

**NOVEMBER 2020 PROFESSIONAL EXAMINATION
ADVANCED TAXATION (PAPER 3.3)
CHIEF EXAMINER'S REPORT, QUESTIONS & MARKING SCHEME**

EXAMINERS' GENERAL COMMENTS

The paper tries to help students apply knowledge to real practical issues and seeks to give a foretaste of what to expect in future work environment. The paper on the whole did the trick in its broad scope and also in testing the ability of candidates in the application of the subject. The spread of the paper was quite good and followed usually predictable pattern.

The syllabus was followed strictly as the questions were all drawn from the known and used syllabus for that paper. The questions were drawn from familiar topics which students are supposed to read or are taken through in Tuition Centres they attend.

The paper was reader-friendly with proper typesetting. The paper could pass off as one of its kind. Some candidates demonstrated exceptional knowledge in how they provided solutions to the questions with few practical examples. Others on the other hand, did not seem to understand the questions and resorted to answering them their own way instead. There is yet another category of students in our assessment. This category of students rarely prepared for the examination. This became evident in the answers they offered.

A very good student who studied very well was sure to make the pass mark. On the flipside, it would appear a big task for the ill prepared students and students who studied by happenstance and never put in time quality in the examination.

We also believe the level of difficulty of the paper was quite appropriate to the level of students who sat for the examination and therefore not out of place in our estimation. The paper in fairness was a good paper and kept the character of the previous papers in terms of technical standards and quality.

Another important observation is that a lot of candidates did not state or cite examples in order to establish clarity in their presentations.

The use of "WHATSAPP spellings" short cuts unfortunately are gradually becoming part of the write up of students and it is high time a stop was put to it. Candidates should note that they are writing the final level of a professional qualification and as such, it behooves them to write professionally in a standard form required of them.

English language construction continues to be either a challenge or a nightmare for many a candidate in the examination. It does appear most candidates either do not read the examiner's report or do not use it as guidance in subsequent examination and keep repeating the same mistakes previous candidates are cautioned against.

STANDARD OF THE PAPER

The paper characteristically assumed the usual standard known in professional examinations. The requirements of each question was clear except in some few cases, it required candidates to provide assumptions in solving some of the questions.

Another remarkable feature about the paper was that it was free from errors in tenses which contributed to the credibility of the paper.

Additionally, the paper tested in its usual style, knowledge, skill and application of what each candidate had learnt. Candidates who demonstrated this gave a good account of themselves. The spread of the questions across the entire syllabus also rewarded hard working candidates who spent time ruminating the topics in the syllabus in order to have mastery of the paper.

We believe in future, the Institute should look at the marks allocation of the questions. Some of the marks allocated to some of the questions were not commensurate with the level of difficulty involved in answering the questions. In future, the marks should take account of the difficulty of the question. There was no deviation from the paper quality. The paper quality was high as always and made reading very easy and relaxing for candidates who made time to study.

On the whole, the standard of the paper was good and comparable to any tax paper at any professional examination.

PERFORMANCE OF CANDIDATES

As usual, the examination created a wedge between candidates who studied hard and those did not. The Institute of Chartered Accountants (Ghana) has remained very predictable as it keeps picking questions across the entire syllabus over the years without changing the pattern. This should obviously get candidates to prepare in like manner to be able to pass the examination with ease. The general performance of candidates in the examination was good and comparable to previous diet if not better.

The Institute has manuals which are very good and come in handy in supporting whatever materials they are using for the examination. This obviously will improve the pass rate in the examination.

Tuition Centres have continued to play an important role in the performance of students. The Institute has contributed in no small measure in improving the pass rate of candidates over the years with students' journals, on-line tuition and in person teaching. Tuition Centres should consider mock examination as part of the preparation for the examination.

Candidates must know that passing examination depends on the amount of resources they put in the examination. Students should use the past questions and their solution as a means of assessing their adequacy before the final examination.

Candidates should eschew reading only a few topics in the syllabus hoping that all the five questions will come from the areas they have selected, instead, they should study the entire syllabus to gain mastery over the examination.

It is also worthy of note that, some of the candidates did not appear prepared for the examination and therefore failed to give a good account of themselves.

Additionally, students should learn to read widely in order to broaden their horizon and be able to write with ease. When students fail to read broadly, it affects their ability to advance good arguments in their presentation.

The COVID-19 has also wreaked havoc on candidates' ability to adequately prepare very well for the examination. On line teaching and learning has taken away the

beauty of using gestures and physical expression to drum home certain important facts. Internet connectivity has remained the biggest hurdles in trying to ensure students perform well.

NOTABLE STRENGTHS AND WEAKNESSES OF CANDIDATES

On the whole the performance of candidates continue to see upward trajectory despite the challenges in the midst of Covid-19.

Notable weakness:

- Solving examination questions on accounts without heading and no year of assessment and no basis period.
- No proper numbering of questions. And in some cases, the numbers are mixed up with other questions making marking difficult.
- Dividend received from resident entity was added to income for tax purpose. This was wrong as dividend is subject to final withholding tax and in some cases are exempt from tax.
- English language continues to be a set-back to many candidates in their presentation. There is the need for the Institute to provide help in this regard.
- Most students do not appear to read the Chief Examiner's report as they prepare for the examination and end up repeating the same mistakes previous candidates committed.

Notable strengths

- A greater number of candidates now understand the taxation of Free Zone Enterprises as they were able to make good marks from this area.
- The pass rate continues to improve which means a lot of students are doing many things right. This can be attributed to candidates own effort, the assistance from the Institute in terms of materials and Tuition Centres which have continued to be a force to reckon with.

QUESTION ONE

Esther Naah, a Ghanaian by birth, has spent most of her life in the United Kingdom. She has made a lot of savings and would want to invest in Ghana. She has heard of Ghana Free Zone Authority and been told that the rationale behind the free trade zone is the development of disadvantaged regions. You work in a Tax Consulting firm and your Managing Partner has called on you to brief Esther, on the following issues during her next appointment to the Tax Consulting firm.

Required:

Draft a report that will incorporate the following:

- a) Tax incentives and benefits for Free Zone Enterprises. **(10 marks)**
- b) What will be the tax implication if the Free Zone Enterprise sells into the local markets? **(4 marks)**
- c) What are the requirements a foreigner should meet in order to start a trade in Ghana? **(6 marks)**

(Total: 20 marks)

QUESTION TWO

- a) You are a partner in a Tax Consulting firm. Your firm has recently employed 5 new staff and they have to be trained on a number of issues.

Required:

Prepare a presentation on international taxation with emphasis on **FIVE (5)** objectives or goals of international taxation treaties. **(10 marks)**

- b) Following the government's commitment to build one factory in each district in Ghana and its desire to ensure food sufficiency through the planting for food and job program, an investor from Singapore intends to invest in shoe manufacturing company to be located at Accra in the Greater Accra Region of Ghana. He also considers starting a juice manufacturing company at Nsawam in the Eastern Region of Ghana in response to the investment drive of the government.

As part of the investment, he intends to incur the following cost and start operations in 2018 on either proposal, which is the Shoe manufacturing company or the Juice manufacturing company.

	GH¢
Building	7,200,000
Plant and Machinery	11,700,000
Furniture and Fittings	180,000
Computers	180,000

Additionally, he intends to recruit fresh graduates from the All Nations University College of Ghana.

It is further projected that in the first three years, that is 2018, 2019 and 2020, it will incur GH¢36,000, GH¢32,400 and GH¢18,000 losses respectively.

The investor hopes to start making profit from the year 2021. He intends to borrow at 20% interest from his USA associate amounting to the equivalent of GH¢100,000,000. The equity he intends to start with is GH¢36,000,000.

Required:

As a tax adviser, evaluate the proposed investment by the Singaporean investor and the tax implication on the various activities highlighted in the scenario. **(10 marks)**

(Total: 20 marks)

QUESTION THREE

a) The following information is relevant to Mandy Ltd (Ghana) a subsidiary of Menkay Incorporated, a company resident in Japan.

Following Mandy Ltd operational challenges, a loan of US\$1,500,000 was secured from its parent company in 2019 year of assessment.

Additional information relevant to Mandy Ltd's operations:

	GH¢	GH¢
Interest on loan paid in 2019		300,000
Foreign exchange loss		105,000
Equity:		
Share capital	150,000	
Retained Earnings	<u>300,000</u>	450,000

Exchange rate 1US\$= GH¢ 5.73

Required:

Determine the tax implication of the above transaction. **(6 marks)**

b) Andrew Soweah recently relocated to Ghana to commence his business after retirement from TaskForce (UK) Ltd, a security company he served for over 20 years. The nature of the business was to provide private security to diplomats and the very affluent.

Before coming to Ghana, he rented out his apartment in the UK for a yearly rent of £18,000. He also maintained a healthy balance in his account with Diamond Bank in London.

His income for 2019 year of assessment is summarized as follows:

- Business Income (net of all taxes) GH¢126,000.
- Dividend received from Faithful Ltd, a resident company at gross amount was GH¢18,000.
- Rent of £16,200 was paid into his account with Diamond Bank. Withholding tax amounting to £1,800 had been deducted.
- Diamond bank credited his account with net of £8,100 bank interest. UK tax rate on interest is 10%.

Additional information:

The exchange rate is GH¢7.5 for £1.

Andrew Soweah does not contribute to social security in Ghana.

Required:

Compute his tax liability as an individual for the relevant year of assessment while granting him relief for double taxation under the Ghana/UK Double Taxation Agreement using the credit method. **(8 marks)**

- c) Two vehicles of the same model and brand were sold by SuccessVehicles Ltd to two buyers at different prices. The First buyer bought one of the vehicles at the equivalent of US\$84,500 and the second buyer bought the other vehicle at US\$91,000. This arrangement, the Tax Authority finds difficult to accept and plans to confront SuccessVehicles Ltd on the matter.

The Commissioner-General has invited you as a final level student of ICAG to advise him on the factors to consider before approaching SuccessVehicles Ltd on the matter as the Commissioner-General suspects related party issues.

Required:

Write a paper to the Commissioner-General on the issues to consider before approaching SuccessVehicles Ltd on the matter. **(6 marks)**

(Total: 20 marks)

QUESTION FOUR

- a) Kaka Ltd is a mining company that has been operating in Ghana for some time now. The following relates to Kaka Ltd's 2019 year of assessment:

	GH¢
Revenue	10,200,000
Cost	<u>4,000,000</u>
Profit	<u>6,200,000</u>

The following additional information is relevant and has been adjusted in arriving at the profit stated above:

- | | |
|---------------------------------------------|------------|
| | GH¢ |
| i) Depreciation, Depletion and Amortization | 2,000,000 |
- ii) Cost incurred in overburden stripping and shaft sinking during production to improve access amounted to GH¢800,000.
- iii) Contribution towards worthwhile cause is GH¢10,000. This was in support of a hole-in-heart child. This was duly acknowledged by Ghana Health Service.
- iv) Royalty of GH¢80,000 was paid without recourse to the revenue from production.

Additional information:

- An asset (Capital Asset) acquired in 2016 for GH¢1,000,000 was sold for GH¢200,000 in 2019.
- Capital allowance (written down value brought forward) on the assets as at 31 December 2018 was GH¢4,000,000
- 10 fresh graduates were recruited in 2019 year of assessment, 4 of the fresh graduates completed universities in the United States of America while the others completed

University for Development Studies in Ghana. They were paid GH¢120,000 as salaries. Total workforce for 2019 year of assessment was 60.

Required:

- i) Compute the tax payable by Kaka Ltd. **(10 marks)**
- ii) The mining company indicated that it had an idle cash of GH¢100,000. If it adds it to its working capital, an additional income of GH¢10,000 would accrue but with an option to purchase Treasury Bills, the interest would remain at GH¢10,000.

Required:

Advise Management on the tax implication of the proposed investment. **(2 marks)**

- b) A mining Company in Ghana intends buying a vehicle (Pajero) for official use under a finance lease arrangement or an outright purchase. The cost profile of the vehicle is as follows:
 - i) **Outright Purchase:** Cost at GH¢80,000.
 - ii) **Finance Lease Arrangement:** Cost inclusive of interest is GH¢105,000, to be paid over three years. The interest component is GH¢30,000 to be spread over the three years.

Required:

Determine which of the option you would advise to be adopted. **(6 marks)**

- c) Mining companies enter into several agreements. Why do mining companies enter into development agreement in Ghana and what are the conditions to meet before the agreement is granted? **(2 marks)**

(Total: 20 marks)

QUESTION FIVE

- a) You have been engaged by Kaek Consult, a tax consulting firm as an intern to be confirmed when you complete the final level of the ICAG examinations.

Your first assignment is to draft a paper to Gona Jon Ltd who intends to take advantage of contributions and donations to a worthwhile cause. Your write up should classify the types of worthwhile causes and donations available, circumstances under which they can be accessed and their benefits.

Required:

Write a draft paper for your manager's consideration, which will be reviewed and finalized for Gona Jon Ltd on the worthwhile causes, benefits and how to access them.

(10 marks)

- b) Percy-Perry Engineering Company (USA) Ltd is incorporated in USA and has Percy-Perry Construction (Ghana) Ltd as its subsidiary in Ghana. The foreign company was awarded a road construction contract by the Government of Ghana at a total sum of GH¢9 million on 1 January, 2019. The company sub-contracted the job to Percy-Perry Construction Ghana Ltd at GH¢7 million. Both companies entered into a technical service agreement under

which the parent company would provide equipment and technical personnel for the execution of the contract.

The contract was successfully executed by Percy-Perry Construction Ghana Ltd during the year ended 31 December, 2019 and the statement of comprehensive income of the company showed the following:

	GH¢
Contract Fees	7,000,000
Less:	
Cost of Materials	(910,000)
Hiring of Equipment	(795,000)
Technical Personnel Cost	(555,000)
Other Administration Expenses	(223,000)
Depreciation	<u>(110,000)</u>
Net Profit	<u>4,407,000</u>

The following additional information is provided:

- The equipment hired from the parent company at GH¢795,000 could have been hired from another company at GH¢600,000.
- If the parent company did not provide the technical personnel, Percy-Perry Construction Ghana Ltd could have employed the same personnel at GH¢450,000.
- Capital allowances for the year have been agreed at GH¢65,000
- The contract fees were subject to withholding tax.

Required:

- i) Compute the Companies Income Tax payable by Percy-Perry Construction Ghana Ltd for the relevant year of assessment and comment on the treatment of any two of the transaction. **(5 marks)**
- ii) Compute the Companies Income Tax payable by Percy-Perry Engineering Company (USA) Ltd to the Ghana Revenue Authority for the relevant year of assessment. **(2 marks)**
- iii) Explain **THREE (3)** objectives of the Ghana Investment Promotion Centre (GIPC). **(3 marks)**

(Total: 20 marks)

SOLUTION TO QUESTIONS

QUESTION ONE

a) Tax Incentives and Benefits for Free Zones

Type of incentives	Nature and description	remarks
Exemption of import duty	100% exemption of import duties and levies	
Exemption of export duty	100% exemption of export duty	
Exemption of corporate income tax on profit	100% exemption of income tax on profits for 10 years. Thereafter, the tax rate will not exceed 15%	
Tax on dividends	Total exemption from payment of withholding taxes from dividends arising out of free zone investments	
Relief from double taxation	Relief from double taxation for foreign investor and employees where Ghana has a double taxation agreement with the country of the investors or employees.	
Import license	No import licensing requirements	
Customs procedures	Minimal customs formalities. Less documentation and less custom clearing steps as compared to non-free zone enterprises.	
Shares for investment	100% ownership of shares by any investor (foreign or national) in a free zone enterprise is allowed.	
Restrictions on remittance (international transfer)	No conditions or restrictions on repatriation of dividends or net profit, payments for foreign loan servicing, payments of fees and charges for technology transfer agreement.	
Sale in the local market	Up to 30% of annual production of goods and services of a free zone enterprise are authorized for sale in the local market.	At least 70% of annual production of goods and services of free zone enterprises must be exported.

Nationalization and expropriation	Free zone investments are guaranteed against nationalization and expropriation.	
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(10 marks allocated for any 10 Incentives well explained)

b) The free zone enterprises are required to export all their produce or products. However, the law allows the free zone enterprises to obtain permission to sell up to 30% in the local market that is in Ghana.

When that happens, they are required to pay the following taxes:

- Pay duties on the products or produces as duty was not paid at the time of importation
- Pay all VAT on those goods
- Pay National Health Insurance levies and
- Pay all Get/funds on the goods
- Chargeable income of the goods sold locally shall be subject to corporate tax at the rate of 25% **(4 marks)**

c) Requirement to be met by a foreign to be able to trade in Ghana:

- The foreigner is required to bring into the country cash of 1 million United States Dollars in cash or goods and services relevant to the investment. Trading includes the purchasing and selling of imported goods and services.
- Additionally, they must employ 20 skilled Ghanaians
- Trading does not include portfolio investment and exports **(6 marks)**

(Total: 20 marks)

EXAMINER'S COMMENTS

The question on Free Zone Enterprise was a popular topic among students and indeed, they did justice to it. A lot of students did not, however, write a report as was required by the question. There are some few areas in connection with this question worth noting for future compliance. The exemption period for free zone enterprise is the first 10 years and not just 10 years exemption as some students indicated. The two do not mean the same. Additionally, the tax rate after the exemption period is 15% when they export and 25% on local sales.

The rate of 8% has since been repealed by Act 2015 (Act 896). Quite unfortunately, some treated the Free Zone Enterprise under the temporary concession and consequently indicated that they are taxed 1% for the first 10 years while others treated exemption under the free zone as 5 years.

The b) part of the question required students to indicate the tax implication if sales were done in the local market. It does not matter the percentage sold locally the tax implication is the same for the volume sold locally. The local sales will attract tax at the rate of 25%. Others erroneously said only withholding tax should be taken on sales to the local market. This reinforces the fact that most candidates did not prepare well for the examination.

Additionally, duties will be paid on the amount sold locally including the VAT. Interestingly, many students did not seem to know the tax implication on the local sales and therefore treated it as normal sales of a free zone enterprise at 15% when they export. It must be noted that the 15% is only in respect of the exports and not all sales by the free zone enterprise.

Question one c) looked at the requirement for foreigners trading in Ghana. Foreigners are required to take advantage of the provision under the Ghana Investment promotion council. To trade in Ghana by a foreigner, a minimum capital requirement of US\$1,000,000 in cash or goods and service must be met by the foreigner. Additionally, a minimum of 20 skilled Ghanaians must be employed.

QUESTION TWO

- a) A treaty is an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation
- International taxation is the taxation of transaction of transactions across borders. This places a burden on taxpayers involved in international transactions. Tax treaties are arrangements aimed at reducing the tax payers of taxpayers and crafting a common path between and among countries with tax treaties. Example of tax treaties is double taxation.

Objectives of tax treaty

- It is designed to achieve the following five goals
 - It allows the allocation of tax between treaty partners
 - It creates fiscal certainty which encourages investment across countries in the treaty areas
 - It is to eliminate international tax evasion and aggressive tax avoidance
 - It is aimed at reducing tax burden
 - It deepens international relations
- (10 marks)**

- b) The proposed investment will help in the following:

Tax Rebate

Investment in the shoe manufacturing in Accra will create for the entity a tax payment at the rate of 25%

On the other hand, Juice manufacturing in Nsawam will create a tax paying responsibility at the rate of 12.50 % with a rebate of 50% from the corporate tax at the rate of 25% based on the location. (2 marks)

Locational Incentive

Accra / Tema corporate tax rate is 25%

Regional capitals tax payable is at the rate of 18.75% with a rebate of 25%

Any other area 12.50% with a rebate of 50% (1 mark)

Capital allowance

The cost it intends to incur in the following depreciable assets shall rank for capital allowance for the entity.

	GH¢
Building	7,200,000
Plant and Machinery	11,700,000
Furniture and fittings	180,000
Computers	180,000

The above constitute depreciable assets and shall be granted capital allowance:

Building falls under pool 4 and shall be granted capital allowance at the rate of 10% straight line method.

Plant and Machinery fall under pool 2 which will be granted capital allowance at the rate of 30% reducing balance method.

Furniture and fittings shall fall under pool 3 and be granted capital allowance at the rate of 20% reducing balance method

Computer falls under pool 1 and capital allowance at the rate of 40% on reducing balance method.

The essence of capital allowance is to reduce the chargeable income and consequent tax payable. (3 marks)

Fresh graduate incentive

The recruitment of fresh graduates will also generate benefit to the entity as follows:

% of fresh graduate in total workforce	% of wages and salaries as an allowable deduction
Up to 1%	10% of wages and salaries of fresh graduates
Above 1% to 5%	30% of wages and salaries of fresh graduates
Above 5%	50% of wages and salaries of fresh graduates

(2 marks)

Loss carry forward

The losses projected to be incurred as follows

2018	36,000
2019	32,400
2020	18,000

The above losses shall be carried forward for 5 years and shall be deducted in the order in which they occur. Each year's loss shall be carried forward for five years against income in line with section 17 of Act 2015 (Act896). (1 mark)

Thin capitalization Issues

The borrowing of 100,000,000 against equity of 36,000,000, has no tax implication. The safe harbour rule is Debt equity ratio of 3: 1.

Equity of 3 time is GH¢108,000,000 (3*36,000,000), which is higher than the amount of loan to be secured from a related party. The interest on the loan shall all be allowable deduction to the extent that the interest is at a commercial rate.

If the debt equity ratio is more than 3: 1, the interest on the excess of the loan above 3:1 ratio shall be disallowed for tax purpose. **(1 mark1)**

(Total: 20 marks)

EXAMINER'S COMMENTS

The first part was a question on International Taxation Treaties. This was one of the best answered questions. However, as it was expected, a lot of students did not either understand the question or did not read around it hence submitted below average performance.

The second part was a question requiring mastery over the tax implication of the following manufacturing concerns:

- Location to a manufacturer,
- Acquisition of depreciable assets by a manufacturer,
- When a manufacturer makes losses and above all the tax implication of borrowing funding from related party.

This question was indeed a master piece by all standards and students who read widely were at home with it. Others, unfortunately, did not seem to know their bearing on the question and submitted below par solution.

What also came up was the issue of the carry-over of losses. Students must know that the 5 years are for persons in the priority areas including manufacturers.

The question in summary was on tax planning. Those who understood it that way bagged a lot of marks evaluating the tax benefit to the manufacturer.

QUESTION THREE

a) Loan Secured:	USD 1,500,000
Interest on the loan	GH¢300,000
Foreign Exchange loss	GH¢105,000
Exchange Rate	GH¢5.73 to USD 1

Equity:	
Share Capital	GH¢ 150,000
Retained Earnings	GH¢ 300,000
Total Equity	GH¢ 450,000

Safe Harbour Rule is Debt: Equity Ratio 3: 1 respectively
Translation of loan into Ghanaian Cedis
USD 1,500,000 × 5.73 =GH¢8,595,000

Allowable debt = 3 times equity
3* 450,000= 1,350,000

Allowable interest:

If 8,595,000 = 300,000

Therefore 1,350,000 =?

$$\frac{1,350,000 * 300,000}{8,595,000} = 47,120.42$$

Interest not allowable:

Total Interest 300,000.00

Interest allowable 47,120.42

Interest not allowable 252,879.58

Foreign Exchange loss:

If 8,595,000 = 105,000

Therefore 1,350,000

$$\frac{1,350,000 * 105,000}{8,595,000} = 16,492.15$$

Foreign Exchange loss not allowable:

Foreign Exchange incurred 105,000.00

Less Foreign exchange allowable 16,492.15

Foreign Exchange not allowable 88,507.85

Tax implication

- Interest of 8% shall be imposed on 300,000 (8% *300,000) = GH¢ 24,000
- Interest allowable is (300,000-252,879.58) = GH¢ 47120.42
- Foreign Exchange allowable (105,000-88,507.85)= GH¢ 16,492.15

(6 marks evenly spread using ticks)

b) Using the following tax rates

3,828 free

1200 5%

1,440 10%

36,000 17.5%

197532 25%

240,000 30%

Using the following tax rates

3,828 free -

1200 5% 60

1,440 10% 144

36,000 17.5% 6,300

83,532 25% 20,883

Total **27,387**

Business Income 126,000

100 X 27,387/75 36,516

Total Income 162,516

Andrew Soweah

Computation of Tax payable

	GH¢
Business Income	162,516
Add Foreign Income	
Rent 18,000 *7.5	135,000
Interest (100/90*8,100)*7.5	67,500
	<u>202,500</u>
Assessable Income	365,016
Deduct Reliefs	-
Chargeable Income	<u>365,016</u>
Tax Charged	93,391.80
3828 free	-
1200 5%	60
1440 10%	144
36,000 17.5%	6,300
197532 25%	49,383
125,016 30%	37,504.80
365,016	93,391.80

Average Tax Rates

Foreign

Rent = $1800 * 100 / 18,000$ = 10%

Interest = $900 * 100 / 9000$ = 10%

Ghanaian Tax Rate

$93,391.80 * 100 / 365,016$ = 25.59%

Andrew Soweah

Computation of Tax Payable

	GH¢
Tax Charged	93,391.80
Less: Foreign Tax Credit	
Rent 1800 * 7.5	13,500
Interest 900 * 7.5	<u>6,750</u>
Total Tax Credit Relief	<u>20,250</u>
Tax Payable	<u>73,141.80</u>

(8 marks evenly spread using ticks)

c) ICAG
Accra

12th December, 2020

COMMISSIONER-GENERAL
GHANA REVENUE AUTHORITY
ACCRA
SIR,
COMPARABILITY FACTORS

Introduction

The sale of two vehicles with the same model and brand at USD84,500 and USD 91,000 to two differently buyers by Success Vehicles Ltd raises tax issues especially transfer pricing on the surface. In order to draw meaningful conclusion for the Commissioner-General, the following factors shall be considered:

Contractual terms

The price will be the same if the contractual terms are the same. Different contractual terms will create different pricing

Nature of the vehicles

There is the need to look at the vehicles critically and determine if the price differential is as a result of the nature of each vehicle.

FAR analysis

The FAR analysis looks at the following:

Function

Asset

Risk

Function

The function performs in each of the vehicle is worth noting to determine if there is an abuse in the pricing.

Asset

The asset used will also determine. In this case, the place of manufacture is worth taking into account.

Risk

The risk assumed in the manufacture of the vehicle is very important and can explain the price differentials

Economic condition at the time of producing each vehicle

What was the state of the economy at the time they were manufactured? Inflation, Interest and foreign exchange situation if different can explain the price differentials

Market penetration

New products hitting the market for the first time unknown to the market must be priced below its counterparts in order to get known before the price starts to see an increase.

Conclusion

The analysis of the factors above will help in the determination of the rationale for the price differentials.

Yours faithfully,

Boys Abre3 (Final Level Student)

(6 marks evenly spread using ticks)

(Total: 20 marks)

EXAMINER'S COMMENTS

The a) part was on the computation of thin capitalization. There was no trick in the question at all. In fact, it was straight forward. It was pretty much an easy question. It was, however, shocking to realize that a lot of students had difficulty with the approach. One can blame this on lack of preparation or some selective reading.

The b) part was on double taxation with business income of a resident person. The challenge with this question was the fact that the income was net of taxes, meaning the candidate had to gross back the net income in order to arrive at the income before the taxes. This posed a challenge for almost all students who attempted it. Going forward, this will make Tuition Providers revise this important part with students. Some of the income was net of taxes. There is the need to gross each up and add to the business income in order to determine the total assessable income that is the global income and deduct reliefs if possible. In this particular question, there was no reliefs. Some candidates also did not translate the foreign currency into local currency and had to add both local and foreign currencies together. Candidates should learn to pay attention to details.

The c) part was on transfer pricing. The question demanded the use of the comparability factors to answer the question. Others got it right. Others misconstrued it as leasing and making arguments for and against operating lease and finance lease respectively. This tells clearly that most candidates did not prepare adequately for the examination.

On the whole, many students got the pass mark.

QUESTION FOUR

a) i)

Kaka Ltd

Computation of Tax Payable

Y/A 2019

Basis Period 1/1/2019-31st December 31, 2019

	GH¢
Profit	6,200,000
Add back the following:	
Depreciation, Dep and Amortization 2,000,000	<u>2,000,000</u>
Adjusted Profit	8,200,000
Deduct the following:	
Royalty (5% *10,200,000) -80,000 430,000	
Capital Allowance (4,000,000-200,000) 3,800,000	
Fresh graduate incentive	
6/60*100% =10% =(50%* (6/10*120,000) <u>36,000</u>	
	<u>4,266,000</u>
Chargeable Income	3,934,000
Tax Charged @35%	1,376,900
Add Royalty	<u>510,000</u>
Total tax	1,886,900
Less Tax paid	<u>80,000</u>
Tax Payable	<u>1,806,900</u>

Given that there is no information about the number of times capital allowance has been granted on the written down value, any assumption is correct as capital allowance in mining is granted 5 years straight line methods.

(10 marks evenly spread using ticks)

ii) With the option to add the idle cash of GH¢100,000 to working capital, a tax of 35% shall be imposed on the income of GH¢10,000 as the outcome as opposed to a tax of 25% to be imposed as tax on an investment income of GH¢10,000.

Following from the above, management is advised to rather buy Treasury bills and pay a lower tax at the rate of 25% instead of additional mining income at the rate of 35%. **(2 marks)**

b) The law limits or restricts capital allowance in respect of a vehicle which is not commercial vehicle to GH¢75,000. The Pajero shall accordingly be restricted to GH¢75,000.

Option 1 outright purchase amounting to GH¢80,000. Capital allowance shall be granted on only GH¢75,000 and not the full amount of GH¢80,000. **(2 marks)**

With the second option: Capital allowance shall be granted on the principal repayment in respect of an amount of GH¢25,000 each year for three years totaling GH¢75,000 and GH¢10,000 shall be granted as allowable deduction each year for the 3 years totaling GH¢30,000. In effect the whole amount shall be allowable.

The whole amount of GH¢105,000 shall be allowable deduction. **(2 marks)**

Conclusion

Option 2 is better on the following grounds:

All the amount shall be granted as capital allowance/ deduction as follows:

75,000 shall be granted as capital allowance for the entire period

Interest of GH¢30,000 shall be granted as allowable deduction over the three years

The payment shall be spread which will not affect the cash flow of the mining company greatly as opposed to the outright cash payment.

(2 marks)

- c) Mining Companies which indicate to spend over 500 million USD may request for development agreement with Ghana Government. This allows them to bargain for incentives which will create value for their shareholders.

The following conditions must be met:

- Must be prepared to invest over 500 million United States Dollars
- It must be ratified by Parliament

(2 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

The a) part of the question was on mining. Candidates must know that royalty is a tax type and at the same time it is also an allowable deduction only in respect of mining. Royalty is also calculated on revenue and not done arbitrarily. The capital allowance computation posed a challenge as the written down value did not indicate the number of times capital allowance was granted.

Fresh graduate incentive is granted as additional allowable deduction. This is aimed at reducing the tax liability of the entity that engages fresh graduate.

The (ii) part of the question was testing students understanding of the decision making that will create more benefit for the entity. In the question, either decision will increase income by GH¢10,000, but the treasury bills interest is an investment income which will be taxed at 25% while business income will be taxed at 35% if the company expanded its business with the additional injection. It does make business sense to invest in an option that will reduce the tax exposure of an entity. In conclusion, the decision to settle on, is the investment option.

The b) question was on whether to buy a vehicle outright or to lease it and the consequent tax implication. Option 1 was on outright purchase while option 2 was on leasing.

Option 2 was better on the following grounds:

All the amount shall be granted as capital allowance/ deduction as follows:

GH¢75,000 shall be granted as capital allowance for the entire period

Interest of GH¢30,000 shall be granted as allowable deduction over the three years.

Another reason for that pick is that the payment shall be spread which will not affect the cash flow of the mining company greatly as opposed to the outright cash payment.

The c) was on the rationale for development agreement by mining entities. This was a pretty straight forward question.

QUESTION FIVE

a) Kaek Consult
Box 4
Accra

12th December 2020

The Manager
Gona Jon Ltd

Dear Sir,

HOW TO ACCESS WORTHWHILE CONTRIBUTION/DONATION AND BENEFITS

Following your request for us to furnish you with the benefits of worthwhile causes and how an entity can access them, I forward as follows for your study and decision making:

Nature of worthwhile causes

The worthwhile causes are in the nature of donation or contribution towards any of the following:

- A charitable organisation
- A scheme of scholarship for an academic, technical, professional or other course of study
- Development of any rural or urban area
- Sports development or sports promotion and
- Any other worthwhile cause approved by the Commissioner-General

Benefits of the worthwhile causes

The benefits of such are as follows:

The entity is able to enjoy good will from such donation and additionally, will be used as a deduction from income before tax is imposed. This reduces the tax payable of the entity.

How to access them

Approval should be sought from the Commissioner-General or from the sector ministry to be able to enjoy the deduction from income.

Conclusion

It is hoped that the above would help you in your decision making.

In case you need further clarification on the above, do not hesitate to get in touch with the undersigned.

Thank you.

Yours faithfully,

b)i) Percy-Perry Construction
 Computation of Tax Payable
 Y/ A 1st January-31st December 2019

		GH¢
Net Profit		4,407,000
Add back the following:		
Depreciation	110,000	
Equipment of Hire (795,000-600,000)	195,000	
Personnel Cost (555,000-450,000)	105,000	
		<u>410,000</u>
		4,817,000
Deduct the following:		
Capital Allowance		<u>65,000</u>
Chargeable Income		4,752,000
Tax Charged		1,188,000
Less withholding tax (5% *7,000,000)		350,000
Tax Payable		838,000
Other taxes:		
Withholding Tax		
Hire of equipment (20% *795,000)		159,000
Personnel Cost (25% *555,000)		138,750
Total Tax payable		1,135,750

Alternative solution

Alternative solution with the assumption that the hire of equipment and staff costs between the USA and Ghana are incomparable in view of the geography and the economic climate of both jurisdiction.

Percy-Perry Construction
 Computation of Tax Payable
 Y/ A 1st January-31st December 2019

		GH¢
Net Profit		4,407,000
Add back the following:		
Depreciation	<u>110,000</u>	
		<u>110,000</u>
		4,517,000
Deduct the following:		
Capital Allowance		<u>65,000</u>
Chargeable Income		4,452,000
Tax Charged		1,113,000
Less withholding tax (5% *7,000,000)		350,000
Tax Payable		763,000
Other taxes:		
Withholding Tax:		

Hire of equipment (20% *795,000)	159,000
Personnel Cost (25% *555,000)	138,750
Total Tax Payable	1,060,750

(5 marks evenly spread using ticks)

ii) **Percy- Perry USA**
Computation of tax Payable
Y/A 2019

	GH¢
Profit (9,000,000-7,000,000)	2,000,000
Tax Charged @25%	500,000
Less withholding Tax (9,000,000*5%)	450,000
Net Tax Payable	50,000

Issues:

The Parent Company based in the USA is using its subsidiary in Ghana to perform the task. Assuming it had no subsidiary, technically, it would have been considered a Permanent Establishment (PE) since construction for 90 days or more makes a non-resident person a PE in Ghana.

Hire of equipment

There is no indication that the subsidiary in Ghana tried finding out if any entity in the USA could hire the equipment for a lower amount or at best the GH¢600,00 being quoted by the Subsidiary

Staff Cost

There is no indication that other person that is uncontrolled in the USA could collect an amount lower than what the Parent Company is asking. In any case, Citizens of other States that come to Ghana are paid slightly higher than their counterparts in Ghana.

Contract award

By winning the contract for GH¢9m and subletting it for GH¢7m, making a profit of GH¢2m, the profit will be subject to tax in Ghana as profit attributable to operations in Ghana. **(2 marks)**

iii) Objectives of Ghana Investment Promotion Centre (GIPC)

- It is to promote investment both local and foreign
- It is to set guidelines on what foreigners can execute in Ghana
- It is to define activities which can be executed by indigenes only and the
- It is to provide incentives for businesses which register with them
- It is to show case the investment potentials of Ghana **(Any 3 points for 3 marks)**

(Total: 20 marks)

EXAMINER'S COMMENTS

Part a) of the question was on the deductibility or otherwise of contribution or donation towards worthwhile causes. As part of the question, one was required to draft a letter. This was a case of following the rudiment of writing a formal letter as a consultant. Most candidates did not present the solution in the format required. Candidates should learn to follow instructions in order to maximize marks.

Part b) of the question required proper understanding of taxation of parent company resident outside Ghana and having a subsidiary in Ghana with income sourced from Ghana. In the case of the parent company, it derived an income from the subsidiary through a contract it won and handed it over to the subsidiary. Candidates should master the taxation of income offloaded by parent to subsidiary.

This question was not well answered by students.

The other part of the question had to do with the objective of Ghana Investment Promotion Council which to all intents and purposes was well answered.

RECOMMENDATION

We think that the Institute should continue to support students with students' journals on current happenings in the world of commerce. Issues like outright purchase or leasing can be treated through articles and made available to students.

Tuition Providers should continue to drum home the need to read Chief Examiner's report to improve upon their presentations and submit quality solutions in future diets. The mistakes which are always highlighted in the report are being committed at each sitting.

Students should do their best to buy materials on amendments and stop writing on provision which have been amended or no longer relevant and applicable.

We recommend further the need for students to read novels and foreign business journals on-line to appreciate happenings around the world and also broaden their horizon and outlook and at the same time improve upon their writing skills.

The Institute should administer mock examination by way of preparing students for the main examination. This will help them correct their mistakes before the examination and also put them in a state of preparedness for the final examination to help improve upon the pass rate.

CONCLUSIONS

In the light of the afore-mentioned, candidates should take the examination seriously by solving a good number of past questions before the examination.

Students should learn the topics in the syllabus by association and not in isolation in order to appreciate the linkages in the topics to make passing easier. It is clear candidates are unable to relate some topics with others hence the abysmal presentation.

Candidates should learn to support their analysis and presentation with examples to bring out the real intention they wish to put across. Examples when given help clarify the issues better in some cases.

The need to read the tax laws cannot be over-emphasized. Students preparing for the examination should read the Practice Notes developed by the Commissioner-General to help clarify certain areas which appear nebulous.

Students should learn to read the questions carefully before they attempt to solve the questions to avoid cancellation midway through as many do.

Some students study without guidance from the syllabus. They should ensure that the syllabus serves as a guide as they study in order not to read outside the syllabus range. Some candidates continue to display illegible hand-writing making marking very difficult and laborious for markers. We implore candidates with bad handwriting to help themselves improve their handwriting in order to present quality work which is easily readable.

Tuition Centres should continue to play their roles in helping students enhance the pass rate of candidates. They should take delight in conducting mock examinations as certain raiser to straighten the rough edges in students' knowledge so as to guarantee a good pass rate.

The Chief examiner's report must be obtained and read by all students before they make their minds to register to write the examination. It will serve as a tax primer as it gives a gist of things to learn.