

## SOLUTION: TAXATION NOV 2008

### QUESTION 1

#### Resident Individual

Includes:

- (i) A citizen of Ghana, other than a citizen who has permanent home outside Ghana for the whole year of assessment.
- (ii) Present in Ghana for a period of 183 days or more in a year of assessment.
- (iii) An employee or official of the Government of Ghana posted abroad during the year of assessment.
- (iv) A citizen of Ghana who is temporarily absent from Ghana for less than 365 continuous days and has a permanent home in Ghana.

#### Resident Company:

A company is a resident for a year of assessment if it is

- (i) incorporated under the laws of Ghana or
- (ii) has its management and control exercised in Ghana at any time during the year of assessment.

#### Resident Body of Persons:

A body of persons is a resident body of persons for a year of assessment if it

- (i) is established in Ghana
- (ii) has a resident person as a manager at any time during the year.
- (iii) is controlled directly or indirectly by a resident person or persons at any time during the year of assessment.

#### Permanent Establishment:

Is a place where a person carries on business, and

- (i) A place where a person carried on business through an agent, except where the agent is one of independent status acting in the ordinary course of business as such.
- (ii) A place where a person is using, or installing substantial equipment or machinery
- (iii) A place where a person is engaged in a construction, assembly, or installation project for ninety (90) days or more, including a place where a person is conducting supervisory activities in relation to such project.

## QUESTION 2

- (a)
  - a. Invoices in duplicate
  - b. Import Declaration Form (IDF)
  - c. Bill of lading
  - d. Certificate of Inspection/Final Classification and Valuation Report
  - e. Certificate of country of origin
  - f. Evidence of payments
  - g. Appropriate licences, certificates or permits where the goods are restricted
  - h. Translation into English of any supporting document in a language other than English.
  - i. Tax payer's Identification Number (TIN)
  - j. Tax Clearance Certificates
  - k. Tally Exhaust – required by GHPA
  - l. Delivery order
  - m. Packing lists and specification
  - n. Letter of Exemption where appropriate
  - o. Import Licence where appropriate
  - p. Passport in case of personal effects.
  
- (b) Content of VAT Return
  - (i) Sales for each rate of tax (ie standard and zero rated)
    - a. Total value of supplies made
    - b. Tax Rate
    - c. Amount of output tax payable.
  - (ii) Value of exempt supplies
  - (iii) Purchases/Expenses for each rate of tax (ie standard and zero rated)
    - a. Total value of supplies received
    - b. Tax Rate
    - c. Amount of input tax paid
  - (iv) The amount of input tax deductible
  - (v) The net amount of tax either payable to the VAT service or repayable by the Service.

### QUESTION 3

- (a) False Statement: It is the situation where a taxpayer deliberately presents Untrue Returns to evade tax. The penalty is three times the amount of tax that would have been underpaid if the offence was not detected.

An Incorrect Statement on the other hand is the situation where the taxpayer was negligent and not necessarily deliberate in submitting Inaccurate Returns. The penalty is twice the amount of tax that would have been underpaid if the offence was not detected.

- (b) The two new measures are the following:
- (i) Flat rate of VAT to be paid by Small Scale traders who have difficulty in keeping records. The response so far has been encouraging.
  - (ii) The second is the Communication Services Tax or talk tax. In the first month alone the tax yielded GH¢4 million according to the VAT Service.
- (c) The police is generally in charge of law and order in the country as a whole. But CEPS is allowed under PNDCL 330 to assume powers of the police in the performance of its functions, e.g. arresting smugglers, checking importation of drugs and preventing exportation of unauthorized goods. They have the technical know how to determine uncustomed goods and duties payable on such goods. Hence in such situations it is proper for the police to give Customs Officers the free hand to do their work. This is a specialized area. There is no duplication of functions.
- (d) During a period of tax exemption, capital allowances on assets used in the business are calculated just to determine the residual balances at the end of the exemption period. Such balances are not carried forward to the post exemption period. This is known as rational allowance. After the exemption period capital allowances will be granted on the residual values of the assets.
- (e) Capital Gains tax does not arise in the case of mergers and acquisitions as the business is continuing in this case. In the case of capital allowances it will be granted on the residual values. The new revaluation figures do not represent cost of new assets. The business is a going concern and will continue to be so under the new management.

## QUESTION 4

(a)

	GH¢	GH¢
Net Loss as per a/c		(8,150)
Deduct: Part-time Lectures		<u>8,000</u>
		(16,150)
Less: Depreciation	2,250	
Personal Allowance	6,000	
Charity	1,601	
Treatment Ext. from Members	<u>260</u>	<u>8,670</u>
Adjusted profit		<u>(7,480)</u>
Tax payable	<u>NIL</u>	
Capital allowance c/f	<u>720</u>	

(b) Tax on Part-time Fees:      15% of 8,000 = GH¢1,200

(c) Wife:      Tax of 10% on GH¢600      =      GH¢60

(d) Marriage Relief:  
John Brown is entitled to marriage relief but there is no income to absorb it.

(e) Treatment of Family Members:  
The expense is not wholly exclusively and necessarily incurred and therefore disallowed. Unfortunately not everybody in his position will be bold enough to demand payment from all of them. Some will go for gratis.

## QUESTION 5

### Capital Allowance

2005	52,000,000 (30%)	Total
C.A	<u>15,600,000</u> @ 2/3	10,400,000
	36,400,000	
2006		
Residue b/d	36,400,000	
C.A	<u>10,920,000</u> @ 2/3	7,280,000
	25,480,000	
2007		
Residue b/d	25,480,000	
C.A	<u>7,644,000</u> @ 2/3	5,096,000

Chargeable Income

2005

Closing Capital	=	37,000,000
Opening Capital	=	<u>22,000,000</u>
Increase	=	15,000,000
Add Drawings	=	<u>15,000,000</u>
		30,000,000
Less Capital Allowance	=	<u>10,400,000</u>
C.I.	=	<u>19,600,000</u>

2006

Closing Capital	=	49,000,000
Opening Capital	=	<u>37,000,000</u>
Increase	=	12,000,000
Add Drawings	=	<u>18,000,000</u>
		30,000,000
Less Non-Taxable Incomes	=	<u>4,000,000</u>
		26,000,000
Less Capital Allowance	=	<u>7,280,000</u>
C.I.	=	<u>18,720,000</u>

2007

Closing Capital	=	154,000,000
Opening Capital	=	<u>49,000,000</u>
Increase	=	105,000,000
Add Drawings	=	<u>28,000,000</u>
		133,000,000
Less Non-Taxable Incomes	=	<u>55,000,000</u>
		78,000,000
Less Capital Allowance	=	<u>5,096,000</u>
C.I.	=	<u>72,904,000</u>