SOLUTION: TAXATION, NOV 2007

QUESTION 1

COMPUTATION OF CHARGEABLE INCOMES

		GH¢(2005)	GH¢(2006)
Employment:			
Salary		16,800	16,800
Accommodation		600	600
Car Fuel		360	360
Watchmen		1,920	1,920
House help		600	600
Risk		3,600	3,600
		23,880	23,880
Trade:			
Boutique		7,200	12,000
Total Income		31,080	35,880
Reliefs:			
Marriage	30		
Children (2)	48		
Rep Relative	30	108	108
Chargeable Income		30,972	35,772

QUESTION 2

i. The inspector was right. No notification was made within one month after the asset was purchased and put into use in the production of the income of the business.

The exchange loss of $4,000 cannot be claimed since both companies are resident in Ghana.

ii. The transaction could be reasonably conducted without a foreign exchange component.

This is because the incomes from the three sources have been consolidated. The tax laws under section 74 (4) provide that a person carrying on a business shall furnish with that person's return of income a separate statement of income and expenditure and a statement of assets and liabilities for each business undertaking carried on with that business by that person.

Because this provision does not conform with normal accounting practice and is not also adhered to, the loss position will continue to occur. However, the tax computation of adjusted profit separates each income source in arriving at the chargeable income. Any loss arising from a particular source cannot be charged against the gains from another source. Mr. Simon Tete will therefore be liable to tax at least from Rents.

	GH¢	GH¢
Sum Realized		80,000
Less: Cost Base		20,000
Capital Gain		60,000
Tax at 10%	6,000	

QUESTION 3

Income "accruing in" connotes the source is from Ghana and is continuing at least for a reasonable period. An example is that of an employee who is working in Ghana. The monthly salary is taxable because it is being earned in Ghana.

This can apply to a company or a private businessman registered and operating in Ghana. The source of income can be said to be regular.

The tax implication is that such incomes are taxed at resident rates. In the case of individuals tax is at graduated rates in the case of companies at the prevailing corporate tax rates.

"Derived from" suggests that the source of the income might have ceased or that the person receiving the income is not resident in Ghana.

For example an artist or musician comes from America to perform in Ghana for just one week during the year.

Since the performance took place in Ghana, he is liable to pay tax on his income earned because he derived that income from Ghana even though the source from Ghana has since ceased.

In that case he will be taxed at non-resident rates. it could also mean that a non-resident person receives a regular source of income from Ghana. For example a Nigerian has a property in Ghana which he has let out. The rent from that property is liable to tax because the source is from Ghana even though the recipient is in Nigeria. The landlord is non-resident and therefore will be taxed at non-resident rates. This also applies to dividends, royalties etc received by non-residents.

Different rates have been prescribed by law. Where Double Taxation Agreement exists between Ghana and those recipient countries that will be taken into consideration.

This can also refer to natural resource from Ghana. Such incomes are exhaustible and could cease after a period; but during the period of exploitation it is taxable on source basis.

Also I.C.T. facilities established in Ghana for transmitting their messages are deemed to derive their income from Ghana.

"Brought into" implies that the income was not earned in Ghana. In that case it can be taxed only if it has entered Ghanaian territory. For example if Ike Quartey fights in America and he brings along his earnings into Ghana, he will be taxed on such income by reason of the fact that the income has been brought into Ghana even though it was not earned in Ghana.

This applies to residents only. Income of non-residents is not taxable when they are brought into Ghana.

Similarly companies which earn incomes from outside are treated likewise.

But a distinction must be made between income and capital. It is only income brought into which is taxable and not capital received in Ghana. This applies to residents who operate from the country but by the nature of their business receive income from outside which is paid to them in Ghana. An example is a correspondent of a foreign radio organization. The correspondents send reports from Ghana to the foreign press houses. The payments are remitted to him in Ghana. This is taxable. This does not apply to correspondents who come to Ghana to cover special events for their respective organizations.

There are Ghanaians who are resident in Ghana, like Kweku Sakyi-Addo, who report to B.B.C. on events in Ghana. Such people receive their income in Ghana.

This can also refer to other investments like dividends, royalties, annuities which are earned outside the country but are taxable once they have been remitted to Ghana.

From the above explanations it is clear that incomes taxable in Ghana must either have been earned in Ghana or received in Ghana. In other words there is a geographical connection between the income and the tax to be imposed.

It must be earned in the geographical territory of Ghana or received within the geographical boundary of Ghana otherwise, it is not taxable.

QUESTION 4

(a) The conditions indicate a contract for service for the following reasons.

(i) No salary scale has been stated. Only fees requested by George. He actually dictated the terms.

(ii) No career progression or conditions of service has been stated.

(iii) He is not bound by any working hours. There is a room he can use if he so desires but he can decide not to use it.

(iv) All that is required of him is to offer his legal expertise to the company.

(v) He is not under any supervision.

(vi) He is not required to delegate his powers or functions.

(b) <u>POWERS OF OFFICERS</u>

i. Any officer may search a person he has reason to suspect is carrying or has any uncustomed or prohibited goods in his possession.

ii. Any officer if he considers it necessary may arrest and detain any person whom he suspects to have committed any offence regarding evasion of tax under the Law.

iii. Any officer when on duty can patrol freely along and over any port of the country.

(iv) Any officer may at any time enter any factory and take inventory of excisable goods and materials in the factory or warehouse.

(v) Any officer has power to seal off premises or building if he suspects that uncustomed or prohibited goods are being stored there.

QUESTION 5

(i) GIFT TAX

Oto Darko V.W. Passat

		GH¢
Value	=	10,000
Less		500
		9,500
Tax @ 10%	=	950

CAPITAL GAINS TAX

GILLY MENSAH		GH¢
Insurance recovery	=	50,000
Less Utilized	=	30,000
Balance	=	20,000
Tax @ 10%		2,000

(ii) If the Commissioner is satisfied that the registered person no longer exists.

(iii) The taxable person can apply to the Commissioner for cancellation if he ceases to carry on the business in relation to which the registration was made.