

NORMAN MANLEY LAW SCHOOL  
Council of Legal Education

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR EXAMINATIONS 1980

REVENUE LAW

Wednesday, May 28, 1980

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, Belize or British Virgin Islands, 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.

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QUESTION 1

Elliot Ness is an engineer who has lived in New York for the past twenty (20) years and is domiciled there. In 1977, he joined Kaiser Aluminum and Chemical Corporation in the United States and was sent to Jamaica, arriving in Kingston on the 15th October to join Kaiser Bauxite as a consultant.

He returned to the United States on the 15th February, 1978. Having determined that he wished to come permanently to Jamaica, the country of his father's birth, he persuaded the Kaiser Organisation to send him back to Jamaica where he arrived on the 1st December, 1978. He stayed in Jamaica until the 31st July, 1979 when, on the sudden death of his father in New York, he went back there to take control of the family business. While here he was paid, by arrangement with his employers in Jamaica, the sum of \$500 per month which only paid for his rent and food. Other payments were made to his United States bank account by his U.S. employers.

The Commissioner has now assessed him to income tax for the years 1977, 1978 and 1979 on his worldwide income including that paid in the United States.

- (a) Advise the Commissioner
  - (b) What advice would you give to Kaiser Bauxite Company in Jamaica if they needed overseas personnel but feared they would not be able to attract them because of the high incidence of Jamaican Tax.
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QUESTION 2

Realtor is a practising attorney-at-law, who in 1978 found that his income had declined as a result of numerous complaints made to the Disciplinary Committee of the General Legal Council against him. He determined that in order to maintain his standard of living he would acquire 20 acres of beach-front land which a client of his was offering for sale, and use this as security for raising a mortgage of some \$50,000.

Having entered into a contract to purchase the property for the cheap price of \$40,000 of which only 10% was immediately payable, Realtor was unable to raise the mortgage and he decided to seek development approval, subdivide the property into half acre lots and sell these to purchasers anxious to secure such lots. Development approval was secured, and in 1979 he sold all the lots to the Urban Development Corporation for \$200,000 and paid off the balance owed on the purchase. The Commissioner of Income Tax has now assessed him to income tax on \$160,000 being 'income from a trade carried on in 1979'.

Advise Realtor if he can resist the assessment.

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QUESTION 3

Alpha, an accountant, is senior partner in a management consulting firm, 'Alpha, Omega and Partners'. The firm was a small but highly profitable one and up to 1979 had employed Alpha's wife as a book-keeper and receptionist at a salary of \$4,200 per annum. Alpha decided that from the 1st January, 1980, he would employ SOS Services Ltd., a company controlled by his accountant, at a fee of \$12,000 per annum to perform the services previously performed by his wife. SOS Services would employ Alpha's wife for this purpose.

Alpha also incurred the following items of expenditure in 1980:

- (a) \$5,000 being the cost of attending a conference in Hawaii, at which management consultants considered the theme, 'How to improve management for the 1980's'.
- (b) \$3,000 being the cost of going to Trinidad and Tobago with his wife in order to sign a contract with a client there 'and to enjoy carnival at the same time'.
- (c) \$1,500 on a projector for his firm's use but which was also to be kept available for use by his Club on social occasions.

- (d) \$500 representing half of the cost of his one week stay in a private room in St. Joseph's Hospital which room he had specifically requested so that he could continue to carry out his office functions.

Advise Alpha how the Commissioner is likely to view the above items of expenditure.

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QUESTION 4

EITHER

A.

Isa is a merchant who acquired a hardware business in February of 1980 and seeks your advice in the following regard:

- (a) He wishes to commence running the hardware business immediately but he says that his accountant has told him that it may not be possible to prepare any accounts for the business for several months after a year of operations has passed. He wants to know whether any tax benefit is to be gained by the choice of his accounting period in view of the fact that his best business period is between November and February.
- (b) He also wishes to know if having selected an accounting period he will be able to change from this period and if so what would be the effects of such change.

Would your advice at (a) above be different if his best trading period were from February to July?

Isa also wants to know what would be the result if he decided to close the business and sell all his stock to another hardware merchant.

OR

B.

Garth is employed as a financial analyst by Whiz Kids Consultants Limited (WKC). In order to encourage their staff, WKC contracted to give to each employee in Garth's grade, every year for five years, a block of 100 shares in the company, the shares having (in 1980) a market value of \$30 each.

In 1980, Garth, whose salary is \$20,000 per year, donates the sum of \$1,500 to the Cancer Society to fulfill a promise he made to his late father who died from cancer in 1979.

Garth, who is divorced, also receives income from a Unit Trust of \$1,000 per annum and dividends net after tax of \$625 from WKC, and is solely responsible for his mother's welfare. He also pays alimony of \$2,000 per year to his wife and has two children one of whom attends Kingston College and the other is a student at the University. The child at University is however in receipt of income under a Trust Fund set up by his grandfather which yields him \$500 per year.

Advise Garth what his statutory income and tax credits will be for the year.

NOTE: You need not compute his tax liability.

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QUESTION 5

The Bellevue Sand and Gravel Company Ltd. is a quarrying company which sold its 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 removing 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 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 paid \$11,000 to its retiring Operations Manager, in consideration of his not competing with its operations for a period of six years.

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

Advise it.

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QUESTION 6

William Tell is the owner of a ten-acre lot of land in May Pen for which he had paid \$20,000 in 1976. Subsequent to the purchase he developed the land by putting in roads, water supplies, a football pitch and a pavilion for spectators. The costs of these developments were \$10,000, \$6,000, \$2,000 and \$4,000 respectively, but he was reimbursed the cost of the football pitch by the Clarendon Parish Council. The pavilion was destroyed by a fire in 1978 and William has now entered into an agreement to sell the land to his brother, Cyril for \$40,000.

Advise William on the Transfer Tax consequences of the above.  
Would your answer be different if:

- (a) the property was not sold to William's brother but to the Government of Jamaica;
- (b) William Tell was a dealer in real estate?

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QUESTION 7

Giltedge (G) 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 acquired an option for \$5,000, to be exercised by 31st August, to purchase shares for \$100,000, this figure to include the cost of the option. The contract was however subject to G 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 G'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 G was forced to sell for \$10,000 shares he had purchased for \$12,000.

Advise Giltedge of the Revenue Law consequences of the above.

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QUESTION 8

Advise Daniel on the Revenue Law consequences of the following:

- (a) He is a professional golfer who plays on the international circuit. In 1976 he won total prize money of \$100,000 in 26 competitions. He also bet

on the persons likely to win the tournaments in which he was involved, and through this betting won a further amount of \$10,000.

(b) He advertises Antillean Sports Goods and for this he is given one complete set of clubs and gear valued at \$2,000.

(c) He agrees to settle land on X and Y as trustees for his twin children C and D who are aged 20.

(d) He assigns his life insurance policy to the bank to secure an overdraft facility of 'up to \$20,000'.

(e) He signs an agreement with the Jamaica Hotel and Tourist Association to appear in their annual Open tournament in exchange for a two-week fully paid holiday at the Rose Hall Intercontinental, costing \$1,800, and mortgages his house to secure a loan to purchase a small yacht.

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