NORMAN MANLEY LAW SCHOOL
Council of Legal Education

LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATION 1978

REVENUE LAW

Wednesday, June 7, 1978

Instructions to Students

a) *Time: 3½ hours*

b) *Answer FIVE questions*

c) *It is unnecessary to transcribe the questions you attempt.*

QUESTION 1

Dr. John Getwell left Jamaica in August 1972 to reside in Trinidad and Tobago. He has retained a practice in the Medical Associates Hospital to which he has returned in October of each year from 1972 remaining until the following March. In addition to the income from his practice here, John also receives salary from the Trinidad and Tobago Oil Company by which he is employed in Trinidad, and has income arising from shares held in a Cayman Trust Company.

The Commissioner of Income Tax now wishes to know on what he can assess John, and seeks your advice. In particular he wishes to know the relevant parts of section 5 of the Income Tax Act to which reference should be made.

QUESTION 2

Mr. Al Tourney is a final year Law School student at the Norman Manley Law School, where he had repeated his first year. Since August 1974 when he returned to Jamaica he has made just enough money for paying his bills and meeting living expenses by buying and selling expensive cars.

In 1977, Tourney was too busy with studies and, at first, lived by borrowing from his friends. In May 1977, however, his father died leaving him two Mercedes Benz cars. On probate of the will, Tourney sold

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the cars for $20,000 each. He lodged $20,000 in a fixed deposit account at the National Commercial Bank at 8% per annum interest. He purchased four small cars at $4,500 each, and after doing minor repairs he sold them for $6,500 each. The Commissioner of Income Tax assessed him to tax on the sum of $8,000 and the interest on the fixed deposit. Advise Tourney on his liability, if any.

Would there be any difference if Al had not purchased the four cars for resale, but had used the proceeds of the second Mercedes for living expenses?

QUESTION 3

G.S. is a professional guitarist who plays with the Sonny Bagshaw band. During 1976 he received the following:

(a) Wages of $500 per month out of which he pays $20 per month for use of a car under an "amended wage scheme".

(b) A sum of $2,000 being the proceeds of a benefit concert held for him and presented to him "in consideration of his general helpfulness".

(c) Ten sums of $100 each, one for each occasion on which the crowds exceeded 2,000 people, and to which he was contractually entitled.

(d) Income of $600 from the Jamaica Unit Trust Services on units he had purchased some years ago.

(e) A bonus of $5,000 being his one-tenth share of the net profits of the 1976 Christmas season dances, and a gift of four new guitars from the store with which he normally traded, in return for advertising the store free of charge.

If G.S. is married to a wife who is not working, he has two sons, students at CAST, one of whom is also a part-time lecturer earning $5,000 per year, and he makes a donation of $3,000 to the Council for the Mentally Handicapped, advise him on the extent of -

(a) his statutory income, and

(b) his tax credits, if any.

N.B. You need not work out either the total of the statutory income or the tax, but you are expected to discuss the principles applicable to each aspect of the question.

QUESTION 4

Mark and Luke are brothers who operate a successful business. In 1975 they have saved a total of $50,000 which they now seek to invest. They are advised that a farm is for sale, and that much of the produce of the farm goes to a restaurant owned by the farm owners, which is also being sold. They ask your advice as to whether the two businesses should be in one limited company. In particular, they are concerned about the rates of tax applicable to different types of companies, and the fact that they are connected persons. They say they have also heard talk of a dual test and they wish your advice on this in order to structure their business operations.

QUESTION 5

Fine Interiors Ltd. (FIL) is a wholly owned subsidiary of Homes and Things Ltd. (HATL), a company quoted on the Jamaican Stock Exchange. In 1976 FIL made a taxable profit of $20,000, on which it paid tax. It also paid a dividend to its parent company HATL in the sum of $8,000 gross less tax at 37½%. This sum was the only income received by HATL and it wishes to pay to its shareholders as dividends, all the income it received.

Advise the directors of HATL as to whether any income tax is to be withheld from the dividends. Advise also the directors of FIL as to how it may make use of any tax withheld on paying the dividends and any ACPT paid in 1976, and on its liability for that year.

QUESTION 6

The Bellevue Sand and Gravel Company Ltd. was a quarrying company which sold two quarries in Portland to the Government in December 1974 for $50,000 each. In 1975 they purchased from Clay Brick Ltd. certain contracts of ten and two-year durations under which Clay Brick had been guaranteed cheap sand from small quarry owners for $50,000. They also spent $10,000 on getting lifted restrictive covenants over land they owned which prevented quarrying thereon. The Bellevue Sand and Gravel Co. Ltd. also received from Government a payment of $100,000 in lieu of the company refraining from quarrying land which was needed for building a school. They then entered into an agreement with Building Development Ltd., by which they received a sum of 1% of the net profits of that firm for 20 years in return for allowing Building Development Ltd. to use a secret process, by which stone was treated

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during crushing to obviate the need for painting when used in a building. Finally, the company spent $40,000 on the construction of a new road to a recently acquired quarry, $26,000 on repairs of its motor vehicles, and $11,000 to get rid of its inefficient Operations Manager.

The Company now seeks your advice on liability or deductibility of the items above, and any other Revenue Law considerations. Advise it.

QUESTION 7

Billy is a stockbroker who had a very good year in 1977. In January to March of that year he sold shares quoted on the Stock Exchange at a profit of $15,000. He also realized profits of $20,000 between April and June on unquoted shares. In July he entered into an agreement by which he purchased an option for $5,000, to be exercised by August 31st, to purchase shares for $100,000, this figure to include the cost of the option. The contract was however subject to Billy being able to secure a guarantor for his overdraft at the bank to cover the total cost of the shares. In fact, the guarantee by Billy's father was for his overdraft "up to but not exceeding $50,000". The agreement for the purchase of shares was therefore rescinded. In November and December 1977 Billy was forced to sell for $10,000 shares he had purchased for $12,000.

Advise Billy of the Revenue Law consequences of the above.

QUESTION 8

(a) Sporty carries on business of cold storage and warehousing which he started in February of 1977. His research shows that his best income period will be between July and September. He is now considering fixing his first accounting period. What advice can you give him?

(b) He has incurred capital expenditure of $200,000, and he expects to move into a good profit position early on in his operations. He says he understands that capital expenses are not deductible, but he has been told that the provisions relating to capital allowances are capable of giving good advantages especially in the business in which he is involved. Briefly advise him.

(c) He was approached by Tom who wished to purchase the business as a going concern for $1,000,000. This is the figure in an agreement prepared by Tom. The agreement is also to operate as a mortgage as Tom has only $500,000. The purchase price also includes crops worth $100,000 on a 10-acre plot which is part of the whole complex.

Briefly identify the Revenue Law consequences herein.