

CHARTERED INSTITUTE OF TAXATION, GHANA

PROFESSIONAL EXAMINATION

FEBRUARY, 2020

PROFESSIONAL LEVEL

PAPER 5- BUSINESS AND REVENUE LAW

ATTEMPT QUESTION ONE AND ANY OTHER FOUR QUESTIONS

TIME ALLOWED: 3 HOURS

QUESTION 1

David, Letsa and Inusah soon after graduation jointly incorporated a profit making enterprise under the Incorporated Private Partnership Act, 1962 (Act 152). They are into the provision of luxury transport services for executives and tourists who desire to travel by road from Accra to Kumasi/ Tamale. Letsa identified a luxury coach that can be utilised in their business and informed the David and Inusah that it will cost GHC950,000.00 to acquire it. Having secured their consent, Letsa went ahead and secured a bank loan to purchase the bus. In realty and unknown to the two, Letsa had negotiated and got the coach at GHC850,000.00. When the sale was completed, Letsa paid the seller GHC850,000.00 and managed to transfer the difference of GHC100,000.00 into his private bank account. Upon discovering Letsa's misrepresentation to them, David and Inusah sued Letsa for both actual and punitive damages on the theory of loyalty and good faith.

Required:

Answer the following questions for 8 marks each:

- a) Briefly describe the business entity incorporated under the Incorporated Private Partnership, 1962 (Act 152) and explain why the conduct of Letsa is so offensive to David and Inusah that they had to sue him.
- b) Briefly explain why the charge of breach of a duty for good faith and loyalty is appropriate for the offence of Letsa?
- c) Explain the corporate management theory of loyalty and good faith as applicable to the entity type incorporated by David, Letsa and Inusah.
- d) Discuss the nature of the relationship between the business as an entity and David, Letsa and Inusah on one side and the relationship among their individual selves as co-owners of the business.

- e) Briefly explain the procedure for assessing each of David, Letsa and Inusah to tax on their income from their business.

TOTAL 40 MARKS

QUESTION 2

“A contract must be an agreement but an agreement need not be a contract”.

Required:

- a) What is a contract and how does it differ from an agreement? **2 marks**
- b) Briefly explain why the adage “actions speak louder than words” appropriately describe implied contracts **3 marks**
- c) Briefly explain the five factors required to make a contract enforceable by a court of competent jurisdiction **10 marks**

TOTAL 15 MARKS

QUESTION 3

The Supreme Court of the United States of America observed in the case of Interstate Transit Lines vrs Commissioner , 319 US 590 , 593 (1943) thus:

“An income tax deduction is a matter of legislative grace” and “the burden of clearly showing the right to the claimed deduction is on the taxpayer”.

Required:

Is the above observation a relevant guide to taxpayers, in respect of tax deductible expenses, under the Income Tax Act, 2015 (Act 896)? **15 marks**

QUESTION 4

- a) Explain the concept of imported service in Value Added Tax (VAT) and who pays the VAT on imported service. **5 marks**
- b) A supply must meet the following conditions before it is within the scope of Value Added Tax:
- i. It must be made by a taxable person;
 - ii. It must be made for a consideration;
 - iii. It must be made in Ghana; and
 - iv. It must be made in the course or in furtherance of a taxable activity.

Required:

Explain each of the above 4 conditions.

10 marks

TOTAL 15 MARKS

QUESTION 5

a) Discuss the conditions under which the assessable income from investment, business and employment of the following persons is subject to tax in Ghana.

- i) A resident person
- ii) A non-resident person.

5 marks

b) The UN Industrial Development Organization report in 2004 explained: “Long term financing in terms of equity capital, needed by growth-oriented mainly small and medium companies, is virtually non-existent”. The Ghanaian government in the same year enacted the Venture Capital Trust Fund Act (VCTF), 2004 (Act 680) to fill this gap.

Required:

- i. Based on the above, briefly explain the nature of venture capital as a source of funding to businesses.
- ii. State five (5) incentives available to stakeholders in the Venture Capital industry.

5 marks

5 marks

TOTAL 15 MARKS

QUESTION 6

Section 12(2) of the Labour Act, 2003 (Act 651) provides that a contract of employment shall express in clear terms the rights and obligations of the parties.

Required:

- a) State and explain any 5 duties of an employer as provided under the Act 651. **5 marks**
- b) State and explain 5 prohibited restrictive conditions on employment **5 marks**
- c) What are the five grounds by which an employment can be lawfully terminated in Ghana? **5 marks**

TOTAL 15 MARKS

QUESTION 7

a) State and explain four (4) main functions of the Customs Division of Ghana Revenue Authority. **5 marks**

b) It is lawful for a person to be granted permission for temporary importation of goods into Ghana.

Required:

- i. Explain the concept of temporary importation and discuss 4 conditions an importer has to meet in order to take advantage of this custom regime.
- ii. Give four (4) examples of the items permitted to be imported under this scheme.

10 marks

TOTAL 15 MARKS

END OF PAPER