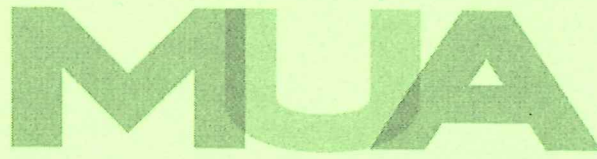


The
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UNDERGRADUATE UNIVERSITY EXAMINATIONS

SCHOOL OF MANAGEMENT AND LEADERSHIP

DEGREE OF BACHELOR OF COMMERCE

ACC 323: TAXATION LAW AND PRACTICE

DATE: 7TH AUGUST 2024

DURATION: 2 HOURS

MAXIMUM MARKS: 70

INSTRUCTIONS:

1. Write your registration number on the answer booklet.
2. **DO NOT** write on this question paper.
3. This paper contains **SIX (6)** questions.
4. Question **ONE** is compulsory.
5. Answer any other **THREE** questions.
6. Question **ONE** carries **25 MARKS** and the rest carry **15 MARKS** each.
7. **Write all your answers in the Examination answer booklet provided.**

QUESTION ONE

Mr. Kuweka received a revised assessment from the Commissioner of Income Tax under Section 77 of the Income Tax Act. The assessment revised his tax payable from Sh. 250,000,000 to Sh.620,000 for the year of income 2005. The income shown in his self-assessment for 2005 was sh.851,566. The grounds of revision were:

- a. He had sold shares in the following companies and made profits as shown:

| | Profit (Sh.) |
|------------------------------|--------------|
| Kenya Commercial Bank | 160,000 |
| National Bank of Kenya | 40,000 |
| Credit Finance Bank of Kenya | 20,000 |

- b. Interest of Sh.70,000 due to him and shown in the accounts of Thika Limited had not been included in the returns. He had loaned Sh.1,000,000
- c. He earned Sh.50,000 in South Africa. He was paid a honoraria in Johannesburg when he gave advisory services to a women group. He was there on a private visit.
- d. He was a partner in a coffee farm with two other people. Presumptive tax was deducted as required. His share of profit omitted from the returns was Sh.80,000.
- e. His wife, an employee of Kuweka Limited a family company, had employment income of Sh.300,000. This was taxed separately in accordance with PAYE rules and excluded from the returns.

Mr Kuweka objected to the assessment in light of the requirements of Section 84 of Income Tax Act. The Commissioner of Income Tax has responded and given ruling as provided by Section 85 (1) (c).

Required:

- i) Examine the provisions of assessment as stipulate in section 72 of the income Tax Act. **(8 Marks)**
- ii) Write a memorandum of appeal on behalf of Mr. Kuweka as provided for under the Income Tax (Local Committees) Rules **(17 Marks)**

QUESTION TWO

- a) List **SIX** allowable expenditure of a petroleum company while arriving at the taxable profit. **(6 Marks)**
- b) The following information was obtained from the books of Nyawira Ltd, for the year ended 31 Dec. 2022

| Details | Kshs |
|-------------------|-----------|
| Profit after Tax | 4,200,000 |
| Dividend paid | 6,400,000 |
| Dividend received | 1,500,000 |

Additional information:

A tax refund of Kshs 360,000 was received by the company for the year ended 31 December 2022

Required:

Compensating tax, if any payable by Nyawira Ltd for the year ended 31 December 2022

(9 Marks)**QUESTION THREE**

An aggrieved taxpayer may appeal against the Commissioner's decision either to the Local Committee in his Income Tax District or to the Tribunal in Nairobi.

- a) Examine two circumstances under which an appeal may be made to the Tribunal? **(5 Marks)**
- b) Evaluate any seven requirements of a valid memorandum of appeal to the Local Committee? **(7 Marks)**
- c) State any three rules governing the payment of tax assessed pending the determination of the appeal to the Committee. **(3 Marks)**

QUESTION FOUR

"In my judgement, not every payment made to an employee is necessarily made to him as a profit arising from his employment. Indeed, in my judgement, the authorities show that to be a profit arising from employment the payment, must be in reference to the services the employee renders by virtue of his office, and it must be something in the nature of a reward for services past, present or future":- *Justice Upjohn in Hochstrasser v Mayes (1960) 38 TC 673.*

Required:

In the light of the above judgement and the relevant provisions of Income Tax Act (Cap.470) of the laws of Kenya, explain the tax benefits arising out of the use of the following in the design of an "Executive Remuneration Package".

- | | |
|---|-----------|
| i. Expense reimbursement. | (3 Marks) |
| ii. Benefits in kind. | (3 Marks) |
| iii. Pension entitlement. | (3 Marks) |
| iv. Bonus Schemes. | (3 Marks) |
| v. Share Purchase arrangements for employees. | (3 Marks) |

QUESTION FIVE

The Income Tax Act imposes stiff penalties in order to discourage tax evasion. However, the rate of compliance is still quite low.

- | | |
|---|------------|
| a) Discuss five alternative measures that have been taken by the Government to improve compliance | (10 Marks) |
| b) Present five proposals to government that can aid in improving compliance | (5 Marks) |

QUESTION SIX

- | | |
|---|-----------|
| a) Evaluate any five attributes of a good tax-planning scheme | (5 Marks) |
| b) Define the term transfer pricing | (1 Mark) |
| c) Discuss any three effects of Transfer Pricing on Revenue Generated | (3 Marks) |
| d) Explain Three circumstances under which tax is considered due and payable as per the VAT Act | (6 Marks) |