

**NOVEMBER 2023 PROFESSIONAL EXAMINATIONS
ADVANCED TAXATION (PAPER 3.3)
CHIEF EXAMINER'S REPORT, QUESTIONS AND MARKING SCHEME**

EXAMINER'S GENERAL COMMENTS

This report is set to provide feedback on the conduct of the examinations to all stakeholders from the administration point of view right down to the marking of the examination. The feedback will ensure continual improvement to help the Institute get the desired pass rate in taxation. The report also sets the tone for analysing the entire taxation paper and to provide some support system if any to improve the questions setting, marking and the moderation of the examination process.

The report also provides a bird's eye view of the performance of candidates in the examination and to set the tone for conversations around standards, performance and improvements in the pass rate.

The evaluation of the paper, tells clearly that with some adequate preparation and seriousness one can pass the examination with ease. Failing that, the paper would appear tough for the candidate, and that was the case for some. The quality of the paper was high, clarity in the presentation of questions and good typesetting. The product was a good one and made reading very pleasant. Marks allocation of questions and sub questions also took into account the effort, weight and work required and therefore was good. In other words, the more the work the candidate was required the more the compensation in terms of the marks allocation.

Tuition Centres should collaborate with the ICAG in strategies to improve the pass rate including the re-introduction of mock examination and intervention for candidates.

The exemption policy of the Institute should be re-evaluated. The principle of taxation is the foundation for the advanced taxation. Many opt for the exemption and therefore end up struggling with the questions posed since some of the questions trace their roots to the foundation which was skipped.

All stakeholders must support the Institute of Chartered Accountants, Ghana in its quest at improving the pass rate of candidates in the examination. Mixing up of questions and solutions continues to be an issue for final level candidates. This should be stopped. During the marking process, a number of them was noticed. There is no point in harping this as it is obvious it should not be done as it potentially may deny the candidate of marks when a sub question is answered under a different question without notice.

STANDARD OF THE PAPER

The question paper has maintained the standard with the level of difficulty required for the final level. The questions were well selected. Some amount of efforts is required before one would be able to attain the required pass mark. The questions were quite good by all standards. Candidates were required to state practical examples in some of the questions. This created challenges for most candidates who studied by rote.

Candidates who are only used to recall questions suffered in this diet. The questions reflected typical industry questions and ability to read widely was an added advantage in passing. Candidates who read by association and not in isolation gave a good account of themselves as they presented practical and impressive write up to earn them the marks they deserved.

There were blank answer sheets. This may appear a fairy tale but in reality some of the candidates only wrote their index numbers. The corollary is that such candidates never read anything with the high standard required of them, they left the answer sheet unscripted. There was a good blend of both theory and practice. Part of the questions required writing while others required some amount of computation and analysis. While some candidates made the marking very easy with their legible handwriting, others continue to create problems with illegible handwriting.

In fairness, there was an improvement in some of the challenges highlighted in the previous examination diets.

The questions set were of high standard and without any ambiguity in them. The clarity in the questions was in no doubt as to what the requirement of each question conveyed. On the question of allocated marks, the marks were commensurate with the demand and the work required of each question. Some candidates were never guided by the marks given their responses to the questions. Where it required much, they provided little. The paper did not come across as a paper with errors. This made reading the questions very clear to the reader.

PERFORMANCE OF CANDIDATES

On the whole, the performance of the candidates was good. Those who prepared adequately for the examination and put off their best got the pass mark. Many others did not appear prepared for the examination. Given the level of materials in existence one would have expected better performance.

The marks were commensurate with the requirement of the questions. The questions tested candidates based on the spread of the areas in the syllabus. This clearly afforded an average candidate the ability to pass the examination with ease. It emerged that some candidates did not know the features of a memo and therefore presented anything as solution. Candidates should as a matter of interest learn the features of a memo so as to be able to write a memo well. Bad hand writing continues to be the Achilles heels of many candidates. This incredibly slows down the marking process and does not help the process of efficient marking.

NOTABLE STRENGTHS AND WEAKNESSES OF CANDIDATES

The performance of candidates assumed the same regular pattern with previous diets. Some candidates did well and therefore passed. Others performed poorly.

It goes without saying that many candidates performed poorly because they never prepared for the examination. This reflected in the scripts.

Notable strengths

- Many candidates had control over the computation of the chargeable income of taxation of Trust and the tax implication of Trust.
- Additionally, many candidates showed strength over allowable and non-allowable deduction as regards the taxable income of business entity.
- Taxation of free zone enterprise as against manufacturing concerns were well handled by many candidates. For others, it was a nightmare.
- Many candidates were able to handle the interest of government in the upstream operation in the oil and gas sector well. Yet others had no clue what they were required to do.

Notable weaknesses

- Obviously worrying was the inability of candidates to compute capital allowance as part of examination of accounts. Many candidates had challenges with the rate of stamp duty in connection with stated capital introduced.
- Computation of capital allowance and the treatment of proceeds from realisation of depreciable assets became visible in most scripts. This has arisen largely from the exemption policy of the Institute, where capital allowance is treated only at the principle of taxation level.
- Taxation of Trust remains a challenge. Tuition Providers should as a matter of urgency help candidates in this area of taxation.

QUESTION ONE

- a) Ghana has a lot of opportunities for both local and foreign investors. The Ghana Investment Promotion Centre has demonstrated in many ways the policy consideration behind promotion of investment to both Ghanaians and foreigners.

Foreigners must meet certain basic conditions before they are permitted to undertake business activities in Ghana.

Required:

Discuss **THREE (3)** ways a foreigner may participate in business activities in Ghana. **(8 marks)**

- b) The transfer pricing rules require the use of the “most appropriate” method to price related party transactions. One of such methods is ‘Comparable Uncontrolled Price method’.

Required:

- i) Explain with a simple numerical example, the *comparable uncontrolled price*. **(4 marks)**
- ii) State **TWO (2)** situations where it is most appropriate to apply the comparable uncontrolled price method. **(2 marks)**

- c) Zantem Ltd has equity of GH¢10,000,000 while Bonty Ltd has equity of GH¢12,000,000. The two companies are in competition for the same market space. This has increased their advertising and marketing costs. The Ghana Revenue Authority (GRA) has threatened to disallow a portion of their advertising and marketing costs which appear astronomically high.

The Management of the two companies have invited you, a tax expert to be part of a discussion to look at the possible ways the two companies can eliminate or reduce any tax exposure to their shareholders with the potential threat from the GRA.

Required:

Advise the Management on the tax strategy(ies) to adopt to reduce their cost while creating value for their shareholders. **(6 marks)**

(Total: 20 marks)

QUESTION TWO

- a) There are many ways non-resident entities may launch their presence into a country. Some of the ways include the establishment of subsidiaries, licensing and permanent establishment.

Required:

Explain **FOUR (4)** different scenarios a permanent establishment may be created in Ghana and how they may be subject to tax in Ghana by the Commissioner-General. **(8 marks)**

- b) Some investors have invited you for comments on a business they intend to establish in four years' time. Your comments are critical to the investors in making a choice on the establishment of one of the two entities, that is;
- Manufacturing company or
 - Free zone company.

The investors intend to name the entity Gigani Ltd and establish it in Ghana. The following relates to the projected business of Gigani Ltd:

- 1) The shareholders plan to establish Gigani Ltd in either Accra/Tema, Ashanti Regional capital or Kasoa in the Central Region. It is anticipated that irrespective of the location, Gigani Ltd would generate the same amount of profit in year 1 and grow by 5% each year all things being equal.

Its first year's financial performance is projected as follows:

Locations	Accra/Tema	Ashanti Regional Capital	Kasoa, a town in Central Region
Profits	GH¢10,000,000	GH¢10,000,000	GH¢10,000,000

- 2) Additional interventions on what the investors intend to do in future when Gigani Ltd is established are as follows:
- Establish the business with four resident shareholders.
 - Start with share capital of GH¢2 million from the contribution of the shareholders.
 - Raise a debt from two main sources: GH¢10 Million from a financial institution in Ghana and GH¢20 million from shareholders with interest at 4% above the market rate.
 - Transfer an amount of GH¢2 million from retained earnings to share capital to increase the worth of the shareholders after the second year.
 - Recruit fresh graduates each year from the University of Ghana and Massachusetts Institute of Technology in Boston, USA for the next 5 years until it meets its staff requirement yet to be decided.

Required:

You are required to assess the tax implications of the:

- i) set-up.
- ii) location.
- iii) interventions to be introduced.

(12 marks)

(Total: 20 marks)

QUESTION THREE

AquaFresh Ltd is a company based in Osu in Accra, and produces clean water through a desalination process and, as a by-product, produces salt for sale in Ghana.

Desalination is a process which extracts salts and minerals from seawater so that the water becomes fit for human consumption. This desalination process has been declared by the Ghana Revenue Authority (GRA) as a manufacturing process.

During the 2022 year of assessment, AquaFresh Ltd recorded the following transactions:

- i) Sale of desalinated water made to private domestic homes totalled GH¢120,000,000 while salt totalled GH¢15,000,000.
- ii) Operating costs in respect of AquaFresh Ltd's manufacturing and processing plant amounted to GH¢50,000,000.
- iii) AquaFresh Ltd maintains a stock/inventory of spare components/parts for its processing and manufacturing plants. The inventory includes a special inventory called 'membranes' which are used in the desalination process. The company had ten membranes in inventory, at a cost of GH¢250,000 each, at the start of the year 2022. During the year 2022, AquaFresh Ltd purchased additional two membranes at a cost of GH¢300,000 each. Due to wear and tear, six membranes from the manufacturing plant needed to be replaced during the year. The six torn membranes were accordingly removed and destroyed during the year.
- iv) A holding tank for the salt broke and flooded the manufacturing plant. The cost of cleaning the plant was GH¢3,000,000. The holding tank had to be replaced and the replacement holding tank cost AquaFresh Ltd GH¢10,000,000, which was funded mainly by insurance proceeds of GH¢7,000,000. The original holding tank had cost GH¢6,000,000 and had a tax written down value on 1 January 2022 (the start of its last year of tax useful life) of GH¢1,000,000. These tanks are not considered part of the process of manufacture as they merely hold the salt.
- v) The water produced is pumped into two temporary holding tanks. These tanks had been purchased by AquaFresh Ltd on 1 June 2022, the same date it acquired some vacant land in James Town in Accra. The land cost GH¢9,000,000 and the two tanks cost GH¢5,000,000 each. These tanks are not considered part of the process of manufacture as they merely hold the desalinated water.
- vi) In 2022 AquaFresh Ltd installed sea-based wind and energy turbines along the length of its water pipelines. This was done to offset the high energy requirements for the desalination process. These wind and energy turbines cost a total of GH¢6,000,000. The wind and energy turbines have been certified by Ghana Revenue Authority as manufacturing assets.
- vii) Specific bad debts written off amounted to GH¢4,000,000. A further GH¢10,000,000 is listed by AquaFresh Ltd as general provision for doubtful debts in its accounting provision for the year ended 31 December 2022. The list for general provision for doubtful debts was GH¢9,000,000 at the start of the tax year.

viii) Wages and salaries paid amounted to GH¢30,500,000.

ix) The written down values of pools of assets as of January 1, 2022, were:

Pool 1	GH¢250,000
Pool 2	GH¢48,000,000
Pool 3	GH¢13,000,000

x) Cost of Buildings as of January 1, 2022, was GH¢5,000,000.

Required:

a) Compute capital allowance of AquaFresh Ltd for the 2022 year of assessment using all the available information. **(5 marks)**

b) Compute the taxable income of AquaFresh Ltd for the 2022 year of assessment. **(15 marks)**

(Total: 20 marks)

QUESTION FOUR

Fenty Trust Ltd is a non-resident company acting as the trustee for four resident Ghanaians of whom each has 22.5% share in the Trust. The Trust was set up on the instruction of Mr Karl Odogo before he died. Mr Karl Odogo, was a businessman with interest in real estate, transportation, and numerous natural resources.

The Board of trustees decided to continue in the above businesses and others. As part of the Trust Deed, the Board of trustees were to make donations for good causes and discretionary payments to the beneficiaries where appropriate.

In the year 2022, the following transactions took place:

- i) Total rental income from the real estate was GH¢9,375,000.
- ii) Administrative expenses of the Trust for the year 2022 amounted to GH¢725,000.
- iii) A friend of Karl Odogo contributed GH¢600,000 to the trust by way of donation.
- iv) Interest received on the bank account of the Trust was GH¢350,000 gross.
- v) The Trust received a total amount of GH¢1,240,000 from the transport operations.
- vi) Total depreciation computed and treated using generally accepted accounting principles was GH¢104,000.
- vii) Remuneration and fees of the Trustees for 2022 year of assessment was GH¢980,000.
- viii) The External Auditors of the Trust charged GH¢45,000 for the year 2022 and it has been paid.
- ix) Donations were made to the following persons and institutions:

	GH¢
• Ghana Heart Foundation (receipt obtained from Ghana Health Service)	15,000
• Kumasi Children's Home (receipt from Social Welfare Department)	15,000
• XYZ Political Party (receipt from the Political Party)	45,000
• Funeral of a cousin of one of the members of the Governing Board of the trustees.	5,000
- x) The Ghana Revenue Authority has granted a capital allowance of GH¢81,250.
- xi) Discretionary payments of GH¢265,000 for each beneficiary was made during the year.

Required:

- a) Compute the chargeable income and tax payable by the Trust for the 2022 year of assessment. **(12 marks)**
- b) Outline the general tax rules on trust institutions and trust beneficiaries. **(8 marks)**

(Total: 20 marks)

QUESTION FIVE

- a) ACM Mining Ltd has commenced mining operations in Ghana. It procured heavy duty machinery and equipment for use in its operations.

Required:

Advise ACM Mining Ltd on what constitutes the cost of asset at commencement of commercial production in respect of mineral operations. **(5 marks)**

- b) Nananom Petroleum Ghana Ltd produced 3,000,000 barrels of oil per month. The crude oil was sold at \$70 per barrel. Royalty due is 5%, Carried Interest of 11% and Additional Interest of 3.75%.

Required:

Compute the state or government take in the following:

- i) Royalty
- ii) Carried interest
- iii) Additional participation interest

(5 marks)

- c) Repairs and improvements are not mutually exclusive in tax administration because one leads to the other and one cannot happen without the other. The Commissioner-General ensures that certain conditions are met before an amount of repairs and improvements is taken as an allowable deduction under the deductibility principles in tax administration.

You are the Tax Manager for Akwaaba and Associates, a firm of tax consultants. The Finance Manager of APC Ltd, a client of your firm is contemplating how to treat major repair works being undertaken on their warehouse.

Required:

Write a memo to the Finance Manager of APC Ltd explaining what constitutes *residual deduction rule* and state **FOUR (4)** conditions under which repairs and improvements are considered allowable deductions. **(10 marks)**

(Total: 20 marks)

SOLUTION TO QUESTIONS

QUESTION ONE

a) Ways a foreigner may participate in business

- A foreigner who may want to partner with an indigene is required to bring into the country an amount in US Dollars not less than 200,000 in cash or capital goods relevant to the operation or a combination of both. With a minimum of 10% as equity to the Ghanaian partner.
- If the foreigner wants to go solo in the operation, the foreigner must bring a capital of 500,000 USD in cash or capital goods relevant to the business operation or a combination of both.
- A foreigner that wants to go into trading shall bring into the country an amount of 1,000,000 USD in cash or goods and services. With a minimum of 20 skilled Ghanaians. The following do not constitute trading: Manufacturing, exports and portfolio investment

(8 marks)

b)

i) The Comparable Uncontrolled Price (CUP) method

The CUP compares the price for property, goods or services transferred in a controlled transaction to the price charged in a comparable uncontrolled transaction **in comparable circumstances**.

An uncontrolled price is the price agreed between independent parties for the transfer of property, goods, or services.

If the transfer is in all material respects comparable to the transfer between related parties, the price becomes a comparable uncontrolled price.

Example

Company A resident in Ghana manufactures chocolate which it sells at a price of GH¢100.00 per carton to a subsidiary in France but at a price of GH¢120.00 to an independent person also in France and carries out the same function as the subsidiary.

Assuming all other factors of comparability such as contractual terms are the same, an amount of GH¢20.00 per carton sold should be added to Company A's assessable income.

(4 marks)

ii) Situations where it is most appropriate to apply the CUP method include but not limited to:

- Interest rate charged on borrowing between persons in a controlled relationship.
- Royalty charged on licensed intangible properties (e.g., trademark, design, copyright etc.); and

- Price charged for the sale of listed securities.

(Any 2 points @ 1 mark each = 2 marks)

- c) Under section 47 of Act 896, gains arising from a merger, amalgamation and re-organisation is exempt from tax if there is 50% or more in the underlying ownership of the new assets.

The two companies should consider a merger, or amalgamation provided they will succeed in the having 50% in the underlying ownership. The one with a lower equity must increase it to be at par with the one with a higher equity.

From the above, Zantem Ltd must work hard to increase its capitalisation so that it does not become liable in the payment of tax on the gains.

Bonty to slow growth to assist by reducing adverts and marketing

They may consider joint advertisements as a way to keep the cost from rising

They may consider no advertisement and marketing cost.

(6 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

Question 1A.

This question required the understanding of the GIPC Act 865 on how foreigners can conduct business activities in Ghana. There are basically three ways foreigners can conduct business activities in Ghana.

- This could be through joint business operation with an indigene holding minimum of 10%,
- Through sole business operations and
- Through trading. Trading does not include manufacturing, portfolio investment and exports.

This is a popular question. Many candidates were able to show knowledge in this area and maximised marks

Question 1 B

The question required understanding of transfer pricing issues especially the comparable uncontrolled price method.

Candidates were required to provide examples of comparable uncontrolled price. Transfer pricing is very popular yet anytime it comes, it is a nightmare for candidates. Special attention should be paid by candidates and lecturers alike. Candidates should have mastery over this area as it continues to be very popular area with examiners.

Question 1 C

This question was all about merger, amalgamation and reorganisation but it should not bring about enormous tax exposure to the company and should also improve shareholders value.

QUESTION TWO

a) Permanent establishment (PE) is a place in Ghana where a non-resident person conducts business activities or is at the disposal of the non-resident person. It includes the following:

- A place where a non-resident person installs or is using to install substantial equipment or machinery
- It is a place in Ghana where a non-resident provides services
- It is a place in Ghana where a non-resident does construction, installation or installation of a project or the supervision of the project.
- Agency creates a permanent establishment situation except where the agent is an independent agent, going about their businesses without recourse to the principal.

Taxation of PE

- As a withholding tax at 20%, Corporate tax at say 25%, filing of tax returns, and Registration for TIN

(4 points @ 2 marks each = 8 marks)

b)

i) Set up

Manufacturing:

- Fresh graduate Incentive
 - Up to 1% of fresh graduate in total workforce -10%
 - Above 1% to 5% -30%
 - Above 5% -50%
 - The above are percentages on wages and salaries paid to the fresh graduates. It will be taken as additional allowable deduction.
- Carry over of losses - Manufacturing companies can carry over losses made for 5 years
- Register with Customs to have rebates in the import duty of raw materials
- Exports are zero rated
- Manufacturing has no restriction in terms of capital requirement a foreigner should meet
- Manufacturing companies which belong to the Association, shall be given upfront reliefs in its Value Added Tax (VAT). Use and pay later.
- Input VAT is claimable
- Note also that, all cost incurred in running the business shall be allowable as a deduction in arriving at the chargeable income

Free zone:

- After the first 10 years of operation, export is taxed at the rate of 15%
- Imports into the free zone is exempt from tax
- VAT and NHIL, GETFUND and Covid-19 levy are exempt from tax
- Dividend paid to shareholders is exempt from tax.
- Carry over of losses

ii) Location

Locational Incentive-Reduction in tax rates as the company gets sited in areas outside Accra and Tema.

Accra/Tema	-25%
Regional Capitals	-18.75%
Any other area	12.5%

iii) Intervention:

- With 4 shareholders, it become a close company where the Commissioner-General may declare dividend on its behalf and take a deemed dividend withholding tax.
- With the equity of GH¢2 million, stamp duty of 0.5% shall be paid. Additionally, if it is not from a tax source, the Ghana Revenue Authority shall tax the amount in the hands of the shareholders.

- With the additional capital injection from the financial institution of GH¢10 million and GH¢20 million from the shareholders will create the following scenario:

	GH¢
Debt from financial institution:	10 million
Debt from shareholders:	20 million
Equity:	2 million

The above will not create any thin capitalisation issues because the shareholders are resident and the interest paid is not exempt from tax. Therefore, the condition to meet as resident for THIN CAP to apply is not applicable.

- The interest on the loan above the 4% interest shall not be allowable. It will be added back to profit.
- The transfer of GH¢2 million to stated capital from the retained earnings shall be liable to stamp duty payment of 0.5% (now at 1%) of the amount transferred and a deemed dividend withholding tax of 8%.
- The recruitment of fresh graduates from a recognized tertiary institution in Ghana shall be granted fresh graduate incentive. This is not applicable when the fresh graduates are recruited in from outside Ghana.

(12 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

Question 2 A.

This is another popular area that candidates are familiar with. It required the types of Permanent Establishment (PE). A lot of candidates did not appear to have read on Permanent Establishment.

A candidate stated that a “Trust is a PE if any of the trustees reside in the country or the firm is registered in Ghana”. This cannot be taxation.

Question 2 B

This is a question that required evaluation of different portfolio of measures on tax planning. It required understanding a close company and an open company and their tax implication.

It required the difference between free zone and manufacturing looking into the following:

Set up

Location

Intervention

A candidate presented a pathetic rendition as “manufacturing entity will pay more taxes in Accra and Tema” as an answer for the locational incentive. At this level, it is about facts and not about fiction. Provide the rates as a justification. The submission by the candidate is rebuttable and arguably wrong.

QUESTION THREE

a) **Computation of Capital Allowance (GH¢000)**

	Pool 1	Pool 2	Pool 3	Pool 4	Total
WDV	250	48,000	13,000	5,000	
Additions	0	6,000	10,000	0	
Disposal	<u>0</u>	<u>0</u>	<u>(7,000)</u>	<u>0</u>	
Depreciation Basis	250	54,000	16,000	5,000	
Capital Allowance	<u>(100)</u>	<u>(16,200)</u>	<u>(3,200)</u>	<u>(500)</u>	20,000
WDV	<u>150</u>	<u>37,800</u>	<u>12,800</u>	<u>4,500</u>	

(Marks are evenly spread using ticks = 5 marks)

b) AquaFresh Ltd

Computation of Taxable Income

Year of Assessment: 2022

Basis Period: January 1 to December 31, 2022

	GH¢000	GH¢000
Sale Revenue: Water	120,000	
Mobile water (500 x GH¢30,000)	<u>15,000</u>	135,000
Operating Cost		(50,000)
Cost of membranes used:		
Opening stock of membranes (250,000 x 10)	2,500	
Add Purchases of membranes (300,000 x 2)	<u>600</u>	
	3,100	
Less Closing stock:		
Opening	2,500	
Purchases	<u>600</u>	
	3,100	
Replacement (250k x 6)	<u>1,500</u>	(1,500)
Cost of cleaning plant during breakage and flooding		(3,000)
Specific Bad debts		(4,000)
Wages and salaries		(30,500)
Capital Allowance		<u>(20,000)</u>
		<u>109,000</u>
Taxable Income		<u>26,000</u>

(Marks are evenly spread using ticks = 15 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

This was a question that gave candidates some amount of tough time. No candidate could calculate the capital allowance correctly. Admittedly it required some amount of reading but not beyond the capacity of level 3 candidates.

The computation of the cost of sales was a huge challenge for candidates.

The tax charge was wrong because the capital allowance was wrong. Quite akin to that is the treatment of proceeds from disposal of a depreciable assets. Many candidates had forgotten the treatment.

Candidates had challenges with the classification of the pools or the class for capital allowance purposes.

Another mistake is the lack of title or heading which should be the requirement of the question before the candidates proceeded to answer the questions. Every taxpayer is identified as a person and what the candidate was required to do was to provide the heading or title. Most candidates did not do that but went ahead to put currency sign against the numbers as sufficient answers. It does not appear professional and candidates may lose marks as a result.

QUESTION FOUR

a) Fenty Trust Ltd

Computation of Chargeable Income

Year of Assessment: 2022

Basis Period: January 1 to December 31, 2022

	GH¢	GH¢
Incomes:		
Rental Income	9,375,000	
Gifts	600,000	
Interest received	350,000	
Transport operations	<u>1,240,000</u>	
		11,565,000
Expenses:		
Administrative Expenses	725,000	
Remuneration and fees	980,000	
Audit fees	45,000	
Donations: Ghana Heart Foundation	15,000	
Kumasi Children Home	15,000	
Capital Allowance	<u>81,250</u>	
		<u>1,861,250</u>
		9,703,750
Discretionary payment (265,000 x 4)		<u>(1,060,000)</u>
Chargeable income		8,643,750
Tax Charged @ 25%		2,160,937.50
Less withholding tax (8%* 350,000)		28,000.00
Tax payable		2,132,937.50

(Marks are evenly spread using ticks = 12 marks)

b) **General tax rules on:**

A Trust institution

A trust is liable to tax separately from its beneficiaries and separate calculations of income must be made for separate trusts regardless of whether they have the same trustees.

A trust is taxed as an entity, except a trust of an incapacitated individual (not being a minor), which is taxed as though it were an individual.

Amounts derived and expenditure incurred by a trust, or a trustee (other than as a bare agent) are treated as derived or incurred by the trust and not any other person. This rule applies whether the amount is derived or incurred on behalf of another person and whether or not any other person is entitled to such an amount or income constituted by such an amount.

Assets owned and liabilities owed by a trust, or a trustee (other than as a bare agent) are treated as owned or owed by the trust and not any other person.

Beneficiaries of a Trust

- Distributions of a resident trust are exempt in the hands of the trust's beneficiaries; and
- Distributions of a non-resident trust are included in calculating the income of the trust's beneficiaries.

Gains on disposal of the interest of a beneficiary in a trust are included in calculating the income of the beneficiary.

(8 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

The question was on taxation of Trust. Candidates were required to derive the income and take account of allowable deduction.

The common mistake that ran through the work of every candidates was that non-allowable deduction should not be considered as allowable because it was a gross income without any adjustment.

Another mistake was the lack of title or heading which should have been the requirement of the question. Every taxpayer was identified as a person and what the candidate was required to do was the heading or title. Most candidates did not do that but went ahead to put currency sign against the values.

QUESTION FIVE

- a) The following are treated as the cost of a depreciable asset for which capital allowances are granted with respect to a separate mineral operation:
- The cost of the mineral right.
 - The balance in the pool of reconnaissance and prospecting expenditure at the time production of a commercial find commences.
 - Expenditure incurred in respect of the mineral operation on waste removal, overburden stripping, shaft sinking and like activities that are prescribed by regulation. To get improved access to ore bodies to be mined in the future, costs shall be capitalised but where the waste removal and overburden stripping cost is incurred during production for the extraction of ore in the current period, the cost shall be expensed. In some cases, the costs of waste removal, overburden stripping (pre-stripping), shaft sinking, and other cost incurred before production may be incurred separately as stand-alone cost. These costs may not be qualified to be added to the cost of an asset because of their nature, however, they are capitalized and consequently, capital allowance granted to the cost incurred.
 - Bonus payments made in respect of the grant of the mineral right.

(4 points @ 1.25 marks each = 5 marks)

b) Computation of the State's Benefits

	Barrels per month
Gross production	3,000,000
Less Royalty (5% x 3,000,000)	<u>150,000</u>
Net production	<u>2,850,000</u>
Carried interest (11% x 2,850,000)	313,500
Additional Interest (3.75% x 2,850,000)	106,875

Total Government Take:

Royalty	150,000
Carried Interest	313,500
Additional Interest	<u>106,875</u>
	<u>570,375</u>

Total Revenue per month = 570,375 x \$70 = \$39,926,250

(5 marks)

c)

To: Finance Manager

From: Tax Officer

Date: 8th November 2023

Subject: Constituent of the Residual Deduction Rule

As requested, I furnish below the constituent of the residual deduction rule.

Residual deduction rule is a deductibility principle that makes it possible for any cost that will be allowable to meet the following principles:

Being wholly

Exclusively and

Necessarily incurred principles

Additionally, no capital asset is allowable.

Expenses whose useful life is more than or goes beyond one year shall be apportioned.

Repairs and improvement whether of a capital nature of not be expensed subject to the following condition:

- The amount of repairs and improvement should be known from the available data
- The pool of depreciable asset or the depreciable asset the amount relates to must be identified
- The written down value at close must be computed
- 5% of the written down value must be computed on the written down value at close
- Up to 5% of the written down value at close must be expensed.

Hope the above will help you in your decision making.

Thank you.

(10 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

Question 5A

The question required the constituency of cost of asset at commencement of commercial production in respect of mineral operations. Research and development, should not be part of the computation of cost of assets.

Question 5B

Computation of an excerpt of Government Take. Some candidates had challenges in the computation of the various interests of government.

The computation of government take. A simple guide for candidates.

Production in barrels	3,000,000	Price	Value
Royalty 5%	150,000	70	10,500,000
Net Production	2,850,000		
Carried Interest 11%*2,850,000	313,500	70	21,945,000
Additional Interest 3.75%*2,859,000	106,875	70	7,481,250
Total barrels due govt	570,375	70	39,926,250
Gvt take in value			

Some candidates multiplied the quantity by 12 months and worked with it. Taxation is a creature of law and therefore, no one has any business going beyond the question as examiners do not reward boldness but reward correct answers.

Question 5 C

It required the use of memo to address residual deduction rule and repairs and improvement.

Many candidates did not know that the question was two in one. Many wrote on the repairs and improvement and left the residual deduction rule and ended up losing marks.

Others wrote on conditions for granting capital allowance as their answer to the question. The requirement of the question was brazenly clear.

RECOMMENDATION

- We recommend that candidates should read widely tax materials and also read the tax laws and the Acts and Regulation to have control over the subject matter.
- Tuition Providers should complement the efforts of ICAG in the improvement of the pass rate by discussing the examiners' report with candidates to get the issues ingrained in them before they go for the examination.

- Candidates are encouraged to answer a major question on a fresh answer page of answer booklet with sub questions following. Under no circumstances should sub question of a major question be put under another major question. With the system of marking, it does not help in the process. Example question 1 b should not be put under question 2.
- Candidates with poor hand writing should continue to work on them to improve the legibility of their handwriting to help the examiners with the marking.
- Construction of the grammar continues to be a major challenge in the examination. Candidates are hereby encouraged to read a lot of journals as part of the examination preparation in order to improve upon their ability to convey impressive thoughts for marking.
- Candidates are further encouraged to work on mastering the mechanics of memos and reports writing. Memos have certain features different from normal letter writing they are used to. This stark reality should not be lost on candidates.
- Candidates should be encouraged to read the examiners' report before they get into the examination rooms in order to know the avoidable mistakes so as to improve upon their ability to pass the examination.

CONCLUSION

- We wish to commend all stakeholders in the conduct of the examination. The examination was free from errors and any examination malpractices. This virtue should continue to characterise the conduct of the examination.
- Tuition Providers should insist on conducting mock examinations for the candidates in order to help increase the pass rate.
- Candidates should continue to patronise the ICAG manuals. The taxation questions were all set from the manuals.
- Candidates should in their own interest be the advocates for mock examination as they help to put them in the right frame and position for the main examination.
- Candidates should continue to use the syllabus as a guide in their reading and research towards the examination.
- Candidates should take interest in reading the examiners' report so as to overcome the weaknesses of candidates identified and documents as experience to avoid in the examination.
- Candidates should also take their studies seriously.