



“Investing in Africa’s future”

COLLEGE OF BUSINESS, PEACE, LEADERSHIP & GOVERNANCE

NMAC 402: TAX LAW AND PRACTICE

END OF FIRST SEMESTER EXAMINATIONS

NOVEMBER 2021

I. RARAMI

DURATION: 5 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). Mr Ziche and Mr Bhero formed a business on 1 March 2013. The business had at first been profitable but in the 2016 year of assessment the business operations were negatively impacted by imports of cheap clothing “Mabhero” from abroad and local competition.

The partnership has a 31 December year end and the profits and losses of the partnership are shared equally. Neither Mr Ziche nor Mr Bhero carried out any other business operations. The partnership’s assessed losses for the last three years of assessment were as follows:

Year of assessment	\$
2016	15 000
2017	13 000
2018	<u>13 000</u>
	<u>41 000</u>

Although the partnership had taxable income of \$10 000 for the 2019 year, both Mr Ziche and Mr Bhero realised that the partnership could no longer survive in the tough economic conditions and they ceased trading on 27 December 2019 and deregistered as a Value Added Tax (VAT) vendor on the same day.

The following assets were on hand on 27 December 2019:

	Cost	Open market value
	\$	\$
Delivery truck	40 000	15 000
Trading stock	27 500	14 000
Ten sewing machines, which all had the same value	<u>20 000</u>	<u>7 000</u>
	<u>87500</u>	<u>36 000</u>

During the 2020 year of assessment Mr Bhero purchased and let property and Mr Ziche became employed.

Discuss, with supporting calculations, the VAT implications for the Mr Ziche and Mr Bhero partnership when it ceased to trade and deregistered as a VAT vendor. (14 **marks**)

Discuss the tax treatment for the partners for the 2019 year of assessment. Also discuss whether either Mr Ziche or Mr Bhero can claim a portion of the loss during the 2020 year of assessment. (6 **marks**)

B). 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 would you consider as some of the motives for tax avoidance? **(10 marks)**

C). 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 in 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 doralisation 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 their 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 agreed with the following terms:

1. Nyashie to pay Muna an amount of \$15 000 which is equivalent to 3 month's rental notice as required by the term of the lease agreement.
2. Nyashie 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 persistency low occupancy levels a decision was made in May 2019 to dispose of one of the properties used by Mana for letting out, to alleviate cash flow problems which were now crippling the company. A buyer for the property was duly found in August and the property was sold for an amount of \$80 000. Muna made a profit of \$20 000 on the sale. Damba Damba is again requesting your advice on whether either the \$80 000 or the \$20 000 constitute gross income in terms of the income tax act.

With reference to the Income Tax Act and applicable case law, write an email to respond to the queries from Muna. **(20 marks)**

D). Tax planning implies arranging of one's affairs well in advance. Mr Kusaziva, a business man in Mutare, has often approached his tax advisers after things have already gone wrong. This time he approaches you in time for advise in tax planning in Corporate Tax, VAT, Capital Gain tax, Pay As You Earn (PAYE), Estate Duty and Stamp Duty. Advise him and highlight to him tax evasion and tax avoidance.

(25 marks)

E). 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. Explain to him how would distinguish receipts or accruals of a capital nature from those of a revenue nature. Quote from decided cases if possible.

(25 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 on a month-on month-off basis for one month she is out of Zimbabwe leading a tour and for one month she is at home in Mutare with her husband and children, and works at her office at SAT Ltd planning her next tour.

Sosana's son Gilbert is studying tax as part of his BAcc honours at Africa University and recently told Sosana about "residency" test. 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, with reasons, 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. **(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 costs \$60, while the retail price of a pair of Crouching Super shoes is \$50.

Required

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

Scenario C

The managing director Mr Raramisai of Raise Machine Manufacturing Ltd (RMM Ltd) a large company 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 PAYE being deducted.

You 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.

Required

Advise her on whether or not there is tax relief available since she will only receive the bulk of her income in future tax years.

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

NOTES

1. AU is recruiting a key staff member for the Administration of its finance and is discussing with the candidate a suitable remuneration package.

a). Motoring benefits

i). AU 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). AU 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 AU. If the candidate decides to terminate employment, they shall pay for the outstanding balance allocated based on the time served.

b). Other allowances

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

ii). AU 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). AU shall pay for the candidate's ICSAZ subscription for \$600 per annum. AU shall also pay for the candidate's Leo's club, Toastmasters club and Golf club subscription for a total of \$850 per annum.

2. Bad Debts

AU wrote off debts for the following:

i). For students who lost their parents to death and initially thought they could raise the balance on their school fees of \$320 for the year 2015 academic year.

ii). A loan of \$650 was advanced to a former attachee for fee in the final year of an undergraduate degree program on condition that they will repay it or return to AU to serve AU. The attachee migrated to United Kingdom upon completion of the degree 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 and the above NOTES:

i). Note 1. Your discussion should focus on the tax implication:

a. in the hands of the candidate

b. in the hands of AU **(30 marks)**

ii). Note 2. In the hands of AU **(10 marks)**

B) The Chief Executive Officer of COVID Limited, producers of sanitiser Local Soap for the Zimbabwean market, returned from a Tax Seminar organized by The Institute of Chartered Accountants, Zimbabwe (ICAZ) and called you, the Tax Manager of COVID into his office and stated “COVID Company Limited has been short changed over the years on account of tax losses”. He said that carryover of losses as an incentive was discussed at length at the Tax Seminar. He went further to add that, COVID Limited has not carried over its tax losses as provided for in the tax laws. He states, “Tax Manager, please act now by writing to Zimbabwe Revenue Authority to recognize the tax losses of COVID, since the losses are within the five years in order to help reduce the taxes of the Company now that the Company is making profits”, he ended.

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:

Mr. Mutero

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)

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
