

NORMAN MANLEY LAW SCHOOL
Council of Legal Education

LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATION 1974

REVENUE LAW

Instructions to Students

- (a) Answer six questions.
 - (b) Time: 3½ hours.
 - (c) Students may consult such materials as they have been allowed to bring into the examination room and any materials provided.
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QUESTION 1.

(a) Advise with reasons whether the following receipts are taxable in the recipient's hands:

- (i) A Christmas hamper given by an employer to 35 members of his staff of 100 employees.
- (ii) A gift of a cheque instead of a cash bonus to the director of a small family company at the end of a successful year of business.

(b) Consider whether the following payment to James by his employers, Ace Ltd., is taxable: an allowance of \$2,400 per annum to James for the purpose of paying the rental of the house which he occupies.

Would it make any difference to your answer if the \$2,400 were paid to the owner of the house as rental, instead of to James.

QUESTION 2.

Michael is an outstanding lecturer in Chemistry at the University of the West Indies. "ICHEM" is a multi-national corporation manufacturing chemicals in Jamaica.

Ichem offered Michael a job as Director of its Research Department, but Michael, though attracted by the offer, was unwilling to give up what he called "the shelter of the cloisters of the U.W.I.". Ichem then made a second offer, which Michael wishes to accept.

In Michael's draft contract of service with Ichem is the following clause:

"2. IN consideration of Michael undertaking to serve the Company (Ichem) as aforesaid and agreeing to give up the joys of academic life the Company shall immediately after the execution of this Agreement issue to Michael One Thousand fully paid-up shares in the Company."

The shares to be issued to Michael are now worth \$3,000. A clause in the draft contract requires Michael to sell his shares to any shareholder of the company on termination of his employment.

Among other incentives offered to Michael were:

- (1) a book allowance on a reimbursement basis
- (2) subscriptions to learned chemical societies paid for by Ichem
- (3) a motor-car owned by Ichem rented to Michael in consideration of the payment by Michael of 2% of his salary and of an undertaking to devote all his time and attention to the company's affairs
- (4) \$1,000 worth of investments in the Jamaica Investment (Capital Growth) Fund.

Michael wishes to be advised as to whether the incentives offered by Ichem including the offer of fully paid-up shares would involve him in any additional tax liability if he accepted the job.

QUESTION 3.

1. The directors of ABC Ltd., a family company, resident in Jamaica, received the company's draft accounts for the year ending 31st December 1973. The Profit and Loss Account shows a loss of \$20,000.

(1) Explain to the directors to what extent this loss can be set off against future profits of the company for tax purposes.

The Profit and Loss Account includes an item of \$500 (a donation to an orphanage) as an expense of the business and also contains a deduction for capital allowances on a machine purchased earlier in the year of assessment and sold in December of the same year for the same price.

(2) Advise the directors (a) whether the sum donated is an allowable deduction for tax purposes (b) whether the sum claimed in respect of the machine is deductible for tax purposes.

2. A company, Diplomat Developers Ltd., owns a small block of furnished luxury bed-sitters (studio apartments) which it lets on short leases. The apartments are fully carpeted, and contain a gas cooker, electrical fittings and built-in cupboards.

Consider whether these items of furniture and fittings qualify for capital allowances and for any other deductions under section 8(1)?

Would your answer be any different if the apartments were let unfurnished, but contained electrical fittings, built-in cupboards and wall-to-wall carpeting?

QUESTION 4.

EITHER

1. On October 10, 1971, X granted to Y an option to purchase premises in Kingston for \$139,000 in accordance with terms and conditions of sale attached to the option agreement. The consideration for the granting of the option was \$19,000 which was to form part of the purchase price if the option was exercised. On April 15, 1972 Y assigned the option to Z for \$95,000. Z exercised the option for the option price of \$139,000 (including the option money).

Advise the parties on the transfer tax consequences, if any, of these transactions.

OR

2. On September 1, 1971, A bought Blackacre for \$10,000, its then market value, and immediately settled it upon his son (then aged 14) contingently upon his son attaining the age of 20.

The trustees have applied for and obtained planning permission, and the land is now worth \$50,000.

What will be the position as regards transfer tax when the son reaches the age of 21?

QUESTION 5

Describe the existing system of company taxation in Jamaica as introduced by the Income Tax Amendment (No.2) Act, 1970 (No.34) as amended.

(Students are not required to give any detailed analysis of the new section 19E.)

QUESTION 6.

The Hope Road Educational Association Ltd. ("the Association") is a company limited by guarantee. Its objects are, inter alia, the advancement of education. Paragraph 3(A) of its memorandum states its objects as:

"To advance education in such ways as shall from time to time be thought fit and in particular by making grants to or for the benefit of and for the education of all such persons as shall be considered likely to benefit from education at a preparatory, boarding or other independent school."

The Association derives its income mainly from ABC Ltd. in the form of annual contributions and from dividends paid on shares in ABC Ltd. It has turned out that in practice the governing body of the Association has applied the income of the Association exclusively in the payment of school fees and the provision of books for children of employees and ex-employees of ABC Ltd. All payments and disbursements were made direct to the schools concerned.

ABC Ltd. had undertaken to make annual contributions to the Association in order to provide an incentive to greater effort on the part of its staff and to reduce the possibility of its employees leaving the company.

Consider (1) whether ABC Ltd's payments are deductible in computing its profits for tax purposes

(2) the tax liability, if any, of the Association

(3) the tax liability, if any, of the employees of ABC Ltd. whose children have had their school fees paid and their books provided.

QUESTION 7.

A is and has been a keen amateur stamp collector for over 15 years. He has a collection of some 20,000 stamps including a number of rare ones. The value of the collection as a whole is considerably greater than the cost of each item to him over the years.

A has the additional problem that he has not kept books recording the purchase price of each item.

A wishes to commence business as a commercial philatelist, and wishes to bring into the trade his entire collection of stamps.

(1) Advise A as to whether he should form a limited liability company which will purchase the stamps from A and treat the purchase price as a loan to the company with a tacit agreement not to call it in or simply transfer the stamps to his trading activity for no money consideration.

(2) In the light of your advice in (1), what advice would you give to an accountant as to the proper principles to apply in valuing the opening stock?

(3) What figure should A bring into his accounts if he had both a private and a commercial collection and wished to transfer a rare stamp from his commercial collection to his private one?

QUESTION 8.

The following facts are referred to you and you are requested to draft the necessary Notice of Appeal to the Revenue Court based on Form B of the Revenue Court Rules 1972 (supplied to you herewith).

John Smith is a U.S. citizen born in Canada. He is normally employed in the U.S.A. by a U.S. company which also carries on business in Jamaica. John Smith was seconded for a five-year tour of duty at the U.S. company's plant in Jamaica.

In 1970 during the course of his first year of employment in Jamaica his total remuneration was \$9,000 paid to his bank in the U.S.A., only \$5,000 of which was remitted to Jamaica. In addition to his remuneration, John Smith was given rent-free accommodation in Jamaica by his employers.

The Commissioner of Income Tax wrote John Smith on March 30, 1974 and estimated the annual value of his rent-free accommodation at \$1,200 and the value of the benefit received by John Smith in 1970 at \$900. Subsequently, the Commissioner sent John Smith a Notice of Assessment dated May 5, 1974, assessing his total income at \$5,900 and his chargeable income for the year of assessment 1970 at \$4,500.

John Smith served a formal Notice of Objection in a letter dated May 6, 1974, and his objections have been heard. The Commissioner confirmed his assessment in a Notice of Decision dated May 27, 1974.

Study the facts outlined above and draft in your answer book a Notice of Appeal to the Revenue Court based on Form B of the Revenue Court Rules 1972.

NOTE: With regard to the date of commencement of the proviso to section 15(1), consult the Sixth Schedule of the ITL 1954.

FORM B

(Rules 5 & 8)

NOTICE OF APPEAL

Jamaica

No. of 19

Before the Revenue Court

In re

BETWEEN

Appellant

AND

Respondent

Take Notice that the Revenue Court will be moved so soon as the
Appellant or his Attorney-at-Law can be heard On Appeal from (the whole of)
(or that part of) the decision herein of the
.....made on theday of 19...

Whereby it was ordered
.....
.....

For an Order
.....
.....

And Further Take Notice that the grounds of this Appeal are
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.....
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Dated this day of 19

.....
Appellant or his Attorney-at-Law
whose address for service is
.....

To the Registrar and

To the above-named Respondent

And to (Students insert here: the Crown Solicitor, 58 King Street, Kingston)

His Attorney-at-Law

Filed by