

**JULY 2023 PROFESSIONAL EXAMINATION  
PRINCIPLES OF TAXATION (PAPER 2.6)  
CHIEF EXAMINER'S REPORT, QUESTIONS AND MARKING SCHEME**

**EXAMINER'S GENERAL COMMENTS**

As usual, the questions generally tested candidates' understanding of the basic principles of taxation. The questions were clear, straight forward and spread across the syllabus. This has been the feature of the paper and one was expecting candidates to come to terms with it in preparing for the paper. Unfortunately, candidates grossly displayed a serious lack of preparedness and thus exhibited a poor performance in almost all the questions. This poor performance is at sharp variance to the March 2023 diet. There was no way a candidate could pass this paper without learning across board. Students and tuition providers are continuously being advised to desist from specialisation and shallow preparations.

**STANDARD OF THE PAPER**

The standard of the paper was generally the same as previously administered ones. The questions were less difficult, clear and devoid of vagueness. They were quite straight to the point and well spread. The mark allocation was fairly allotted to each sub-question, it followed the weightings in the syllabus and proportionate to time required to pass.

The standard of the questions were good and up to the expected standard for level two of the examination structure. The questions were very clear, straight to the point with virtually no typographical errors. All questions were standard required of the level. The implication of the above is that candidates would have performed exceptionally if they had prepared sufficiently across the syllabus content.

**PERFORMANCE OF CANDIDATES**

Surprisingly, the general performance of the candidates across the centres was below average. Approximately 34% of candidates passed the paper. A sharp drop compared to approximately 59% pass rate for the March 2023 sitting. The expectations of the examiner from the candidates were not met considering the nature and requirements of the questions. It was as if candidates who sat for the paper were attempting it for the first time following the impressive success rate of their predecessors in the immediate past session.

Total lack of preparedness, lackadaisical approach to the questions and deviations reared their ugly heads. Adequate preparation, willingness of candidates to learn across the syllabus as well as tuition providers ensuring they cover the syllabus are the required prerequisites to reverse the situation to winning ways in subsequent diets.

**NOTABLE STRENGTHS & WEAKNESSES OF CANDIDATES**

Apart from question five (5), involving questions on the withholding tax, tax payable on gain on asset as well as returns on gift tax, candidates did not demonstrate notable

strengths across board. Few candidates however, showed some strengths in the answers for question one (1) because the requirements were very simple, straight to the point and a familiar area for candidates. Approximately, 80% showed a great deal of weakness in questions one (1) to four (4) due to insufficient preparation. The coverage of the syllabus for the majority of the candidates is not appreciable. Students should bear in mind that it takes barely three months to prepare after the release of results and therefore planning for the exams must start early.

Students are again advised to enroll with the reliable tuition centres as early as practicable to aid their preparations. Tuition providers should also ensure they cover the entire syllabus in view of the fact that the questions are spread across the entire syllabus. The ICAG manual on the Principles of Taxation continue to be one of the dependable reference guides in preparing for the paper. Students and tuition providers should also make good use of the various examiner's reports from November 2019. Lecturers and candidates should pay attention to the tax laws on the subject and the basic principles of taxation for an improved success rate.

Again and again, candidates are to pay attention to the topics such as Fiscal Policy, Business Income including Partnership, Withholding Tax, Employment Income, Tax Administration, and Value-Added Taxation, if they want to pass with ease.

## QUESTION ONE

- a) Adam Smith, reputed as the father of economics, postulated the characteristics of a good tax system as; “equity”, “certainty”, “convenience” and “economy”. These postulates are still as relevant today as they were in Adam Smith days.

**Required:**

Explain how these characteristics of a good tax system can be employed by the Finance Minister of Ghana to improve the tax system of Ghana. **(5 marks)**

- b) Explain **FOUR (4)** functions of the District Assembly Common Fund (DACF). **(5 marks)**

- c) Explain the following as used in tax administration:

- i) Self-Assessment
- ii) Pre-emptive Assessment
- iii) Administrative Assessment
- iv) Tax Audit Assessment

**(10 marks)**

**(Total: 20 marks)**

## QUESTION TWO

- a) State **FIVE (5)** circumstances under which the Commissioner-General may cancel a VAT registration of a taxable person. **(5 marks)**

- b) State **THREE (3)** situations under which a taxpayer cannot claim an input tax. **(3 marks)**

- c) Kingsly Atakora is a postpaid customer of MTN Ghana Ltd. He received his July 2022 billing from MTN Ghana Ltd amounting to GH¢3,121 inclusive of all taxes and levies. He is worried about the amount charged for his telephone usage for the month and wants to know the tax composition in the charge.

**Required:**

Compute the amounts of the following taxes included in the bill for July 2022.

- i) VAT
- ii) National Health Insurance Levy (NHIL)
- iii) Ghana Education Trust Fund Levy (GETL)
- iv) Covid-19 Levy
- v) Communication Service Tax (CST).

**(7 marks)**

- d) Explain the basis for calculating pension benefits under the National Pensions Act, 2008 (Act 766). **(5 marks)**

**(Total: 20 marks)**

### QUESTION THREE

- a) The table below shows the incomes of three employees of Agana Ltd in 2022 year of assessment.

	<b>Adom</b>	<b>Aseda</b>	<b>Ayeyie</b>
	<b>GH¢</b>	<b>GH¢</b>	<b>GH¢</b>
Basic Salary	120,000	160,000	180,000
Medical allowance (5% of basic salary)	6,000	8,000	9,000
Rent allowance (10% of basic salary)	12,000	16,000	18,000
Fuel allowance (15% of basic salary)	18,000	24,000	27,000
<b>Total Cash emolument</b>	<b>156,000</b>	<b>208,000</b>	<b>234,000</b>

Besides the cash emoluments stated above, the employees received loans from the employer as follows:

- i) Adom received a loan of GH¢24,000 at a rate of 5% payable within 12 months.
- ii) Aseda received a loan of GH¢48,000 at a rate of 8% payable within 24 months.
- iii) Ayeyie received a loan of GH¢100,000 at rate of 10% payable within 36 months. This loan is in addition to an outstanding loan of GH¢50,000 with the same terms and conditions during the previous twelve months. (Assume that the statutory rate is 30% per annum).

**Required:**

Determine the loan benefits applicable to each of the three employees for the 2022 year of assessment. **(16 marks)**

- b) What constitute employment for the purposes of tax? **(4 marks)**

**(Total: 20 marks)**

## QUESTION FOUR

- a) Karma Ltd commenced business on 1 March, 2020 preparing accounts to December each year. The following assets were acquired for use in the business:

Asset	Date of Acquisition	Cost in GH¢
Industrial Building	15/10/2019	2,500,000
Plant & Machinery	20/11/2019	1,600,000
Computers	03/01/2020	80,000
Office Equipment	10/1/2020	138,000
Motor Van	15/02/2020	220,000
Toyota Saloon Car	30/09/2020	180,000

The following additional assets were acquired by the company during the 2022 year of assessment:

Computers and accessories	- GH¢105,000
Office Equipment	- GH¢78,000

On 31 October, 2022, the Toyota Saloon Car was involved in an accident and was completely unrepairable. The company received a compensation of GH¢120,000.00 from the insurer.

The following profits were declared by the company at the Legon Office of the Ghana Revenue Authority for the first three years of assessment.

Period to 31/12/2020	- GH¢600,000
Year to 31/12/2021	- GH¢1,500,000
Year to 31/12/2022	- GH¢2,680,000

### Required:

Compute the capital allowance and the assessable income of the company for the relevant years of assessment. **(12 marks)**

- b) The management of Chika Plc, a United Kingdom (UK) based Company, is considering the possibility of launching its presence into Ghana and it is not too sure of the tax implication of the following in light of the tax laws of Ghana:
- It is considering making its presence through incorporation in Ghana or create an external company that is a Permanent Establishment (Branch) instead.
  - It intends to acquire all its non-current assets through finance lease as against buying the assets outright when it makes its presence in Ghana.
  - It intends to bring some staff from the UK to work in Ghana who will be paid half salary in Ghana and the other half paid directly to their accounts in the UK as against paying their full salary in Ghana.

### Required:

Advise on the tax implication on each one of them to enable management of Chika Plc take a decision on them. **(8 marks)**

**(Total: 20 marks)**

## QUESTION FIVE

- a) The following information is available to you as a tax consultant.

Description	Amount (GH¢)
Dividend paid to resident person	100,000
Dividend paid to non-resident person	200,000
Payment of goods to resident person	300,000
Payment of goods to non-resident person	400,000
Rent – residential property	150,000
Rent – Commercial property	300,000
Natural Resource Payment	1,000,000
Management and Technical Service fees to non-resident	400,000
Interest paid to resident financial institution	20,000,000
Royalty paid to non-resident person	400,000

**Required:**

Compute taxes from the above information and indicate whether the tax is final or not final. (10 marks)

- b) Ann sold a warehouse on 13 June 2022 for GH¢640,000. The warehouse was purchased on the 14 December 2020 for GH¢328,000 for investment purposes. Ann incurred the following:

	GH¢
Legal fees	10,000
Accountant's fees	15,000
Transfer tax	1,000

**Required:**

Calculate the tax payable. (5 marks)

- c) When a gift is received by an individual and that gift is not in respect of business and employment, the taxpayer shall within 21 days of receiving the gift, submit to the GRA in writing a return containing certain information.

**Required:**

In reference to the above statement, state **FOUR (4)** details the taxpayer must provide when filing a return for a gift. (5 marks)

**(Total: 20 marks)**

## SOLUTION TO QUESTIONS

### QUESTION ONE

#### a) Characteristics of a good tax system

**Equity:** Equity may mean fairness. However, fairness is inadequate in describing equity in taxation. Equity seeks to ensure that taxpayers with the same circumstances, all things being equal are treated equally in tax payment.

Equity has two aspects to it:

- Horizontal equity; and
- Vertical equity.

*Horizontal equity* means people in the same circumstances should pay the same amounts of tax. Thus, if both Ali and Baba earn the same salary, have the same benefits in kind and are entitled to the same tax reliefs, then they should pay the same amount of income tax all things being equal. It would be inequitable if Ali paid more than Baba or vice versa. This can enforce compliance.

*Vertical equity* is concerned with making the amount of tax different persons pay proportionate to their ability to pay. Those who make more money should have a higher tax to total income ratio than those who have lower incomes. If Willie made a profit of GH¢360,000.00 per annum from the sale of Colombia brand powder while Julie's annual profit from her sale of Korle-Bu powder was GH¢ 12,000.00 it would be very reasonable to expect Willie to pay a higher proportion of his income as tax than Julie. If those on very low incomes paid proportionately the same amount of tax as the wealthy, the tax system would not be fair.

**Certainty:** According to Adam Smith, the tax which an individual has to pay should be certain, not the result of unique rules developed for each individual taxpayer. The taxpayer should be able to determine in advance how much tax he has to pay, at what time he has to pay the tax, where he has to pay it and in what form the tax is to be paid to the government. This means that every tax system should be certain to enforce compliance and enhance revenue mobilization.

The other side to this is that a good tax system should ensure that the government is also certain about the amount that will be collected by way of tax. After all, it is by knowing in advance how much revenue will be available to it and at what time that the government can plan what to spend on its development agenda.

**Convenience:** The mode and timing of tax payment should, as far as possible, be convenient to taxpayers. Adams Smith wrote: "A tax upon the rent of land or of houses, payable at the same term at which such rents are usually paid, is levied at the time when it is most likely to be convenient for the contributor to pay; or when he is most likely to have [the] wherewithal to pay". So, it should not be necessary for a person to borrow money to pay his tax, because the exactor calls for the tax at a time the taxpayer would have spent all the income on which is levied.

A convenient tax system will encourage people to pay their tax and will ensure the State receives the maximum possible amount of tax revenue. It may be added that convenience should include how easily a taxpayer can reach the place of payment and make payment.

**Economy:** This principle states that there should be economy in tax administration. The cost of tax collection should be lower than the amount of tax collected. It may not serve any purpose, if the taxes imposed are widespread but are difficult to administer. Therefore, it would make no sense to impose certain taxes if it is difficult to administer them.

The above Characteristics of a good tax system if employed by Finance Minister of Ghana can help greatly in improving Ghana's tax system.

**(1.25 marks each = 5 marks)**

- b) The District Assemblies Common Fund (DACF) is basically a Development Fund designed to ensure a more equitable distribution of national resources for development in every part of the country. The Fund is used to support a wide range of projects and programmes geared towards improving the lives of the people at the local level.

#### **The Functions of the DACF**

- To propose a formula annually for the distribution of the Common Fund for approval by Parliament.
- To administer and distribute monies paid into the Common Fund among the District Assemblies in accordance with the Formula approved by Parliament.
- To report in writing to the Minister on how allocations made from the Common Fund to the District Assemblies have been utilized by the District Assemblies and
- To perform any other functions that may be directed by the President.

**(1.25 mark each = 5 marks)**

c)

#### **Self-Assessment**

This is a mode of assessment where the onus of determining a taxable person's tax liability and the payment of the tax thereby by that taxable person is on the taxpayer (Instalment payer).

Self-Assessment regime is a type of assessment regime where a taxpayer is made responsible for accurately computing and reporting their tax liability. The taxpayers are required to estimate their taxable income and the tax thereon for the year of assessment.

Taxpayers on self-assessment may file revision of their estimates and pay taxes in accordance with the Income Tax Act, 2015, Act 896 as amended.

**(2.5 marks)**

#### **Pre-emptive Assessment**

Where revenue is at risk and where the person has committed an offence under a tax law, the Commissioner-General may make a pre-emptive assessment of tax payable or to become payable by a person under a tax law whether or not the



person is required to file a tax return. Thus, the Commissioner-General may make a preemptive assessment when:

- A person becomes bankrupt, is wound-up or goes into liquidation
- Where the Commissioner-General believes on reasonable grounds that the person is about to leave Ghana indefinitely.
- Where the Commissioner-General believes on reasonable grounds that the person is otherwise about to cease activity or business in Ghana
- Where the Commissioner-General believes on reasonable grounds that the person has committed an offence under the tax law
- The Commissioner-General otherwise considers it appropriate.

The Commissioner-General may, instead of making a pre-emptive assessment, accept from a person, security for outstanding and future liabilities as the Commissioner-General thinks appropriate. The Commissioner-General shall use the best judgement and information reasonably available in making pre-emptive assessment or fixing the amount of security.

A pre-emptive assessment may be for a period or with respect to an event or subject matter as the Commissioner-General may specify in the notice of assessment.

A pre-emptive assessment does not relieve a person of the obligation to file a tax return or otherwise report a taxable event as required by the Act unless the Commissioner-General specifies in the notice of assessment.

The filing of a tax return, including where the filing of the return results in a self-assessment, does not affect a pre-emptive assessment.

Any tax paid with respect to a pre-emptive assessment is credited against tax payable with respect to a self-assessment that covers the same period, events and tax.

**(2.5 marks)**

### **Administrative Assessment**

These are assessment carried out by the Commissioner- General or designated Officers of the Ghana Revenue Authority. It is sometimes referred to as government assessment. It may include provisional assessment, final assessment, pre-emptive assessment, adjusted assessment, other assessment, assessment of interest and penalties and where self -assessment is adjusted.

**(2.5 marks)**

### **Tax Audit Assessment**

A tax audit assessment is an examination of a taxpayer's business records and financial affairs to ascertain that the right amount of income or taxable value should be declared and the right amount of tax should be calculated and paid are in accordance with tax laws and regulations. A taxpayer can be selected for an audit at any time. However, it does not necessarily mean that a taxpayer who is selected for an audit has committed an offence. The Ghana Revenue Authority audit framework is designed to ensure that tax audits are carried out in a fair, transparent and impartial manner. This to a large extent is to deter tax evasion and avoidance, enhance voluntary tax compliance, to be fair to compliant taxpayers and to collect the correct amount of tax.

**(2.5 marks)**

**(Total: 20 marks)**

### **EXAMINER'S COMMENTS**

All the sub questions in question one were straight forward, however, candidates performance the question was below average.

Virtually, almost all candidates could not explain how the Finance Minister of Ghana can employ the four characteristics of a good tax system to improve the tax system in Ghana for five marks as required in question 1 (a). Majority of the candidates even though attempted to explain the features without linking them to the requirement of the question, convenience and certainty were not well explained.

The (b) part was the worse answered. Most candidates substituted the functions of the DACF with the objectives or the benefits and thus lost all the marks. This is because they either did not learn the functions or could not tell the difference between the functions and the objectives/benefits. Majority of the candidates could not explain administrative assessment and tax audit assessment as used in tax administration.

They displayed complete ignorance of the terms. The explanation of self-assessment and pre-emptive assessment was an average performance. However, few candidates who were well prepared got good marks

## QUESTION TWO

- a) circumstances under which the Commissioner-General may cancel a VAT registration of a taxable person: The taxable person
- No longer exists;
  - Is not carrying on a taxable activity;
  - Is not required or entitled to apply for registration;
  - Has no fixed place of business or abode;
  - Has not kept proper accounting records related to a business activity carried on by that person; or
  - Has not submitted regular and reliable tax returns required under this Act.
  - When the taxable person's turnover falls below the registration threshold.
  - When control and verification (Tax Audit) results recommend deregistration action.

(Any 5 points @ 1 mark each = 5 marks)

- b) Situations under which a taxpayer cannot claim an input tax:
- Input tax on exempt supplies.
  - A previously taken input VAT, i.e. VAT input cannot be taken more than once.
  - Items meant for personal use other than business use. E.g. Domestic expenses.
  - Input tax can be claimed only at the rate paid, ie.3% or 12.5%.
  - Non VAT Invoices and unapproved invoices/receipts.
  - Input tax in respect of; entertainment including restaurant, meals and hotel expenses unless a person is in the business of providing entertainment.
  - Input tax that are more than six (6) months effective.
  - Input tax in relation to motor vehicles/saloon car(s) and vehicles of similar nature i.e. double-cabin pickup as well as vehicle spare parts. Unless the person is in the business of dealing in or hiring motor vehicles or selling vehicle spare parts; provided that motor vehicles and spare parts used wholly, exclusively and necessarily for the business shall qualify for input tax deduction.
  - A flat rate registered person does not qualify for input deduction relating to his taxable activity.
  - Retail receipts do not qualify for input tax deduction.

(Any 3 points @ 1 mark each = 3 marks)

- c) Taxes inclusive

		<b>GH¢</b>
	Amount of supply	3,121
i) VAT	$3,121 * 1/9$	346.78
ii) NHIL	$(3,121-346.78) * 2.5/111$	62.48
iii) GNETFL	$(3,121-346.78) * 2.5/111$	62.48
iv) COVID-19 Levy	$(3,121-346.78) * 1/111$	25
v) CST	$(3,121-346.78) * 1/111$	124.96

**Total VAT, Levies & CST** **621.70**

(7 marks)

d) **Basis of calculating pension benefits under the National Pension Act, 2008 (Act 766)**

**Monthly Pension (Tier 1) (Defined Benefit Scheme)**

The amount of your monthly pension at retirement is based on the following key parameters:

- Age at Retirement (i.e. Full (at least 60 years or Reduced Pension 55 years to below 60 years)
- Actual total number of months of social security contribution payments to the scheme prior to retirement. Not below 180 months
- Earnings/Salaries on which contributions were paid.
- **Full annual pension** it is calculated as the Average of one's best three years or 36 months basic salaries multiplied by the earned pension right. The result is then divided by 12 to get the monthly pension.

Pension right is credit earned for the number of months a member contributes to the scheme. A person can earn pension right between 37.5% and 60% depending on the number of months contributed at the date of retirement.

For example, the minimum contribution of 180 months gives a pension right of 37.5%. Every additional month over 180 months attracts additional percentage of 0.09375% or 1.125% for one year respectively.

- **For reduced pension**, the pension benefit is calculated as follows;  
Best 36 months (3 years) average salary x pension right x early retirement reduction factor. The purpose of the Early Retirement Reduction Factor is to ensure that the amount of benefit entitlement to a member retiring prior to the Normal Retirement Age of 60 years is actuarially equal in value to that which would be payable at the Normal Retirement Age.
- **Invalidity pension:** After a person has been certified as invalid by an approved medical board, he/she will be entitled to pension benefits as follows:
  - ✓ Where minimum contribution period of 180 months or more is satisfied, the person will receive based on his/her contribution period and average of the three (3) best years' salary.
  - ✓ If the minimum contribution period of 180 months or more is not satisfied, he/she will receive a monthly pension based on 37.5% pension right of the average of his/her best three(3) years' salary.
- **Refund of contribution:** In event that an individual does not qualify for old age pension when he/she retires either compulsorily or voluntarily, the contribution will be refunded to him/her with interest of 75% at the prevailing government Treasury Bill rate as lump sum.
- **Survivors' benefits computation:** Where a member dies having made at least twelve (12) months contribution within the last thirty-six (36) months prior to the death of the member, a lump sum payment computed on the present value of the

members pension for a period of fifteen (15) years, using the prevailing treasury bill rate or ten percent (10%), whichever is the lower, shall be paid to the members' nominated dependents.

**(5 marks for any five relevant points)**

**(Total: 20 marks)**

## **EXAMINER'S COMMENTS**

Sub-question (a) and (b) required candidates to state five circumstances under which the Commissioner General may cancel a VAT registration of a taxable person for five marks and situations under which a taxpayer cannot claim input tax for 3 marks respectively. On the average, these were well dealt with and the answers met the expectations of the examiner. However, the answers to Part (c) which took seven marks were woeful.

Most candidates did not know that since VAT will be the last tax to be imposed, then working in reverse, shall be the first to be deducted. The rates for VAT and CST were also wrongly stated thereby affecting their computations. Some candidates also did not know that tax laws are prospective, thus the date and the rate in force at the time is what is expected to be used.

Finally, part (d) asked candidates to explain the basis for calculating pension benefits under the National Pensions Act, 2008, (Act 766). The question was not specific as to what particular pension was to be explained under the said Act, therefore any relevant points (up to five) relating to any of the pensions under the act, whether full, reduced, invalidity monthly pensions or lumpsum or survivors' pension was awarded. Unfortunately, some candidate were confused and ended up explaining the Three-tier pension mechanism.

### QUESTION THREE

a)

- i) Adom will not be liable to tax on the loan benefit due to the fact that:
- His loan repayment period does not exceed 12 months,
  - He had no similar loan outstanding at any time during the previous twelve months, and
  - His current loan amount of GH¢ 24,000.00 does not exceed his three months' basic salary of GH¢ 30,000.00;

Workings 1

Adom's three month's basic salary = GH¢ 120,000.00 × 3/12 = GH¢ 30,000.

**(4 marks)**

- ii) Aseda will be liable to tax on the loan benefit in view of the fact that:
- Her loan repayment period exceeds 12 months (24 months)
  - Her total loan amount of GH¢ 48,000.00 exceeds her three month's basic salary of GH¢ 40,000.00

$$C = \frac{B-A}{4}$$

Where

- A = Interest paid by employee (Loan × actual interest rate)**  
**B = Interest payable at statutory rate (Loan × statutory rate)**  
**C = Loan benefits**

**(2 marks for stating and explaining the formula)**

Where

Workings 2

Aseda's three month's basic salary = GH¢ 160,000.00 × 3/12 = 40,000.00

Interest payable at statutory rate = GH¢ 48,000.00 × 30% × 2 = 28,800.00

Actual loan interest paid = GH¢ 48,000.00 × 8% × 2 = 7,680.00

Total loan interest benefit = 21,120.00

However taxable loan benefit is limited to (21,120 × 1/4) = 5,280.00/2

= 2,640.00

**(5 marks)**

- iii) Ayeyie will be liable to tax on the loan benefit in view of the fact that:
- His loan repayment period exceeds 12 months (36 months)
  - The aggregate of the current loan (GH¢ 100,000.00) and the similar outstanding loan (GH¢50,000.00) during the previous twelve months is GH¢150,000.00 which exceeds his three month's basic salary of GH¢ 45,000.00.

### Workings 3

Ayeyie's three month's basic salary = GH¢ 180,000.00 x 3/12	= 45,000.00
Interest payable at statutory rate = GH¢ 150,000.00 x 30% x 3	= 135,000.00
Actual loan interest payable = GH¢ 150,000.00 x 10% x 3	= <u>45,000.00</u>
Total loan interest benefit	= 90,000.00

However taxable loan benefit is limited to  $(90,000 \times 1/4)$  = 22,500.00/3  
= 7,500.00

**(5 marks)**

b) Act 896 defines employment to mean:

- A position of an individual in the employment of another person.
- A position of an individual as a manager of an entity other than a partner in a partnership. An employee does not bear the risk and losses.
- A position of an individual entitling the individual to a fixed or ascertainable remuneration in respect of services performed.
- A public office held by an individual.

It could also mean:

- When there is a contract of service as opposed to contract for service.

**(1 mark for any four points = 4 marks)**

**(Total: 20 marks)**

### EXAMINER'S COMMENTS

Candidates' performance in this question was average. The question was in two parts. The first part which was for 16 marks required candidates to determine the loan benefits applicable to each of the three employees. They were therefore to demonstrate their understanding of the circumstances under which quantification of loan benefit will be nil or where loan benefit will have to be quantified and compute the loan benefit accordingly.

- (i) In the case of Adom, the number of candidates who were able to identify that quantification will be nil and therefore no loan benefit would have to be computed was satisfactory even though it could have been better.
- (ii) In the case of Aseda and Ayeyie two marks was awarded for quoting and explaining the formula and 5 marks each was given for the computation of the loan benefit. Surprisingly, lot of candidates were not able to quote and explain the formula required to determine the loan benefit even though they knew that loan benefit would have to be computed. Besides, some candidates had problems with the substitution of the figures into the formula to determine the loan benefit. Calculating the statutory interest and actual interest also posed a challenge to most candidates. Students and tuition providers are to pay particular attention to the principle and computation of this benefit in kind (loan benefit).

It is the view of the examiner that the marks awarded to the question vis-à-vis the effort required was too much.

The second part was straight forward. Candidates were to simply indicate what constitute employment for 4 marks. One cannot learn taxation of employment income and ignore what constitute employment. Shockingly, it was rather a waterloo for most candidates. Some candidates were defining employment income, others were comparing contract of service to contract for service with few others indicating types of employment.



## QUESTION FOUR

a)

### Karma Ltd

#### Computation of Capital Allowance For Relevant Years

<u>Y/A</u>	<u>POOL 1</u> 40% GH¢	<u>POOL 2</u> 30% GH¢	<u>POOL 3</u> 20% GH¢	<u>CLASS 4</u> 10% GH¢	<u>TOTAL</u> GH¢
<b>2020</b>					
1/3/20 - 31/12/20					
Cost Base	80,000	1,895,000	138,000	2,500,000	
C.A (306)	(26,827)	(476,605)	(23,139)	(209,589)	736,160
WDV c/f	<u>53,173</u>	<u>1,418,395</u>	<u>114,861</u>	<u>2,290,411</u>	
<b>2021</b>					
1/1/21 - 31/12/21					
WDV b/f	53,173	1,418,395	114,861	2,290,411	
C.A	(21,269)	(425,519)	(22,972)	(250,000)	719760
WDV c/f	<u>31,904</u>	<u>992,876</u>	<u>91,889</u>	<u>2,040,411</u>	
<b>2022</b>					
1/1/22 - 31/12/22					
WDVb/f	31,904	992,876	91,889	2,040,411	
Additions	<u>105,000</u>	-	<u>78,000</u>	-	
	136,904	992,876	169,889	2,040,411	
Disposal	-	(120,000)	-	-	
	136,904	872,876	169,889	2,040,411	
C.A	(54,762)	(261,863)	(33,978)	(250,000)	600,603
WDV c/f	<u>82,142</u>	<u>611,013</u>	<u>135,911</u>	<u>1,790,411</u>	

#### Karma Ltd Computation of Assessable Income

GH¢

#### 2020 Y/A (1/3/20 - 31/12/20)

Profit Per A/cs	600,000
Deduct: Capital Allowance	(736,160)
Assessable Income	<u>Nil</u>
Tax Loss c/f	136,160

**2021 Y/A (1/1/21 - 31 12/21)**

Profit per A/cs		1,500,000
Deduct:		
Capital Allowance	(719,760)	
Tax Loss b/f	(136,160)	(855,920)
<b>Assessable Income</b>		<b><u>644,080</u></b>

**2020 Y/A (1/1/20 - 31/12/20)**

Profit per A/cs		2,680,000
Deduct: Capital Allowance		<u>(600,603)</u>
<b>Assessable Income</b>		<b><u>2,079,397</u></b>

**(Marks are evenly spread using ticks = 12 marks)**

- b) Chicka Plc is a Non-resident company.  
The tax implication for each of the scenarios is stated below:

i)

<b>Incorporability route (Subsidiary)</b>	<b>Permanent Establishment (P/E) route</b>	<b>A better option to Taxpayer</b>
Register as an entity incorporated in Ghana	Register as an external company and maintain its foreign character	Less risky as a subsidiary as compared with a PE
Register stated capital and pay stamp duty at the rate of 0.5%.	Does not have equity and therefore no stamp duty payment	Stamp duty tax payable as a subsidiary P/E better option
Dividend declared with tax rate at a final withholding tax rate of 8%. Dividend at the option of management and approved at the AGM	Does not declare dividend as it has no equity	Better as PE
No branch profit tax	Branch profit tax at 8%. Automatic payment of branch profit tax.	Better as subsidiary
Interest on loan borrowed from the parent company is allowable but may be subject to thin capitalisation	Interest on loan borrowed from the parent company is not an allowable deduction	Better as a subsidiary
Liable to Tax on income	Liable to tax on Income	

**(3 marks for any three relevant points= 3 marks)**

- ii) If Chika acquires all its non-current assets through a finance lease it will be entitled to capital allowance computed in accordance with part one of the third schedule of the Income Tax of 2015, Act 896 as amended. This is an allowable expense. The amount to be included in the pool for each year of assessment for the purpose of

computing capital allowance will however be the principal repayment of the finance lease over the lease term. The finance charge will however be expense for each year of assessment over the lease term.

If Chika acquires all its non-current assets outright it will be entitled to capital allowance computed in accordance with part one of the third schedule of the Income Tax of 2015, Act 896 as amended. This is an allowable expense. The amount to be included in the pool, however, will be cost of the assets in the year of assessment the asset was acquired.

**(2.5 marks for any good explanation = 2.5 marks)**

iii) Resident or non-resident individuals who earn income in Ghana will be taxed on the full amount of income earned in Ghana. Thus, the staff to be brought to work in Ghana will be taxed on the full income earned in Ghana regardless of whether half of their salary is paid in Ghana and the other half is paid directly into their accounts in the UK. Their tax status will be regarded as resident once they are present in Ghana for a period or periods exceeding 183 days or more in aggregate in the year of assessment.

**(2.5 marks for any good explanation = 2.5 marks)**

**(Total: 20 marks)**

### **EXAMINER'S COMMENTS**

The worst answered question in all facets. The question was quite basic with less complexities, yet a very low pass rate was recorded. The main cause for the overall poor performance of candidates for this diet. The question was in two parts. In the first part, candidates were to compute the capital allowance and the assessable income for relevant years of assessment. Even though the question indicated that the company commenced business on 1 March 2020, candidates started computing capital allowance from 2019 because two main type of depreciable assets were acquired in 2019. They did not know that capital allowance is to computed from the year of commencement for depreciable assets acquired prior to year of commencement in so far these assets were employed to generate income in the year. Another reason for the very poor performance is the inability for candidates to ensure that where a basis period ending within a year of assessment is less than 12 months, they have to employ the formular  $A \times B \times C / 365$  in computing the capital allowance. Where A is the written down value, B, the rate of capital allowance and C being the of number days within the basis period. Surprisingly, some used the whole year whilst others used the number of months in 2020 instead of the number of days. What is more is that some candidates did not restrict the cost of the Toyota saloon car to GH¢75,000 since it is not a commercial vehicle. It is also worth mentioning that because the capital allowance was wrongly computed for the relevant years, it negatively impacted on the computation of the assessable income for those years as well. Candidates also failed to indicate the basis period for the relevant years in computing both the capital allowance and the assessable income. It is advisable for these areas to be examined often to sharpen the knowledge base of students.

The tax implications of the three scenarios in the second part was also not well handled. This part required the application of the tax principles in each of the three cases. In the first case, candidates were to consider the tax implication of incorporation (subsidiary) and branch (P/E) owned by a non-resident person. Income earned in Ghana by the non-resident will be taxed in Ghana. Candidates could have fetched all the marks if they had considered among others the fact that both entities will be subject to tax on their income earned in Ghana. Besides, if the subsidiary company pays dividend to its shareholders, it will be subject to final withholding tax of 8% and the profit after tax of the branch will also be subject to final withholding tax of 8%. In the second case, candidates should have recognised that finance lease or outright acquisition of non-current assets will attract capital allowance since they are both depreciable assets. The difference is that for finance lease only the principal repayments will have to be capitalised for the purpose of capital allowance whereas for outright acquisition the entire cost will attract capital allowance in the year of acquisition. Finally, the finance charge will have to be expensed over the lease term. In the last case, candidates should have realised that it is the full salary earned in Ghana that will be taxed regardless of whether half was paid to him in Ghana and the other half outside Ghana since the employment activity was carried out in Ghana. Candidates and tuition providers must therefore revise how to apply the basic principles of taxation in tax cases.

## QUESTION FIVE

a)

Description	Amount GH¢	Tax Rate (%)	Tax to be Withheld GH¢	Remarks
Dividend paid to resident person	100,000	8	8,000	Final Tax
Dividend paid to non-resident person	200,000	8	16,000	Final Tax
Payment of goods to resident person	300,000	3	9,000	Not a Final Tax
Payment of goods to non-resident person	400,000	20	80,000	Final Tax
Rent - residential property	150,000	8	12,000	Final Tax
Rent - Commercial Property	300,000	15	45,000	Final Tax
Natural Resource Payment	1,000,000	15	150,000	Not a final Tax
Management and Technical Service fees to non-resident	400,000	20	80,000	Final Tax
Interest paid to resident financial institution	20,000,000	0	0	Exempt
Royalty paid to non-resident person	400,000	15	60,000	Final Tax

(1 mark each for a maximum of 10 points = 10 marks)

b)

**Ann**  
**Computation of Tax Payable - June 2022**

	GH¢	GH¢
Consideration Received		640,000
<b>Less Cost:</b>		
Purchase cost	328,000	
Legal Fees	10,000	
Accountant's fees	15,000	
Transfer Tax	<u>1,000</u>	<u>354,000</u>
Gain on Asset		<u>286,000</u>
 Tax thereon @ 15%		 <b>42,900</b>

(Marks are evenly spread using ticks = 5 marks)

c) Details the taxpayer must provide when filing a return for a gift include:

- The description and location of the taxable gift
- The total value of the gift
- How it is calculated and tax payable with respect to that gift

- The full name and address of the donor of the gift
- Any other information required by the Commissioner-General

That person shall remit to the Commissioner-General the amount of tax calculated as payable and the payment of tax is due at the time the return is submitted.

**(Any 4 points @ 1.25 marks each = 5 marks)**

**(Total: 20 marks)**

### **EXAMINER'S COMMENTS**

This was the best attempted question. The questions were simple and quite a familiar area for candidates. It was in three parts. In the first part candidates were to compute the withholding tax for ten transactions subject to withholding tax for resident or non-resident persons and to indicate whether the tax so computed is a final tax or not for ten marks. This was well done.

Prospective candidates should however bear in mind that for non-residents, such a tax constitute a final withholding tax in order not to lose free marks as some candidates did.

The second part demanded from candidates to compute the tax payable on the gain of an asset (warehouse) sold for five marks. It was well done because the question was less complex.

In the third part, candidates were to state the details the taxpayer must provide when filing a return for a gift received by an individual not in respect of business and employment within 21 days of receiving the gift. Very straightforward, but it was an average performance since some students could not state some of the basic details.

### **CONCLUSION**

The performance for this diet was not encouraging. It showed clearly in their answers even though the questions were clear, straightforward and marks well allocated according to the weightings in the syllabus.

Prospective candidates should start their preparations in time and should give attention to the spectrum of the syllabus since the trend will not deviate from the syllabus grid.