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FIRST YEAR EXAMINATIONS, 1982

REVENUE LAW

Tuesday, May 25, 1982

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 any Commonwealth Caribbean territory, 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

Betty Scalpel is a doctor and a graduate of the University of the West Indies in the class of 1979. Betty had arrived in Jamaica with her father, the late Mr. Justice Scalpel, a citizen of Trinidad and Tobago, when he came to take up an appointment as a Judge of the Court of Appeal of Jamaica in 1968. Until her father's retirement from the Bench on account of ill health in 1972, Betty was a student of St. Andrew High School for Girls. Upon his retirement, Mr. Justice Scalpel returned to Trinidad and Tobago and thereafter, Betty attended Mt. Alvernia High School for Girls, Montego Bay as a boarding student.

In 1974, fearing his death was imminent, the judge by deed of gift, transferred his house in Cherry Gardens to his daughter at about the same time that she won a scholarship to the U.W.I. to read for a degree in medicine. The scholarship required that she live on the Mona Campus and accordingly, there was no need to disturb the tenants of the house which she had been given. She however received the income accruing from the property. In the years 1975 - 1979, the retired judge came to Jamaica between March 31 and September 30, so as to be with his daughter and to assist in the editing of Jamaica Law Reports, for which service he was paid a small fee of \$5,000 per annum.

On these occasions he stayed at the Olympia Hotel. From 1945, he had been in receipt of interest on U.K. Government Securities of approximately J\$15,000 per annum, and upon his death in January 1980, the interest became payable to Betty.

At about the same time Betty had taken up a job in Trinidad with the Pan American Health Organisation (PAHO) and this job required that she spend four months in each calendar year at the University Hospital in Kingston. For these four months, her total salary is sent to Jamaica from the PAHO head offices abroad.

In addition to her other income, Betty had also received income from a family trust in Trinidad and Tobago from 1974, and this had always been sent to her in Jamaica.

The Commissioner of Income Tax in 1980, raised an assessment on the worldwide income of the late judge for the years, 1975 - 80 and has now raised a similar assessment on Betty for 1977 - 1981, including her full income from PAHO, her interest and the Trust Income.

Advise Betty who wishes to know whether the Commissioner is legally justified in raising both assessments.

QUESTION 2

(a) In 1975, Cedar was a 55-year old carpenter. He was concerned over his future because he had developed severe arthritis. Although he already had a home, he decided to purchase a house for rental in the Beverly Hills area of Kingston using his total savings of \$100,000 which he had had invested in a fixed deposit account with Scotiabank. In 1977, he gave up his trade and took a job teaching at CAST. In 1977 and 1978, the costs of mortgage interest and other expenses of maintenance exceeded rental income by \$3,000 and \$2,000 respectively and he purported to set off these losses against his teaching income. The Commissioner of Income Tax refuses to allow this set off.

Advise Cedar, who still has some of the furniture made before his retirement, for sale in his storeroom at his home.

(b) Cedar was also the owner of an old building on a lot of land in Cross Roads. This was the building in which he had first learnt carpentry and to which he was sentimentally very attached. He had bought the building at auction in 1970 intending to open a major furniture market, with several dealers.

Having secured planning approval for his project, he was unable to finance the development and in 1980, he sold the site at a profit of \$100,000. The Commissioner of Income Tax now proposes to assess Cedar to tax on this sum.

(c) Cedar also wishes to know whether any specific tax credits arise from the fact that his sister lives with him to look after his two young children, and is wholly maintained by him, and he also has two children studying full time at the University of the West Indies.

Advise him on the Income Tax aspects of the above.

QUESTION 3

Flash O'Light (Fol) is an electrical engineer and junior partner in the firm, Wire, Frame and Wood. The Jamaica Institution of Engineers decided that in 1981, it would hold its annual Engineer's seminar lasting ten (10) days ending the weekend prior to Carnival in Port of Spain. The theme of the seminar was "How to spread available Engineering resources throughout the Commonwealth Caribbean." The cost of attending the seminar was \$500 in addition to the airfares of \$600. At the end of the seminar, Fol stayed on in Trinidad and Tobago and "played mas" as a member of the same band with whom he played each year. The leader of this band was an engineer (resident in Trinidad and Tobago) who was head of his own firm there and through which Wire, Frame and Wood got all their work in the Eastern Caribbean. While there, Fol used the opportunity to make efforts to secure a contract with the Barbados government and pursuant to this he visited Barbados, remaining there for a further two weeks. He was joined in Barbados by his wife, Nattie also an engineer and member of the firm, and they enjoyed a one week holiday. The cost of the whole stay was \$2,000 and Fol would certainly not have gone to Barbados, but for the possibility of his firm securing the contract.

On his 1981 Income Tax Return, Fol's accountants purported to deduct all sums above viz: the \$500, \$600 and \$2,000.

The Commissioner of Income Tax has now assessed Fol at a statutory income of \$44,000 which includes the above sums as well as \$5,000 owed by a client of Fol who migrated without trace in February 1981, and which Fol felt was an allowable bad debt; and a further sum of \$2,000 paid by Wire, Frame and Wood for membership in the Caribbean Association of Industry and Commerce, which has among its objects the promotion of private enterprise in the Caribbean, and \$1,000 being the cost of its membership in the Jamaica Institution of Engineers.

On his return to Jamaica, Fol had been taken ill and in order to have access to a phone so as to carry on some of his work, he contracted the full-time services of a nurse and a dietician so that he could stay in his own home. The cost of these services for the four weeks for which he remained in bed was \$1,200, and Fol believes he can deduct this sum or at least part of it in determining taxable income.

Advise him.

QUESTION 4

(a) The New Beacon Printing and Publishing Company Ltd. are newspaper proprietors and publishers of the "Daily Beacon". In 1980, they spent \$1,000,000 on the purchase of new machinery and they claimed to be entitled to investment allowance. The Commissioner of Income Tax has not accepted the claim.

(b) The company is now (1982) in financial difficulties and is considering selling the machinery to a leasing company and then leasing back from that company with an option to purchase after some time. It feels it could use the cash generated from the sale to improve its viability.

(c) In computing its income tax liability for 1982, the company realizes that it has the following items:

(i)	Commercial profit	\$ 12,000
(ii)	Losses brought forward:	
	1977 =	11,400
	1978 =	10,000
	<u>Total</u>	\$ 21,400
	Capital Allowances 1982	\$100,000

Advise the company on the income tax consequences of the above and in particular, advise how its chargeable income will be determined under (c).

QUESTION 5

(a) Cash Limited is a large and successful marketing company owned equally by two (2) shareholders, John and Paul. In 1981, the company made taxable profits of \$100,000 on which they paid CPT \$35,000 and ACPT \$10,000. They are required to pay estimated tax in four (4) equal quarterly instalments in 1982. In January 1982, one of their main suppliers went bankrupt and in consequence, Cash Limited is likely to sustain large trading losses up to September 1982. They now wish to apply to the Commissioner of Income Tax to be allowed to change their permitted accounting period. The company's accounting period had hitherto been 1st January to 31st December in each year.

(b) One third of the issued share capital of Cash Limited is held as preference shares on which the company has sought to pay preference dividends to John and Paul of 50% per \$1 preference share.

(c) Loans of \$80,000 each made by the company to the wives of John and Paul in 1979 have not been repaid, but the company has ACPT credit in excess of \$100,000.

Advise in detail on the income tax consequences of the above.

QUESTION 6

The 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 twenty 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 Sand and Gravel Co. Ltd. also received from government a payment of \$100,000 in consideration 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 Developments 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 also wishes to pay a dividend to its ten (10) shareholders and decides that in order to get enough cash it will need to sell one of its under-utilized 50-ton trucks for \$200,000, which sum would be used to pay the dividend.

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

Advise it.

QUESTION 7

In June 1979 Cyril acquired an option to purchase Blackacre for \$500,000. The cost of the option which formed part of the purchase price was \$10,000. He exercised the option in December 1979 and in the next nine (9) months spent the following sums:

\$40,000	on provision of road
\$60,000	on putting in water supplies
\$30,000	on securing the part of the land bordering the gully which sum was refunded to him by the KSAC.

He is considering selling the property for a price of \$750,000.

Alternatively, he could get approval for a housing development in which he would be able to sell ten (10) houses for \$100,000 each.

Advise on the Transfer Tax consequences of the above.

Would your answer be different if -

- (a) Cyril was a trader in real estate; and
 - (b) he had a choice of selling the land to the Ministry of Education for a school or to another developer;
 - (c) Cyril had transferred the option for \$50,000 before its exercise to a company be controlled?
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QUESTION 8

Sporty carries on business of cold storage and warehousing which he started in February 1981.

- (a) His research shows that his best income period will be between July and September. He is now considering fixing his first accounting period.
- (b) He has incurred capital expenditure of \$200,000, and he expects to move into a substantial 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.
- (c) He has been approached by his cousin, Tom, who wishes to purchase the business as a going concern for \$1,000,000. The purchase price also includes a farm with crops worth \$100,000 on a 10-acre plot which is part of the whole complex.

Briefly advise the Revenue Law consequences of the above.
