SOLUTION: ADVANCE TAXATION PLANNING AND FISCAL POLICY, NOV 2007

QUESTION 1

CAPITAL ALLOWANCES

	Class 2 (30%)	Class 4 (20%)	Total
2003			
1/10/02 – 30/9/03			
Residue b/d	250,000,000	15,000,000	
Additions	350,000,000	50,000,000	
Total	600,000,000	65,000,000	
C.A.	180,000,000	13,000,000	193,000,000
Residue c/f	420,000,000	52,000,000	
2004			
1/10/03 - 30/9/04			
Residue b/d	420,000,000	52,000,000	
C.A.	126,000,000	10,400,000	136,400,000
Residue c/f	294,000,000	41,600,000	
2005			
1/10/04 - 30/9/05			
Residue b/d	294,000,000	41,600,000	
C.A.	88,200,000	8,320,000	96,520,000
	205,800,000	33,280,000	

ASSESSMENTS

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2003			
1/10/02 - 30/9/03			
	Income	=	393,000,000
	Less CA	=	193,000,000
	CI	=	200,000,000
	Each Partner's Share	=	100,000,000
2004			GH¢10,000
1/10/03 - 30/9/04			
	Income	=	436,400,000
	Less CA	=	136,400,000
	CI	=	300,000,000
	Each Partners Share	=	150,000,000
2005			GH¢15,000
1/10/04 - 30/9/05			
	Income	=	896,520,000
	Less CA	=	96,520,000
	CI	=	800,000,000
	Each Partners Share	=	400,000,000
			GH¢40,000

QUESTION 2

1. The building was inherited under a Will. There is therefore no Gift Tax applicable.

2. The rent of ¢120,000,000 a year is subject to rent tax for the three years at the rate of 10% a year.

3. The sale of the building will result in Capital Gains Tax as follows:

Realised sun	=	¢500,000,000
Cost Base	=	Nil
Capital Gain	=	¢500,000,000
Tax @ 10%	=	¢50,000,000

4. Sale of shares on Ghana Stock Exchange is exempt from Capital Gains Tax for the time being.

5. The disbursement of the profit of ¢100,000,000 will result in Gift Tax in some cases.

(a)	G.N.T.F	=	No Tax (Exempt)
(b)	Tithe to church	=	No Tax (Exempt)
(c)	Gift to wife	=	No Tax (Exempt)
(d)	Gift to mother	=	No Tax (Exempt)
(e)	Gift to friend, Joe	=	No Tax (Exempt)
(f)	Gift to driver	=	No Tax (Exempt)

6. Win on Last Chance Raffle is not taxable. It is a game of change.

QUESTION 3

1. Tax Planning

The main essence of tax planning is to take advantage of all available tax incentives to pay just the minimum amount of tax due. As the name implies it should be a well thought out plan giving due consideration to the whole spectrum of the tax laws and the economy generally. It should start from the point of selecting the type of business to be undertaken. It should be noted that nothing illegal or nothing that does not make business sense is included in the plan.

Some considerations to be made are:-

i. how much capital is available?

ii. what type of venture is to be undertaken?

iii. what are the tax incentives, reliefs, exemptions etc available?

iv. is it going to be a sole-proprietorship, partnership or limited liability company?

When the business is finally selected and established, there will be need for:-

i. good record keeping,

ii. a thorough grasp or knowledge of the tax laws so as to be able to take full advantage of tax incentives available for the business,

iii. a sound commercial judgement is also necessary in decision making

iv. submission of returns and tax payments on due dates will obviate the imposition of penalties.

Tax planning is therefore essential in putting the business on a sound footing right from commencement and keeping it on track whilst taking advantage of all reliefs and incentives to pay just the right amount due.

2. Tax Avoidance

Tax avoidance is synonymous to tax planning in the sense that it also takes advantage of the provisions of the tax laws to pay the minimum of tax. Secondly, it does not involve itself in any thing illegal. Tax avoidance schemes operate by finding loopholes in the tax laws and using them to pay the minimum of tax or not paying anything at all. It therefore requires a comprehensive knowledge of the tax laws to determine what exemptions, reliefs and other incentives are avoidable to take advantage of them.

3. Tax Evasion

Tax evasion, unlike tax planning and tax avoidance is illegal. It involves a deliberate act of:

i. Failure to declare and under declarations;

ii. Submitting false statements and returns;

iii. Keeping one set of books containing false entries for the revenue authorities and another with the actual business operations for himself; and

iv. Any other fraudulent act or means of deliberately dodging or minimizing payment of tax on one's income.

It is a crime against the state and therefore any person who aids or abets is also guilty and punishable under the tax laws.

QUESTION 4

a) Employment arises when there is a contract of service. In other words when a master – servant relationship has been established between two parties. The employer engages the services of the employee for an agreed amount under certain conditions. The employer can dismiss the employee when he does not meet the terms of the contract; alternatively, the employee can sue the employer if he also fails to meet his part of the bargain.

The employer provides the tools for the work and in some cases, but not always, directs the employee as to how the work should be done.

At the end of the day, the employer reaps all profits or bears all losses. The employee is just entitled to his wages.

b) Benefits attached to the office of employment are called perquisites. If they form part of the conditions of service, they are taxable. Sometimes, they are not specifically spelt out but over the years have become customary or traditional; such benefits are taxable.

Some examples are the following

i. Impressts: Some grades of officers are given some allowances for the entertainment of guest or clients. If such amounts are accountable then they are tax exempt; otherwise they are taxable.

ii. Some companies give their products for free or at reduced price to their employees. Such packages are benefits in kind and must be assessed at the market value; that is what the receiver will get on selling the item.

iii. In some cases employees negotiate for tax-free salaries. In which case the employer bears the tax element. This is not accepted for tax purposes, and the Tax Authorities have a mechanism to work out the gross amount and levy the appropriate tax.

iv. Other benefits such as payment of school fees or other liabilities of the employee are assessed by the employee.

    If there is a scholarship for children of the employee which is available to all on competitive bases, then such benefits are not assessable to tax.

v. Quite often employees are given loans for various purposes. Strictly speaking such loans should attract interest at the prevailing bank rate as it is a benefit and must be assessed to tax.

    This also applies to company shares which are sold to employees at reduced rates.

<u>Lamp sum payment</u>

Certain lump sums are exempt from tax e.g. pension, severance pay, gratuities under Act 592.

Normally the conditions of service will provide a clue as to whether the lump sum is taxable or not. If the payment can be as a result of services rendered (except those exempt) then it is taxable.

<u>Compensation in lieu of notice</u> is taxable, whereas compensation paid for loss of office is not taxable.

Long service awards, generally are taxable because it is as a result of services rendered. However if it is for exceptional performance or a “testimonial” which is out of the blues, then it is tax exempt.

QUESTION 5

YEAR OF ASSESSMENT - 2003		
Net profit as per a/cs		2,339,728
Less: Rent receivable	80,000	
Dividends	44,000	124,000
		2,215,728
Add Back		
Depreciation	124,000	
Repairs and Maintenance	30,800	
Subs. and Donations	3,500	
Legal Expenses	1,100	
Travelling and Transport	13,800	173,200
		2,388,928
Less: Loss B/f		210,000
Adjusted Profit		2,178,928
Less: Capital Allowance B/f	40,000	
Capital (Current)	278,928	318,928
Chargeable Income (Mining)		1,860,000
Add Rent Income		
Gross	80,000	
30% std. Allowance	24,000	56,000
Total Chargeable Income		1,916,000