

SOLUTION: ADVANCE TAX PLANNING & FISCAL POLICY NOV 2008

QUESTION 1

<u>Grains Dev. Board</u> (1/1/2006 – 31/7/2006) (7/12 x <u>7,200</u>)	1	4,200
<u>Add: Field Allowance</u> (50 x 7)		<u>350</u>
		4,550
Less: 5% S.S.F.		<u>210</u>
Chargeable Income		<u>4,340</u>
 <u>Fresh Fields Ltd</u>		6,000
Salary (1/8/06 – 31/12/06)		
<u>Add: Responsibility Allowance</u>	750	
Inconvenience Allowance	250	
Children's Education allowance	500	
Risk Allowance	<u>500</u>	<u>2,000</u>
		8,000
<u>Add: Vehicle Element</u>	150	
Accommodation	-	<u>150</u>
		8,150
 <u>Less: SSF</u>	300	
Marriage	30	
Children (3)	72	
Aged Dependant Relative	20	
Life Assurance	<u>180</u>	<u>602</u>
		<u>7,548</u>
 <u>Computation of Tax:</u>		
Grains Development Board	4,340	
Fresh Fields	<u>7,548</u>	
Total Chargeable Income	<u>11,888</u>	

Tax = GHC2,090

QUESTION 2

- (a) Baba Nelson is a professional boxer resident in Ghana. Once the money he earned in Australia was remitted to Ghana, he is liable to tax on the amount. Whatever he intends to do with the money is immaterial.

- (b) Ruby Dove is a teacher and not a novelist. In any case the amount she earned was from a contest. Her prize is like a testimonial or acknowledgement of her ability in a particular area. She is not liable to tax on the prize.
- (c) The main building is an inheritance. Therefore no qualifying expenditure has been incurred on that one. However the extension is the cost he has personally incurred and the amount of GH¢10,000 qualifies for capital allowance.
- (d) The amount he invested in the Treasury Bills is part of his Drawings or savings. The investment is a purely private enterprise. Whatever interest that would accrue would not form part of business profits. In any case interest earned by individuals is exempt from tax. Hence the re-discount charged can not be allowed as expense.
- (e) The contribution by the company is actually additional income for the employees. The employees should pay tax on the amounts contributed in their favour.

The company can charge the contributions as expense since it is for the benefit of the employees.

Whatever benefit any employee will get on retirement is not taxable. It is just like savings for them.

QUESTION 3

	Class 2 (30%)	Class 4 (20%)	Class 5 (10%)	TOTAL
31/5/006				
Balance b/d	1,500	500		
Addition	<u>5,000</u>	<u>-</u>		
Total	6,500	500		
C.A	<u>1,950</u>	<u>100</u>		2,050
Residue c/f	4,550	400		
2007				
1/4/06 – 31/3/01				
Residue b/d	4,550	400		
Addition	<u>2,000</u>	<u>-</u>	<u>1,000</u>	
Total	6,550	400	1,000	
C.A.	<u>1,965</u>	<u>80</u>	<u>100</u>	2,145
	c/f	<u>4,585</u>	<u>320</u>	<u>900</u>

INCOME

2006	Loss	=	3,000
	Loss c/f	=	3,000
2007	Profit	=	200,000
	<u>Less</u> Loss b/f 3,000		
	CA b/f 2,050		
	CA ('07) <u>2,145</u>		<u>7,195</u>
	C.I	=	<u>192,805</u>
	Tax @ 25%	=	<u>48,201.25</u>

QUESTION 4

Generally Rent Income received by an individual is assessable to tax under Section 9 (2) of the Internal Revenue Act, 2000 Act 592.

The tax law allows the under mentioned expenses to be deducted from Rent Income received by an individual in respect of Residential or Commercial Premises.

- Rates paid to any local, urban, city or district council in respect of the premises.
- Mortgage Interest incurred by the individual during the period in respect of a borrowing employed by that individual in constructing or acquiring the premises.
- A standard allowance of 30% of the gross rent in respect of maintenance and repairs of the premises.
- Any qualifying additional expense in excess of the 30% incurred on maintenance and repairs of the premises in that year of assessment.

However, Regulation 16 (1) of L1 1675, as amended by L1 1698 and L1 1829 has empowered the Commissioner of the Internal Revenue Service to calculate tax on the Rent Income separately at a flat final rate of 8% on the gross rent income in a year of assessment where the individual receives the rent income from any residential or commercial premises

Taxation of Rent Income by Persons other than Individual

Companies that are engaged in real estate business have been granted the following exemption as provided in section 11 of Act 592 as amended by Act 622.

- The income of a company from a business of construction for letting of residential premises is exempt from tax for the period of 5 years commencing from and including the year in which the basis period of the company ends, being the period in which operations commenced.

- The income of a company from a business of construction for the sales of residential premises is exempt from tax for the period of 5 years.

Regulation 16 (4) of L1 1675 as amended by L1 1698 and L1 1829 governs the taxation of rent income by companies after the exemption period. Here, just as with the individual, any company that receives rent income which is not a business income shall pay at the rate of 8% as a final tax. Rent income which is classified as business profit and taxed as such.

It is also noted that the company would not be entitled to any deduction including capital allowance claim on the premises if the option to pay at 8% is exercised.

QUESTION 5

Taxpayers who are in doubt about the tax consequences of a contemplated transaction can ask the commissioner of IRS for a Private Ruling.

The commissioner upon the written application may issue to that person a Private Ruling setting out the Commissioner's position regarding the proposed transaction. The Ruling given binds the Commissioner.

The Private Ruling does not mean that a taxpayer can just apply for a ruling in any case. There are certain conditions to be fulfilled in applying for a Private Ruling. Among these are:

- (i) Detailed designation of the applicant such as name, residence, rental address and Tax Identification Number.
- (ii) Explanation of the interest in that issue.
 - Detailed explanation of the planned transaction should have:-
 - No gaps
 - No alternatives
 - No hypothesis
- (iii) All facts in the explanation should be proved.
- (iv) Stating the legal problem and own view.
- (v) Clear question on the issue.
- (vi) Confirmation that all facts are true and nothing is left out.
- (vii) The application must be titled as an "APPLICATION FOR PRIVATE RULING".

It must be noted that a Private ruling cannot be given under the following circumstances:

- (a) In case of tax avoidance and tax saving model.
- (b) If the applicants commit the IRS to investigate the case.

- (c) If the law will change in the near future. (If the law changes, the taxpayer cannot insist on the Private Ruling).
- (d) If the Minister of Finance will come up with regulations in similar cases or the Commissioner will solve such problems by Practice Notes.

Return on income should be filed with the Internal Revenue Service within 4 months after the end of the person's accounting year. The return should include a separate statement of income and expenditure and a statement of assets and liabilities for each business undertaking carried on within that business by that person.

An employer should by the end of March 31st every year submit a return on all employees who were in his employment the previous year.

Failure to file a return

- (i) In the case of the individual, pay GH¢6.00 per day for each day of default.
- (ii) In the case of companies, pay GH¢12.00 per day for each day of default.

Cases where a Return is not required.

- (i) A non-resident person who has no income accruing in or derived from Ghana during the year.
- (ii) A non-resident person who suffers a final withholding tax on income derived in Ghana.
- (iii) A resident who has no chargeable income or whose chargeable income is below GH¢240.00 per annum.
- (iv) A resident employee whose only income is employment income on whose behalf an employer has furnished a return.