are entitled to any deduction of costs in respect of their sales. **(60 marks)**

QUESTION THREE (100 MARKS)

A). A Limited operates a leading educational institution in Zimbabwe and a training and advisory consultancy. You are the junior accountant at A Ltd and are responsible for the accounting function wherein you prepare the financial reports. Your job also involves preparation of various tax returns.

NOTES

1. A Ltd is recruiting a key staff member for the administration of its Finance department and is discussing with the candidate a suitable remuneration package.

a). Motoring benefits

i). A Ltd could import a passenger motor vehicle and assign it to the candidate, who will assume ownership of the vehicle at the end of 3 years for free. The vehicle shall have a cost of \$20 000 and an engine capacity of 3000cc.

ii). A Ltd could assist the candidate with finance to import the passenger motor vehicle for \$20 000, with an engine capacity of 3000cc. The candidate shall then have to repay the loan by serving 3 years for A Ltd. If the candidate decides to terminate employment, they shall pay for the outstanding balance allocated based on the time served.

b). Other allowances

i). A Ltd shall provide a housing allowance of \$300.

ii). A Ltd shall pay for the relocation expenses up to \$1 200 for the candidate to move from Harare to Mutare where the candidate currently resides.

iii). The candidate shall receive cash allowance of \$300 per month for use as the candidate pleases.

iv). A Ltd shall pay for the candidate's Institute of Chartered Secretaries and Administrators subscription for \$600 per annum. A Ltd shall also pay for the candidate's Leo's club, Toastmasters club and Golf club subscriptions totalling \$850 per annum.

2. Bad Debts

A Ltd wrote off debts for the following:

i). Students who lost their parents and failed to raise the balance on their school fees of \$320 for the 2015 academic year.

ii). A loan of \$650 was advanced to a former attachee to assist him with his fees on condition that they will repay it or return to A Ltd as an employee. The attachee migrated to United Kingdom upon completion of his studies without settling the debt and has since been avoiding communication for two years.

iii). A student tuition 2013 debt of \$540 which has been written off in December 2015 was subsequently recovered. The commissioner has granted an allowable deduction at the year end.

Required:

Discuss the income tax implication for the year ended 31 December 2019 of the transactions above taking note of the following:

i). Your discussion should focus on the tax implication:

a. in the hands of the candidate

b. in the hands of A Ltd

(30 marks)

ii). In the hands of A Ltd

(10 marks)

B) The Chief Executive Officer of COVID Limited, producer of sanitisers for the Zimbabwean market, returned from a Tax Seminar organized by The Institute of Chartered Accountants of Zimbabwe (ICAZ). He has requested you as the Tax Manager to write a letter ZIMRA requesting the recognition of the company's tax losses incurred over the last five years so as to reduce the current taxable income. He is of the opinion that COVID Company Limited has been short changed over the years on account of tax losses not considered in its tax computations.

Required:

Explain clearly the provision of tax laws on carryover of losses and to what extent do you agree with the position of the Chief Executive Officer of COVID Company Limited?

(10 marks)

C) Mr. Mutero constructed a house in Murambi in 1997 at a cost of \$35,555. He renovated the house in June 2012 at a cost of \$21,445 and transferred the house to his son Tax on his thirtieth birthday on 31st July 2016. The market value of the house was \$88,000 at the time of transfer. Tax sold the house to Chibharo in May 2017 for a consideration of \$150,000. Tax used all the money realized (\$150,000) to purchase a house in New Murambi in February 2018. Tax got married to Tanaka who was domiciled in the United Kingdom in May 2019 and they decided to sell the house and settle in the United Kingdom for good. The house was sold to Chiyan in July 2019 for a consideration of \$200,000.

Required:

Explain the tax implication of these transactions in relation to these persons:

- a)
 - i. Mr. Mutero
 - ii. Mr. Tax **(15 marks)**
- b) The Capital Gains Tax Act deems certain receipts and accruals to be gross capital amounts. State five such circumstances and how the amount is determined in each circumstance. **(15 marks)**
- c) Mr Mutero is planning to sale his house and he approached you for advice on the deduction that can be made from his gross capital amount. Advise Mr Mutero. **(20 marks)**

END OF EXAMINATION
