

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

**EXAMINER'S GENERAL COMMENTS**

General Candidates Performance

	Passed	Failed	Total
Total Candidates	112	212	324
Percentage	34.57%	65.43%	100%

Out of the total number of 324 candidates who wrote the Principles of Taxation paper, 112 (34.57.9%) of them passed and 212 (65.43%) of the candidates failed the paper.

Analysis of marks of those who failed.

	Failed (<30) %	Failed (31-40%)	Failed 41-49	Total
Total Candidates	46	101	65	212
Percentage	21.70%	47.64%	30.66%	100%

Out of the total number of 212 candidates who failed the Principles of Taxation paper, those who had below 30% were 46 (21.7%), those who had between 31% and 40% were 101 (47.64%). Those who had between 41 and 49% were 65 (30.66%).

**GENERAL COMMENTS**

The performance of the candidates was surprising because the level of difficulty of the questions for the diet were less than the July 2023 diet. It seems the candidates have been learning the principles of Taxation based on past questions instead of the syllabus and the law. The questions were testing candidates understanding of basic principles of taxation and yet most of the candidates could not answer them. Questions now give more attention to the candidates' understanding of the principles and laws of taxation.

The questions were very clear and also the questions included instructions to candidates that were specific and understandable, apart from question 4(b) where there was a little ambiguity with the instructions on carry over losses. Candidates are strongly advised to read and pay attention more on the tax laws and principles. This is so because the Principles of Taxation is built on general knowledge on how the tax laws and principles are to work and more significantly how the law and principles are to be explained and applied.

**STANDARD OF THE PAPER**

The standard of the questions was excellent for part two level of the examination structure. All the questions did reflect the Principles of Taxation syllabus of which the candidates were expected to have a fair knowledge to pass. However, some of the questions were allocated more marks than they deserve, thus favouring some candidates who studied those areas. Notwithstanding, the questions fairly covered

the entire syllabus, and the expectations were that any average student who wrote the paper should be in the position to pass.

### **PERFORMANCE OF CANDIDATES**

Generally, the performance of the candidates was *poor* and the expectations of the Examiner from the candidates were *largely not* met. Questions were of good standard with respect to level two of the examination structure. Instructions were clear as to what the candidates were to do. Any student who could not pass cannot blame anyone but himself or herself for lack of preparation and understanding of the syllabus. Surprisingly, the general performance of the candidates across the centres was below average.

Approximately 35% of candidates passed the paper. This was 1% higher than the July 2023 diet. However, it was 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.

The reasons could be as follows:

- Most of the candidates still do not understand and cannot apply the principles of taxation very well. It could also be that the candidates are not having good tuition.
- Those candidates who did well might have achieved good results because the instructions in most of the questions were clear and thus unambiguous.
- Also, candidates did very well because of the question one and question five. This question was well answered with most of the candidates scoring more than half of the marks.
- Candidates who passed did not have much problems stating the principles in taxation. It is expected that this trend will continue.
- There is evidence that some of the candidates are having a good tuition. However, some of the candidates did not show any evidence of good understanding of the basics of taxation. It could be there are still self-tuition.
- Those candidates who did not perform well do not understand the computation of capital allowance, fiscal policies, capital gains, and Value Added Tax, basic treatment of items such as research and development and treatment of Interest. These areas of taxation were examined prominently, and it seems most of the candidates have little knowledge on these issues.

### **NOTABLE STRENGTHS AND WEAKNESSES OF CANDIDATES**

It is evident that most of the candidates had excellent understanding of the syllabus and the subject. This was demonstrated in the answering of the questions. However, the coverage of the syllabus is still low. Candidates have been learning only certain parts of the syllabus. This was evident with some candidates scoring high marks in certain question and almost nothing in other questions.

It is also clear that most of the candidates received very good tuition on the subject. Most of the answers provided were very good. Lecturers should pay attention to the law and the basic principles of taxation. It seems some Lecturers do not follow the changes in the law.

Those who passed really deserve it because it was clear that they had prepared as some of the candidates were getting marks above 60%. A student could score 70%. This is clear that the candidates prepared well and understood the questions.

The manner most of the candidates presented their answers was very good. This makes the marking and scoring not so difficult. Candidates should pay attention to presentation style going forward.

Most of the candidates had excellent handwriting. This makes marking easy and facilitates understanding of candidates. Where there are plenty scripts to mark, and the handwritings are not good it can be frustrating to script markers.

The understanding of the topics in the syllabus was good. Most of the candidates had an excellent understanding of the topics in the syllabus. Even those who could not pass, had good marks, ranging between 31%-49%

It seems some of the candidates did not pay attention to certain topics. Probably, thinking those topics were not so important. Such topics are Ghana National Pension Scheme, Tax Administration, and Value-Added Taxation. If candidates had given more attention to these topics, the pass rate would have been more than 50%. Candidates are advised to give equal attention to the topics since subsequent examinations will be based on all the topics in the syllabus and not only part of the syllabus.

This is a subject in the ICAG scheme that is meant to build student understanding of Taxation before they take up the Advanced Taxation at the final level. It is therefore, expected that candidates will learn everything and not to pick and choose what they want to learn. Tuition providers should also pay equal attention to all the topics and not to ignore some considered to be minor and unimportant.

## QUESTION ONE

- a) The Managing Director of Atadeka Ltd has been informed that you are undertaking a course in taxation at the Institute of Chartered Accountants, Ghana and has sought your advice on the procedures for extension of time to file the company's Corporate Tax Returns.

**Required:**

Outline the procedures for extension of time to file tax returns to the Managing Director.  
(5 marks)

- b) The information below relates to individuals who earned income in the 2022 year of assessment:

**Resident individuals**

Mr. Agandi and Mr Yonny are resident employees in Ghana. The chargeable income earned per annum by Mr. Agandi and Mr Yonny amount to GH¢300,000 and GH¢650,000 respectively.  
(3 marks)

**Non-Resident individuals**

Mrs Zindana and Mrs Maleda are non-resident individuals. Mrs Zindana and Mrs Maleda have earned chargeable incomes to the tune of GH¢300,000 and GH¢650,000 per annum respectively.  
(2 marks)

**Required:**

Compute their respective taxes payable for the 2022 year of assessment.

- c) Ghana Revenue Authority has been charged to perform certain functions as enacted by Ghana Revenue Authority Act, 2009 (Act 791).

**Required:**

State **FIVE (5)** functions performed by Ghana Revenue Authority.  
(5 marks)

- d) Tax administration encompasses assessment, collection and enforcement of taxes legally due to the state. The enforcement of tax obligations requires an imposition of penalties and interest charges for non-compliance.

**Required:**

State the sanctions for failing to file tax returns.  
(5 marks)

**(Total: 20 marks)**

## QUESTION TWO

- a) There is imposed by the Value Added Tax Act, 2013 (Act 870) a tax to be known as the value added tax which is to be charged on the
- (a) supply of goods or services made in the country other than exempt goods or services; and
  - (b) import of goods or import of services other than exempt import”

### Required:

With reference to the above Act:

- i) What constitutes “Supply of goods”? (5 marks)
  - ii) What constitutes “Supply of services”? (5 marks)
- b) State **FIVE (5)** circumstances under which the Commissioner-General shall cancel the VAT registration of a taxable person. (5 marks)
- c) State whether the following are taxable or not and briefly explain your answer.
- i) Hostel facility offered to candidates by the Commonwealth Hall of the University of Ghana for profit.
  - ii) The supply of food and drinks by Papaye to the Vice President of Ghana for the Celebration of his birthday. (5 marks)
- d) Explain the following:
- i) Defined benefit scheme
  - ii) Defined contribution scheme (5 marks)

**(Total: 20 marks)**

## QUESTION THREE

Mr. Antitom (physically challenged) was employed as a Chief Accountant of Nangode Ltd on 1 April, 2020 on an Annual Basic Salary of GH¢60,000 x 10,000 – GH¢100,000. He was entitled to the following monthly allowances and benefits:

	<b>GH¢</b>
Responsibility Allowance	4,400
Professional Allowance	6,600
House help Allowance	8,200
Utilities	4,200
Overtime Allowance	6,000

- Provision of furnished accommodation by the employer for which he paid 5% of his basic salary.
- Provision of vehicle and fuel by the employer for both official and private use.
- Bonus payment amounting to 25% of his basic salary.

His annual returns was submitted to the Ghana Revenue Authority for the 2022 year of assessment in addition to the following:

- i) He is married with 3 children, two of whom are in approved Senior High Schools in Ghana. The third is at the University of South Africa.
- ii) He contributed 5.5% of his basic salary to the Mandatory Pension Scheme and an additional 10% of his basic salary to a Voluntary Pension Scheme approved by the National Pension Regulatory Authority.
- iii) He earned interest of GH¢4,000 on his Savings Account with the Tema Branch of Kilma Bank.
- iv) He also received a net dividend of GH¢20,480 from his investment with Enoga Securities.

**Required:**

Compute the Chargeable Income of Mr. Antitom for the 2022 year of assessment.

**(Total: 20 marks)**

#### QUESTION FOUR

- a) Your company has recruited five new employees and the Director of Training has instructed you to explain certain provisions in the Income Tax Act, 2015 (Act 896) to them:

**Required:**

As a tax trainee, explain the following provisions:

- i) Research and development expenditure. **(3 marks)**
- ii) Contribution and donations to worthwhile causes. **(3 marks)**
- iii) Financial cost from derivatives. **(4 marks)**

- b) Trincao Ghana, a branch of Trincao International declared a loss of GH¢500,000 in 2020 year of assessment in its return which was confirmed by the Commissioner-General. Trincao Ghana has just submitted its returns for the 2022 year of assessment and below are extracts from the returns:

	<b>GH¢</b>
Net profit as per accounts	20,000,000

**The following were charged to accounts:**

Depreciation	82,500
Loss from 2016	49,230

**Additional information:**

Agreed capital allowance with Ghana Revenue Authority	95,360
Corporate tax rate is 25%	

**Required:**

Determine the tax payable on profit by Trincao Ghana for the 2022 year of assessment.

**(10 marks)**

**(Total: 20 marks)**

## QUESTION FIVE

- a) The retention of tax by one person when making payment to another person regarding goods supplied and services rendered and remitting the same to the Ghana Revenue Authority is sometimes described as an easy way of tax administration.

**Required:**

Explain the obligations of a *withholding agent*.

**(5 marks)**

- b) The cost of iron rods supplied by Akinto Steel Works Ltd to Oputu Construction Ltd is worth GH¢300,000 (inclusive of National Health Insurance Levy, Ghana Education Trust Fund Levy, COVID-19 Health Recovery Levy and Value Added Tax).

**Required:**

Determine the Withholding Tax payable in respect of the contract for supplies. **(5 marks)**

- c) Section 133 of the Income Tax Act, 2015 (Act 896) provides for the interpretation of Capital Assets, Depreciable Assets and Investment Assets.

**Required:**

What are the distinguishing features of capital assets, depreciable assets and investment assets under the above-mentioned legislation? **(5 marks)**

- d) Bansey Enterprise received a vehicle from Unilever as the best distributor of Unilever product.

**Required:**

Explain to the Managing Director of Bansey Enterprise how to treat the gift of the vehicle. **(5 marks)**

**(Total: 20 marks)**

### Applicable Tax Rate

	<b>GH¢</b>	<b>Rate of Tax (%)</b>	<b>Tax Amount (GH¢)</b>
First	4,824	0	0
Next	1,320	5	66
Next	1,560	10	156
Next	36,000	17.5	6,300
Next	196,740	25	49,185
Next	359,556	30	107,866.80
Exceeding		35	

## SOLUTION TO QUESTIONS

### QUESTION ONE

#### (a) Extension of time to file tax return.

A person who is required to file a tax return may apply to the Commissioner-General for an extension of time to file the return.

The application shall:

1. Be in writing.
2. State the reasons for the request for extension; and
3. Be made before the due date for filing the return.

The Commissioner-General may, by written notice, extend the date by which the return is to be filed if the Commissioner-General is of the opinion that the applicant has shown reasonable cause for the extension.

An extension granted may be subject to the terms and conditions that the Commissioner-General considers appropriate, including the payment of security.

The Commissioner-General may grant multiple extensions but the extensions shall not in total exceed sixty days from the date the return was originally to be filed.

The grant of an extension of time does not alter the date for payment of tax as specified in the tax law under which the return is to be filed.

**(5 marks)**

#### (b)

#### Computation of tax payable- Mr Agandi

Chargeable Income	300,000		
First	<u>4,824</u>	0%	0.00
	295,176		
Next	<u>1,320</u>	5%	66.00
	293,856		
Next	<u>1,560</u>	10%	156.00
	292,296		
Next	<u>36,000</u>	17.5%	6,300.00
	256,296		
Next	<u>196,740</u>	25%	49,185.00
	<u>59,556</u>	30%	<u>17,866.8</u>
			<u>73,573,80</u>

### Computation of tax payable- Mr Yonny

Chargeable Income	650,000		
First	<u>4,824</u>	0%	0.00
	645,176		
Next	<u>1,320</u>	5%	66.00
	643,856		
Next	<u>1,560</u>	10%	156.00
	642,296		
Next	<u>36,000</u>	17.5%	6,300.00
	606,296		
Next	<u>196,740</u>	25%	49,185.00
	409,556		
Next	<u>359,556</u>	30%	107,866.8
	<u>50,000</u>	35%	<u>17,500</u>
			<b><u>181,073.80</u></b>

### Non- Residents

The chargeable income of non-residents individuals for a year of assessments is taxed at the rate of 25%

Tax Payable Mrs Zindana            25% x 300,000            =GH¢75,000

Tax Payable Mrs Maleda            25% x 650,000            =GH¢162,500

**(3 marks)**

### (c) Functions of the Ghana Revenue Authority

To achieve its objectives, the Ghana Revenue Authority is to perform the following functions:

1. Administer and give effect to the laws or relevant provisions of the laws including various tax rates and use optimum efficiency in assessing, collecting, and accounting for all revenue to which those laws apply.
2. Pay the amounts collected into the Consolidated Fund unless otherwise provided by the Act 791 and other Acts.
3. Promote tax compliance and tax education.
4. Combat tax fraud and evasion and co-operate to that effect with other competent law enforcement agencies and revenue agencies in other countries.
5. Advise District Assemblies on the assessment and collection of their revenues.
6. Prepare and publish reports and statistics related to its revenue collection.
7. Make recommendations to the Minister of Finance on revenue collection policy.

**(5 marks)**

**(d) Failure to file tax return on time**

Where a person fails to file a tax return by the due date required the Commissioner-General may appoint another person to prepare and file any information that the Commissioner-General may require, including information required by the return.

The Commissioner-General is required to assess the tax liability of the person as required, including by way of adjusted assessment, and for this purpose may use any information in the possession of the Commissioner-General including information obtained from the person appointed by the Commissioner-General.

A person who fails to file a tax return as required by a tax law is liable to pay a penalty of GH¢500 and a further penalty of GH¢10 for each day that the failure continues.

In the case of communications service tax, the penalty is GH¢2,000 and a further penalty of GH¢500 for each day that the failure continues.

A penalty imposed applies separately for a failure to file an estimate and a failure to file a tax return incorporating the final amount.

Where a person fails to submit the tax return four months after the imposition of the penalty for non-submission, the Commissioner-General may, in addition to the penalty imposed, prosecute the person to compel the person to submit the return.

**Interest**

The interest is 125% of the Bank of Ghana rediscount rate compounded monthly on the amount outstanding.

**(5 marks)**  
**(Total: 20 marks)**

**EXAMINER'S COMMENTS**

Question one assessed the candidates on Tax Administration, individual tax rates, The Ghana Tax System. Candidates were examined on topics such as: procedures for extension of time to file returns, commutation of individual tax, functions of Ghana Revenue Authority, and sanction for failing to file returns. These questions were supposed to be familiar to candidates because Ghana Tax Systems and Tax Administration are explicitly stated in the Principles of Taxation syllabus. The marks allocated were also fair for the efforts needed to answer the question. This question was excellently answered, and the candidates scored very high marks.

## QUESTION TWO

### (a)(i) Supply of goods

For the VAT Act, *supply of goods* means an arrangement under which the owner of goods parts with possession of the goods, by way of sale, barter, lease, transfer, exchange, gift, or similar disposition. Supply of goods does not include the supply of money.

The disposal of a taxable activity or part of a taxable activity that is capable of being operated separately as a going concern, is a supply of goods made in the course or furtherance of the taxable activity.

The supply of any form of power, heat, refrigeration, or ventilation is a supply of goods.

### (a)(ii) Supply of services

Supply of services means a supply which is in the nature of (i) the performance of services for another person; (ii) the making available of a facility (iii) tolerating a situation or (iv) refraining from doing an activity.

A supply of services that is incidental to a supply of goods is part of the supply of goods. A supply of goods that is incidental to a supply of services is part of the supply of services. A supply of services that is incidental to an import of goods is part of the import of the goods.

(5 marks)

### (b) Cancellation of registration

The Commissioner-General is mandated to cancel the registration of a taxable person where the Commissioner-General is satisfied that the taxable person:

1. No longer exists.
2. Is not carrying on a taxable activity.
3. Is not required or entitled to apply for registration.
4. Has no fixed place of business or abode
5. Has not kept proper accounting records related to a business activity carried on by that person.
6. Has not submitted regular and reliable tax returns required under the VAT Act.
7. Has not met the registration threshold during the twelve-month period immediately before the application was made or will not meet the threshold during the twelve-month period following the date of the application. And more importantly a minimum period of two years has elapsed since the

effective date of the registration. This particular provision for cancellation of registration does not apply to an auctioneer, the Government, or a promoter of a public entertainment.

A cancellation takes effect from the end of the tax period in which the registration is cancelled, or from any other date determined by the Commissioner-General.

**(5 marks)**

**(c) Taxable supply**

A taxable supply is a supply of goods or services made by a taxable person for consideration during, or as part of taxable activity carried on by that taxable person. A supply is part of a taxable activity of a person if the supply is made by the person as part of or incidental to any economic (*profit*) activity the person conducts.

To constitute a supply the following conditions are required to be fulfilled: (i) the activity involves supply of goods or services or both (ii) the supply is for a consideration (iii) the supply is made in the course or furtherance of business (iv) the supply is made in the taxable territory (v) the supply is a taxable supply, and (vi) the supply is made by a taxable person.

From the above,

- i. Hostel facility offered to candidates by the Commonwealth Hall of the University of Ghana for *profit*, will be a taxable activity. It becomes exempt only if the purpose is not for profit. Example Commonwealth Hall of the University of Ghana providing accommodation to candidates not for profit but as part of hosting candidates.
- ii. The supply of food and drinks by Papaye to the Vice President of Ghana for the Celebration of his birthday, will be a taxable activity. Vice President is not exempt or does not have a relief. It is only the President who is covered or relieved from the payment of VAT.

**(5 marks)**

**(d) The Three-Tier Contributory Scheme**

The three-tier contributory scheme is a mixture of the defined benefit and defined contribution schemes.

- (i) Defined benefit scheme** means a pension scheme providing a definite or clear benefit. Under these schemes the employees will, on retirement, receive a pension based on the length of service and salary, usually final salary, or an average of the last few (usually three) years' salaries.

- (ii) **Defined contribution schemes** are schemes in which the employer undertakes to make certain contributions each year, usually a stated percentage of salary. These contributions are usually supplemented by contributions from the employee. The money is then invested, and, on retirement, the employee gains the pension benefits that can be obtained from the resulting funds.

**(5 marks)**

**(Total: 20 marks)**

#### **EXAMINER'S COMMENTS**

Question two examined candidates on Value Added Tax and the Pensions. The questions on VAT were straightforward dealing with basic principles governing VAT. The question on Pensions, however, demanded definitions. Some of the questions were: what constitute supply of goods and services, circumstances under which the Commissioner General will cancel VAT registration, definition of benefit and defined contribution schemes under insurance. Consistently for the past sittings, the candidates' performance have been poor, probably because most of the candidates have not grasped the laws and principles governing the VAT mechanisms. This was averagely answered question.

### QUESTION THREE

**Antitom**  
**Computation Of Chargeable Income**  
**Year Of Assessment: 2022**

<b>Basis Period:</b>	<b>January to December, 2022</b>		
	GH¢	GH¢	GH¢
Basic Salary:			
01/04/2020 – 31/03/2021	60,000.00		
01/04/2021 – 31/03/2022	70,000.00 x 3/12	17,500	
01/04/2022 – 31/03/2023	80,000.00 x 9/12	<u>60,000</u>	<b>77,500</b>
Add all Cash Allowance:			
Responsibility Allowance	4,400 x 12	52,800	
Professional Allowance	6,600x 12	79,200	
Househelps Allowance	8,200 x 12	98,400	
Utilities	4,200 x 12	50,400	
			<u>280,800</u>
			358,300
Add Other Cash Benefits:			
Bonus Payment: 25% x 77,500		19,375	
Less 15% x 77,500		<u>11,625</u>	7,750
Overtime Allowance	6,000 x 12		72,000
Indirect Cash Payments:			
Social Security: Employer 13% x 77,500			10,075
<b>Total Cash Employment</b>			<b>448,125</b>
Add Non-Cash Benefits:			
Accommodation 10% x 448,125		44,812.5	
Less Rent 5% x 77,500		<u>3,875.0</u>	40,937.5
Vehicle and fuel 10% x 448,125		44,812.5	
Restricted 500 x 12		<u>6,000.0</u>	<u>6,000.0</u>
<b>Qualifying Employment Income</b>			<b>495,062.5</b>
Less Reliefs and Deductions:			
Provident Fund: Employee 10% x 77,500		7,750.00	
Social Security: Employee 5.5% x 77,500		4,262.50	
Employer 13% x 77,500		10,075.00	
Marriage Responsibility Allowance		1,200.00	
Child Education Allowance 2 x 600		1,200.00	
Disability Allowance 25% x 495,062.50		123,765.63	<u>148,253.13</u>
<b>Chargeable Income</b>			<b><u>346,809.37</u></b>

**Note on treatment of Interest and dividends.**

Candidates who mentioned the non-treatment of the interest and dividends in the question were rewarded with one mark.

**(20 marks evenly spread using ticks)**

**EXAMINER'S COMMENTS**

Question three tested candidates understanding on Taxation of Individuals and specifically on employment income. Questions were set on computation of chargeable income of an individual. The details given to the candidates were very clear and any average candidates should be in the position to provide good answers to the questions. It turned out that this question was the most poorly answered. Less than 10% of the candidates passed this question.

## QUESTION FOUR

### **(a)(i) Research and development expenditure.**

Research and development expenses meeting the requirements of wholly, exclusively and necessarily incurred during the year by the person and in the production of income from the business or investment may be deducted irrespective of whether they are of a capital nature.

Research and development expenses means expenses incurred by the person in the process of developing the person's business and improving business products or process. Research and development expenses excludes expenses incurred that are otherwise included in the cost of an asset used in the process of the research and development.

**(3 marks)**

### **(a)(ii) Contribution and donations to worthwhile causes.**

A person may claim a deduction equal to contributions and donations made during the year for worthwhile causes that have been approved by the Government. The following are the worthwhile causes that may be allowed:

1. Donation or contribution to a charitable Organisation.
2. Donation or contribution to a scheme of scholarship or course of study.
3. Donation or contribution towards Rural or Urban Development.
4. Donation or contribution towards Sports development or promotion.
5. Other worthwhile cause approved by the Commissioner-General of the Ghana Revenue Authority.

**(3 marks)**

### **(a)(iii) Financial cost from derivatives.**

Financial cost is interest or losses with respect to a *financial instrument* and it is tax deductible. The term financial instrument means:

1. Debt claims or debt obligation.
2. A derivative instrument.
3. A foreign currency instrument; and
4. Any other instrument prescribed by regulations or, in the absence of regulations, treated as a financial instrument by generally accepted accounting principles.

The amount of financial costs should not exceed the total of:

- a. Financial gains derived by the person that are to be included in calculating the person's income from the business or investment for the year of assessment; and

- b. Fifty percent of the chargeable income of the person for the year from the business or investment calculated without including a financial gain derived by the person; or deducting a financial cost incurred by the person.

Financial costs for which a deduction is denied because of the above rules may be carried forward and treated as incurred during any of the following five years of assessment. Carry forwards are used in the order in which they are incurred.

**(4 marks)**

(b)

**Trincao Ghana Limited**  
**Computation of Tax Payable**  
**Year of Assessment: 2022**

Basis Period: January to December 2022

	GH¢	GH¢
Net Profit		20,000,000
Add Back:		
Depreciation	82,500	
Loss from 2016	<u>49,230</u>	
		<u>131,730</u>
		20,131,730
Less capital allowance		<u>95,360</u>
Chargeable income		<b>20,036,370</b>
Tax at 25%		<u>5,009,092.50</u>
Net Profit after tax		<u>15,027,277.50</u>
Branch profit tax at 8% x 15,027,277.50		1,202,182.20

**Note**

There was GH¢500,000 loss in 2020. However, there was no instruction in the question with respect to what happened in 2021. It is assumed that there was enough profit in 2021 to take over the carry over loss. However, candidates who assumed this loss has not been taken care of were marked correctly.

**(10 marks)**

**(Total: 20 marks)**

## **EXAMINER'S COMMENTS**

Question four examined basic principles and examination of accounts of companies. The questions were meant to test candidates understanding on how to identify transactions that are allowable and those not allowed. Some principles tested here: treatment of deemed, treatment of research and development expenditure, contribution towards worthwhile causes, financial cost, carry over losses, and treatment of interest. Most candidates were able to provide excellent answers and thus earned excellent marks. Majority of the candidates had no idea of how to treat research and development expenditure, explain financial cost and Interest. This is an area of the syllabus that candidates can easily earn marks if they learn then very well.

## QUESTION FIVE

- a) The retention of tax by one person when making payment to another person regarding the obligations of a *withholding agent*.

### **Income Tax Withholding Agent**

The provisions of the Act require a resident person who pays an amount for works or the supply of goods and services to another resident or non-resident person, with a source in Ghana, to withhold tax from the payment.

Every withholding agent shall file with the Commissioner-General within fifteen (15) days after the end of each calendar month in which tax is withheld, a return in the manner and form prescribed specifying payments made by the withholding agent during the period.

A withholding agent who fails to withhold the tax shall be liable to pay the tax. A withholding agent is entitled to recover the tax paid from the withholder.

A withholding agent who has no withholding tax obligation for a particular month shall still file a "Nil" return with the Commissioner-General within fifteen (15) days after the end of the month in which the tax was withheld.

A withholding agent shall prepare and serve on a withholder a Withholding Tax Certificate in the form prescribed in Regulation 26 of the Income Tax Regulations, 2016 (LI 2244).

**Note Candidates who wrote on VAT withholding Agents were also marked**

### **Value Added Tax Withholding Agent**

A Value Added Tax Withholding Agent is required to:

1. Withhold from the payment to a registered Value Added Tax trader, seven percent of the taxable output value of standard rated supplies.
2. At the time of making payment for the standard rated supplies, issue a Withholding Value Added Tax Credit 'Certificate in the form prescribed by the Commissioner-General to the supplier.
3. Continue to issue to the supplier withholding VAT certificate showing the amount of tax withheld. These Certificates are to be used for purposes of showing as proof of advanced payment of both the VAT and the levies.
4. Continue to file withholding VAT returns by the 15<sup>th</sup> of the month immediately following the month to which a return relates and make payments of VAT withheld to the Commissioner - General.

**(5 marks)**

**b) Determination of Withholding Tax payable in respect of the contract for supplies**

Determine the VAT charged. =  $(300,000 \times 15/115)$  = 39,130.43  
Determine the VAT exclusive amount  $(300,000 - 39,130.43)$  = 260,869.57

VAT	39,130.43
NHIL $2.5/106 \times 260,869.57$	6,152.58
GETFund $2.5\% \times 260,869.57$	6,152.58
COVID-19 $1/106 \times 260,869.57$	<u>2,461.03</u>
	<u>53,896.62</u>

Contract Sum	300,000.00
Less VAT + Levies	<u>53,896.62</u>
Amount Exclusive of VAT and Levies	<u>246,103.38</u>

Withholding tax at  $3\% \times 246,103.38$  7,383.10

Note: Candidates who computed withholding VAT instead of 3% withholding for goods were also marked correct.

**(5 marks)**

**c) Interpretations**

**Capital asset** means an asset to the extent to which it is employed in a business or investment; but excludes trading stock or a depreciable asset.

**Depreciable asset** means an asset to the extent to which it is employed in the production of income from a business, and which is likely to lose value because of wear and tear, obsolescence, or the effluxion of time; but excludes goodwill, an interest in land, a membership interest in an entity and trading stock.

**Investment asset** means a capital asset held as part of an investment being shares or securities in a company, a beneficial interest in a trust or an interest in land or buildings, but excludes the primary private residence of an individual, provided it has been owned by the individual continuously for the three years before disposal and lived in for at least two of those three years (calculated daily).

**(5 marks)**

**d) How to treat gift of the vehicle from one business to another.**

Gift tax according to Income Tax Act, 2015 Act 896, is when a person receives a gift in respect of their employment, business, and/or investment other than under a will, upon intestacy or by way of transfer to the spouse, child, or parent of that person. Any such gift is taxable under the income tax law.

Under section 5(2vi), of Act 896, 2015, Gift from Business is defined as a gift that a person may receive in respect of business, he/she owns either fully or partially.

In calculating a person's gains and profits from conducting a business for a year of assessment, gifts received by the person in respect of the business is added to the gains and profits of the business.

The value of a taxable gift is the market value of the gift at the time of the receipt.

The tax payable on gifts under section 5(2vi) – Gifts from Business, is added to the business income for the year of assessment. The optional tax rate for individuals who opt to tax separately their gains gifts received is increased to 25% (from 15%), effective 2023.

**(5 marks)**  
**(Total: 20 marks)**

**EXAMINER'S COMMENTS**

Question five was made up of three parts: gift taxation, withholding taxes, and definitions of capital assets, depreciable asset, and investment assets. This was also one of the badly answered questions of all the five questions.

**CONCLUSIONS**

**The Chief Examiner would wish to reiterate the following:**

- Tuition centres and candidates should bear in mind that the principles of taxation examinations will continue to cover the entire syllabus and therefore, pay attention to the entire syllabus. There should not be any pick and choose attitude towards the syllabus and the examination.
- There is nothing like 'the examination trend'. Candidates are to be examined on all the topics and therefore, the dynamics of the examination could change but still based on the syllabus.
- Candidates should pay attention to details when reading. It seems candidates do not read carefully in between the lines when reading. This was clearly demonstrated in the examination, particularly question 3 where the allowances were monthly, and candidates did not multiply by 12.

- Candidates are strongly advised to learn the subject with the syllabus. Candidates should not learn the subject with questions. This attitude will leave out most of the topics unattended to. The past questions are only a guide as to how the questions are asked.