

NORMAN MANLEY LAW SCHOOL
Council of Legal Education

LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS, 1981

REVENUE LAW

Tuesday, May 26, 1981

Instructions to Students

- a) Time: 3½ hours.
- b) Answer FIVE questions only.
- 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

In May 1974, Bill Dinero, who had been a director of several companies in the island, decided to migrate to the United States. He sold his home in Jamaica, but retained his directorships in all six companies in which he held shares.

During the years between 1975 and 1980, Bill visited Jamaica for periods of 3 - 5 months in each year to attend meetings of the boards of directors of the companies and to transact certain other business with respect to dividends received on his shares. On these occasions he stayed at the Pegasus Hotel. In 1980, he received in Jamaica income in the sum of J\$50,000 from a trade carried on in the U.S.

Bill has submitted Income Tax Returns for the years 1975 - 1980, declaring his Jamaican income and computing his liability on the basis that he is only liable to tax at rates applicable to non-residents. In particular, he has not included the J\$50,000 from the United States in his 1980 return. The Commissioner of Income Tax has now assessed him to income tax for the relevant years on the basis that he is a Jamaican resident, and has included in his 1980 assessment, the income arising from Bill's trade in the U.S.A.

Advise the Commissioner on whether he is likely to be able to sustain his assessment and identify the relevant parts of the charging section under which the taxpayer may be charged.

QUESTION 2

Roscoe was a member of a firm of stockbrokers, Stocks and Shares Company. He had spent his thirty years of practice specialising in trading in government securities. In 1978, his cousin Jack decided to set up a holding company to hold the shares in three companies, in which he Jack held beneficially all but a few of the shares. Roscoe was asked by the cousin to accept the position of Managing Director of this holding company. He agreed to do this and a formal agreement was entered into, by which, in exchange for giving up his consultancy practice, he would receive 30% of the shares in the holding company valued at \$300,000. These shares were transferred to him on the date of the agreement 30th September, 1978.

He was also to receive a salary of \$100,000 a year. His partners at Stocks and Shares Company also agreed to reward him for his loyalty to that firm by giving him a lump sum payment of \$25,000.

In 1979, all employees of the holding company were offered the chance to purchase up to 50,000 shares in the company at the market value of the shares. The value of the shares at this time was declining because of the economic crisis.

Roscoe purchased the 50,000 shares at the then market value of 50¢ each. After the 1980 General Election the value of these shares on the Stock Market rose to \$1 and Roscoe immediately sold his shares at this price.

The Commissioner of Income Tax now seeks your advice in relation to the receipts above.

Advise him.

QUESTION 3

Lumen, a 1979 graduate of the Norman Manley Law School, had decided that he would confine his law practice to advocacy. For this purpose, he spent \$1,000 on the purchase of clothing suitable for use in the Supreme Court. The clothing consisted of black suits and ties and white shirts.

In his Income Tax Return for 1980, he claimed to deduct the cost of this clothing, as an expense "wholly and exclusively incurred in acquiring income." He also purports to deduct the following items on the same basis:-

- (a) Three hundred dollars (\$300) being the cost of his gown for Supreme Court appearance.
- (b) Five thousand dollars (\$5,000) being the cost of a library purchased second-hand from an attorney who is retiring from active practice.

- (c) Three hundred dollars (\$300) being the cost of attending a five (5) day course organised by the school on the subject 'Advocacy and the young Attorney'.
- (d) Forty dollars (\$40) being the cost of his Practising Certificate for 1980.
- (e) Thirty five dollars (\$35) for membership in the Bar Association.

Advise Lumen on the above.

He also wishes to know whether in the event of failure of his claim under (b) above, he could claim capital allowances on this purchase.

QUESTION 4

EITHER

A.

(a) A and B are both 50% shareholders in a company, AB Holdings Ltd., which has two subsidiaries, A Ltd. and B Ltd. In 1980, AB Holdings Ltd. received its total income of \$100,000 gross (\$62,500 net after payment of tax) from A Ltd. and B Ltd. equally. A and B now wish to know what would be the position if they decided that AB Holdings Ltd. should pay all its income to them as dividends.

(b) A Ltd. expects its 1981 chargeable income to be \$100,000 on which it will pay CPT of \$35,000 and ACPT of \$10,000. It also has total ACPT credit brought forward from previous years totalling \$20,000. How may A Ltd. treat this ACPT in relation to its liability to pay income tax on dividends paid by resident bodies corporate?

(c) In March of 1980, A Ltd. had lent A's wife, X, \$24,000 and this sum has not been repaid. Advise A Ltd.

OR

B.

Quick Eats Limited, is a company with four shareholders A, B, C and D, and paid up share capital of \$9,000, of which \$3,000 is held in preference share capital by A. The balance is held in ordinary shares equally by B, C and D. In 1980 it had chargeable income of \$30,000 after purporting to deduct from its income as an expense, dividends paid on the preference shares of \$1,500 (being paid at the rate of 5%).

The company's chargeable income above was received as to \$20,000 from a farm it operated and as to \$10,000 from a restaurant and snack counter. The company's Income Tax Return shows the following tax payable:

C.P.T. @ 35% of chargeable Income = \$10,500

A.C.P.T. @ 10% of chargeable Income = \$ 3,000

The directors now seek your advice as to whether the company has properly computed its tax. They also wish to know whether the company can pay any dividends without incurring additional tax liability.

Advise the directors.

QUESTION 5

Simple Manufacturing Company Limited (SMCL) is a company engaged in the manufacture of wooden window frames and leather products. The directors of SMCL seek your advice in the following circumstances:

- (a) In 1981 they propose to purchase new machinery and construct a building, both together representing a total expenditure of \$2M and wish to know how they may arrange their claim for capital allowances since they anticipate that their profits will rise sharply in the next few years.
- (b) They wish to know whether any tax consequences would flow from selling the assets, perhaps at a substantial capital profit during 1984.
- (c) They will have to spend a large sum of money on constructing a new roadway into their factory as the community in which the factory is situated complains that, in using the present roadway, the vehicles used by the company threaten the lives of their children.
- (d) The tax computation for 1980 shows losses carried forward from 1975 of \$100,000 commercial profits of \$140,000 and capital allowances entitlement of \$100,000.

Advise the directors.

QUESTION 6

The Iron and Tin Company Ltd. is a manufacturer of metal furniture which in 1980:

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i) purchased an old building, previously used as a cinema and refurbished it at a total cost of	200,000
ii) installed new machinery for	100,000
iii) purchased paints, lacquers and decorative materials for	90,000
iv) paid for repairs to machinery in the sum of	30,000
v) sold its old factory building for	250,000
(N.B. The receipts for the building amounted to \$100,000 more than the original cost and exceeded its tax written down value by \$150,000)	
vi) sold its old stock of steel for	20,000
vii) sold finished goods for	500,000
viii) spent on purchase of contracts which allowed them a cheap supply of iron for 20 years	50,000

Advise on the deductibility or liability arising in the above circumstances.

QUESTION 7

Paul Temple is the owner of a ten-acre lot of land in Cedar Valley which he had bought in 1974 for \$80,000. He subsequently divided the land into two equal portions called Lot A and Lot B and developed Lot A by putting in roads, retaining walls, two tennis courts and a well for the supply of water. The cost of these developments was \$20,000, \$12,000, \$4,000 and \$8,000 respectively.

In 1980, the tennis courts were destroyed by an earthquake and the Kingston and St. Andrew Corporation reimbursed Paul the cost of the well as they were benefitting from the supplies. Last month Paul entered into an agreement to sell Lot A to Home Developers Ltd. for the sum of \$80,000. He also agreed to donate Lot B to his son's school to be used as playing fields. The Central Bank agrees to lend the school a sum of money to develop the playing field against the deposit of title deeds.

Advise on the Revenue Law consequences of the above.

QUESTION 8

Shifty is a real estate developer. During the year of assessment 1979, he:

- (a) bought a housing estate with 15 houses for a total of \$500,000 and sold it for \$600,000;
- (b) bought two houses at \$70,000 each and sold them at \$65,000 each;
- (c) entered into an agreement whereby he guaranteed his father's overdraft at the Scotia Bank up to a limit of \$12,000, giving the bank a charge on his house;
- (d) borrowed \$100,000 for the purchase on the Stock Exchange of shares in the Magic Money Co. Ltd.; he paid interest of \$14,000, but the shares yielded no dividend;
- (e) bought a farm for \$30,000, of which the value of the crops was \$15,000.

Advise Shifty on the Revenue Law consequences of the above.
