NORMAN MANLEY LAW SCHOOL
Council of Legal Education

LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATION 1979

REVENUE LAW
Wednesday, June 6, 1979

Instructions to Students

a) *Time: 3½ hours.*

b) *Answer FIVE questions.*

c) *In answering any question a candidate may reply by reference to the Law of Jamaica, the Bahamas, or Belize, but must state at the beginning of the answer the name of the relevant territory.*

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

QUESTION 1

M is a director and principal member of Violet Enterprises Ltd., and ss s Fancy Boutique Ltd., which his wife operates. In 1978 he received the following items of income:

(a)	Net Dividends from Jamaican resident companies (after tax at 37½%)	$1,000
(b)	Salary as managing director of Violet Enterprises	7,000
(c)	Income from a Unit Trust	600
(d)	Housing Allowance	6,000
(e)	Value of private use of car	1,000.

His wife who lives with him received the following sums during 1978:

(a)	Fees as director of Fancy Boutique	$3,000
(b)	Salary for serving on the Advisory Committee of a company in which neither M nor his wife had any interest	3,000
(c)	Dividends from shares held on trust for her (net)	6,250.

M is supplied with a car by Violet Enterprises for use on the company's business as well as for his private use. In that year he paid $96 for National Insurance contributions and $900 in contributions to an approved superannuation scheme. He also contributed $500 to the Jamaica Children's Service Society, an organisation certified by the Minister by Order for the purpose of receiving contributions conferring tax benefits on the donor.

M has a mother who is retired and for whose support he shares equal responsibility with his brother N. He also has a son aged 24 who studies at the University of the West Indies. M also pays life insurance premiums of $600 per year. He also, in 1978, disposed of $300 of the units purchased by him in the Capital Growth Fund in 1977.

Explain M's liability to income tax for 1978 if the total earnings of M and his wife are as stated above. (You need not compute the tax due.)

Would there be any difference if M were provided with rent-free accommodation by Violet Enterprises?

QUESTION 2

Frank is a worker attached to the St. James Parish Council as a garbage collector. As such, he enjoyed the privilege which attached to all garbage collectors in the St. James area to sell garbage to the plant converting it into fertilizer. Although this was not a part of the labour contract between his union Jalgo and the Council, all workers included the value of the privilege, in 1976 valued at $500, in other computations of their earnings, for the purposes of applying for loans from the National Housing Trust. Up to that time the Revenue had not sought to tax this sum nor Frank's share of the $2,000 given each year by the Montego Bay Hotels for division among the garbage men at Christmas.

In 1977 a new contract was agreed between the Council and Jalgo. By this contract the Council itself sold refuse to the fertilizer plant and compensated each worker by a "once per year payment of $750 payable on the 10th December for the years 1977, 1978 and 1979". The Council's accountant deducted tax from the first payment in 1977 and the workers struck.

(a) Advise Frank whether he is properly chargeable to tax on the sum; and

(b) Whether he would be liable to tax on his share of the hotels' contributions.

(c) Advise the Council as to whether they may confer any "non taxable benefits" on its twelve supervisors who are getting restive.

(d) Advise Joe who has worked with the Council for the past 15 years, and is presently earning $100 per week and who now wishes to retire because of ill-health brought on by his job.

QUESTION 3

Pelican Ltd. is an expanding concern which manufactures wooden doors, and window frames. The company is presently a small close company and subject to tax at the rates applicable thereto. The directors are contemplating incurring $1,000,000 of capital expenditure on new plant and machinery. Of this sum $120,000 will represent the cost of three new Cadillac motor cars for the Chairman of the Board, the Managing Director and the Director of Marketing. The sum of $180,000 is to provide three specially constructed trucks for the movement of the company's products.

Advise the company on its claim for capital allowances, given the fact that there is rapid growth projected for its profitability.

Is there any special advice you would give to the directors who feel that since the cost of the machinery is subject to high rates of inflation, they could make a substantial capital profit by selling the machinery in about 1982?

QUESTION 4

(a) Joe Bloggs, Jnr., up to 1976 carried on a business of selling hardware and dry goods. In 1977 he purchased the furniture manufacturing business carried on by his father, for $150,000. Part of the price, $25,000 was in consideration of his being given the right under certain long-term contracts to purchase cheaper lumber from Belize. Another $25,000 was expressed to be for the goodwill associated with the well-known name "Joe Bloggs, Snr., Furniture Manufacturers". The remainder of the price of $100,000 was stated to represent the true sale price of finished goods at wholesale rates, from the retail sale of which Junior would realize profits of about 20%. The Commissioner of Income Tax has stated in a recent letter to Junior that "the total $150,000 will be disallowed as it represents money spent on the purchase of a capital asset, i.e. a business as a going concern".

Junior feels that it is not the whole amount which should be treated in this way, and that some part of the price is revenue expenditure. Advise him.

(b) Junior:

(i) purchased new machinery for $15,000 and spent $20,000 on fixing up the old factory.

(ii) purchased lumber, nails, paints and varnish for $90,000.

(iii) built a new warehouse for storing of finished goods at a cost of $100,000.

(iv) sold his old truck and some used machinery for $20,000.

(v) sold part of a stock of lumber for $5,000.

(vi) sold furniture valued at $200,000.

Against the background of the distinction between capital and income, state which of these items are allowable and which are taxable.

QUESTION 5

Fast Foods Ltd. is a company with four shareholders, A, B. C and D, and paid up share capital of $18,000, of which $6,000 is held in preference share capital by A. The remainder of the paid up share capital is held in ordinary shares equally by B, C and D. In 1977 it had chargeable income of $36,000 after purporting to deduct from its income dividends paid on the preference shares of $3,000, a rate of 50% per annum.

The company's chargeable income was received as to $20,000 from the farm it operated and $16,000 from a restaurant and snack counter. The company's income tax return shows the following tax payable:

C.P.T. @ 30% of chargeable income	=	$10,800
A.C.P.T. @ 15% of chargeable income	=	5,400.

Advise the company on whether it has properly computed its tax liability.

Would any part of your answer be different if A and B were the sole shareholders in another company, AB Ltd., which in 1977 had chargeable income of $10,000?

QUESTION 6

In 1973 under a written agreement, Bob Cash acquired an option for $4,000 (10%) and in August, 1974, purchased Whiteacre consisting of twenty acres of barren land for $40,000. During the next two years Bob spent:

$15,000 on laying watermains

$20,000 on putting in roads

$5,000 on securing sub-division approval

Total expenditure of $40,000.

The approval for sub-division of the land allowed Bob to divide the land into forty half-acre lots, each of value $4,000.

Bob is considering two suggestions from his friend Expert; one is that he should sell the individual lots at the appraised value of $4,000 each, and the other is that he should sell Whiteacre as one whole to the St. Ann Parish Council so that a school may be built there.

Advise Bob on the tax implications of all the above.

What brief advice would you give if Bob received approval for a housing development and sold each unit in the development for $16,000?

QUESTION 7

X, who is an eccentric attorney, has not been practising for the last five years and in that time has lived by buying and selling stocks and shares both on and off the Jamaican Stock Exchange.

In 1978 he sold two lots of stocks and shares as follows:

June 1978	-	20,000 Cement Co. shares for $40,000
November 1978	-	40,000 General Food shares for $100,000.

The shares sold in June, 1978 had been acquired in June, 1977 for $60,000 and those sold in November had been acquired in July, 1977 for $90,000. In the case of both sales in 1978, the purchasers were X Co. Ltd., and X Co. (1976) Ltd., in both of which X held 50% of the shares, and the sales had taken place by private arrangement and not on the Stock Exchange.

Advise X on the Revenue Law consequences of the above if in 1978 X had no other source of income.

Would your advice be different if the shares had been sold:

(a) on the stock exchange; and

(b) to someone with whom X had no connection?

QUESTION 8

H and W were husband and wife, and tenants-in-common of the house in which they had lived, the value of which was $20,000.

Advise W on the Revenue Law consequences of the following events:

(a) On 1st January, 1975, H died and in his Will he left his one-half share in the home to his wife.

(b) H also directed his executors to "settle the proceeds from the sale of my farm, Blackacre, upon my wife W for her life, with remainder to my twin sons John and Jim". The value of the farm was $40,000.

(c) W was to receive a pension from H's former employers of $500 per month and to receive free medical attention of up to $1,000 per year "in consideration of H's past employment" with the company.

(d) W agreed "to convey the house to Scotia Bank, subject to a right to have the property re-conveyed at the end of one calendar year, to secure advances to my son, Spendthrift, of sums up to $25,000".

Would any part of your answer be different if H had died in January, 1974?