

**MAY 2019 PROFESSIONAL EXAMINATION
TAXATION & FISCAL POLICY (PAPER 3.4)
CHIEF EXAMINER'S REPORT, QUESTIONS & MARKING SCHEME**

EXAMINER'S GENERAL COMMENTS

The Taxation and Fiscal Policy Paper was very clear as to the requirement of answers demanded from students. The quality of the paper was very commendable. The spread of the questions across the entire spectrum of the syllabus was also quite commendable and demonstrated that -- The Institute of Chartered Accountants (Ghana) is committed to quality standard in its examination processes. Any serious student who applied a little effort could pass the paper easily. The reverse is true.

Given the spread and the appropriate level of difficulty of the paper, the expectation should have been an impressive performance but that did not happen as some students gave the examiners cause to think that the preparation towards the examination was inadequate. The Institute should continue to maintain standards in the setting of the examination questions.

The paper was designed to help an average student be able to pass the examination easily. The marks allocated are proportionate to the level of difficulty and the standard of question known for this kind of paper.

A good student who prepared adequately for this paper was sure to pass and pass well. The paper took note of the level of students and its appropriateness for the final level.

What was remarkable for me is that the paper was properly strewn across the entire syllabus so as not to disadvantage any serious and focused candidate. The standard of the paper was very good and followed normal pattern. The type setting of the paper was quite good and made reading very easy. The clarity of the questions were impressive and did not leave any one in doubt as to the requirement of the questions.

STANDARD OF PAPER

The standard of the paper was high, appropriate and applicable to the final level paper and comparable to any final level professional taxation paper anywhere across the globe.

Over the years, the Taxation and Fiscal Policy Paper has maintained the high standard depicting a final level paper of a comparable standard much to the admiration of the Examiners (Script Markers). The questions were properly selected to ensure that an average student who prepared well was sure to pass. On the flipside, a lazy student who selected few areas of the syllabus to study was sure to perform poorly.

The marks allocated for each question was very appropriate as the marks took account of the level of difficulty of the questions and the demands of the Institute from students.

PERFORMANCE OF CANDIDATES

The performance of candidates followed the usual pattern. Students who prepared well gave good account of themselves and got the pass mark. As fate would have it, some candidates also as usual demonstrated ill-preparedness largely and failed to make the pass mark.

It must be noted that, those who failed to make the pass mark clearly were unprepared for the paper but perhaps decided to give the paper a shot hoping that things would go their way. It is obvious that lack of preparation would spell doom for any student in the examination.

This is a professional paper and students must demonstrate professional knowledge in the answers as part of the requirement to enable them pass and not to approach the examination with perfunctory attitude.

On the whole, those who wanted to pass, gave good account of themselves and made it and others who did not prepare well had to struggle and this reflected in their answers.

NOTABLE STRENGTHS AND WEAKNESSES

Some few students demonstrated impressive knowledge and preparedness and gave good account of themselves. Others obviously just added to the number. Their performance did not come to scratch at all. The detailed performance to help improvement on the paper can be appreciated under the detailed analyses of question by question below.

The questions selected were the normal questions from within the syllabus and selected on account of the grid in the syllabus students are familiar with. This approach to say the least has always been to help an average student pass the examination easily with modicum of effort.

As has always been the case, some students demonstrated command over the topics but clearly others showed lack of adequate preparation and this might have accounted for their inability to make impressive marks everyone would have hoped for.

Candidates' ability to pass the Taxation and Fiscal Policy paper continues to be hinged on adequate preparation and reading the right tax materials such as the tax laws and regulation and reading manuals.

The poor writing skills continue to surface in the write up of students. The Institute should as a matter of urgency work hard to correct this unfortunate phenomenon that has placed impediments in the efforts of students. Most of them are unable to convey their thoughts properly even though they may have their good thoughts worth noting. The Institute should introduce a lot of memo and report writings to help create in them reading habits and consequently improve the writing skills.

Every examiner continues to comment on this poor grammatical display of students making marking very difficult and a nightmare.

Tuition providers should continue to drum home this important issue-good writing skills. Students should also as a matter of urgency try to work on this important part of their lives to make things better for them. Reading of books, novels and other materials should continue to engage students to broaden their vocabulary range and improve ability to write well.

Another important area worth noting is the handwriting of some candidates. Some students write illegibly making marking quite a nightmare and difficult. This obviously slows down marking. Students should learn to write clearly and legibly to avoid losing marks unconsciously from the inability to read out well and award the appropriate marks by the examiners. It must be noted that Examiners do well to ensure they are able to read every paper of every candidate to enable them award appropriate marks but students must help the process.

Another area of concern which is gradually becoming part of the system is the way questions are answered. Some candidates answered two different questions on the same page as though they were related and should be answered together. Each question should be answered on a fresh paper and properly labelled. This clearly will enhance proper presentation and help examiners mark easily.

Note: Each question should be answered on a fresh paper.

Another important weakness that is gradually emerging is the lack of comprehension of questions before answering the question. Students are encouraged to read the requirement of the questions if possible before reading the question itself so as to underline critical information that would help in moulding the answers.

On the whole I must say that there is incremental improvement and so long as students read the examiners' report, past questions and pledge to go by them, success shall always crown their effort. For better appreciation of the issues raised above, a detailed analysis of each of the question would be helpful.

QUESTION ONE

- a) Management of Kwame Enterprise Ltd considers increasing its stated capital by transferring GH¢600,000 from Income Surplus in 2019 year of assessment in its bid to expand its business horizon in future. The management of the company intends to consult widely on the taxability, if any, on this line of action.

Required:

Assess the *tax implication* of this funding arrangement by Management of Kwame Enterprise Ltd. **(3 marks)**

- b) Kofiga Kwame is 64 years old and has never worked as a salaried staff. He intends taking up an appointment with a Civil Society Organization called “We Care” because of his stance on anti-corruption. He approaches you to advise on his willingness to contribute towards Social Security and National Insurance Trust (SSNIT) of 5.5% and also 10% towards Voluntary Provident Fund (Tier 3) with an approved fund manager. It is hoped that his prospective employer would contribute 13% and 6.5% towards SSNIT and Tier 3 respectively to enhance his benefits when he retires from active employment at age 70.

Required:

Determine the *tax implication* on the impending contribution towards *SSNIT and Voluntary Provident Fund* by Kofiga Kwame and those of the prospective employer and the relief, if any, he stands to gain from the above. **(4 marks)**

- c) As part of efficient tax administration, taxpayers have been segmented into Large Taxpayers, Medium Taxpayers and Small Taxpayers by the Ghana Revenue Authority. In the view of tax reformers, tax payer segmentation is the way to go in order to grow revenue.

Required:

What purpose does this segmentation seek to achieve? **(4 marks)**

- d) Some political analysts have often made the claim that governments over the world should create enabling environment for private businesses to flourish including granting tax incentives as a way of creating jobs for the unemployed youth and that governments should not directly engage in business. They sum this up often with the statement that “Government has no business doing business”. Others, however, hold contrary view on this matter making this an endless debate.

Required:

Under what circumstance would you encourage the running of state enterprises as business entities by Government to increase revenue as against imposition of new taxes for the same purpose? **(5 marks)**

- e) Public debt is an important source of revenue for a government to finance public spending where taxation capacity may be limited, or when the alternative would be to print money and compromise macroeconomic stability. There are however, negative consequences of high public debt on the economy.

Required:

Evaluate **FOUR (4)** of such *negative consequences* of public debt on the economy of Ghana. **(4 marks)**

(Total: 20 marks)

QUESTION TWO

- a) Agyemang Boateng has been working with Intellect Consult Limited (ICL) since 2010. At the beginning of January 2016, he was seconded to Accra Metropolitan Assembly (AMA) for a period of six months to be part of a team to spearhead a restructuring exercise and the review of the system of internal controls at the Revenue department of AMA.

Terms of the AMA engagement

ICL was to be paid a one-off settlement of GH¢10,000 at the completion of the engagement as well as reimbursement of monthly operational expenses incurred based on submission of the relevant invoices.

Agyemang's only entitlements from AMA were the following monthly allowances:

	GH¢
Inconvenience Allowance	300
Extra Duties Allowance	200

Agyemang's secondment to AMA did not in any way affect his salary and other entitlements from his employer, ICL, as these continued to accrue to him during the period of the secondment.

Agyemang's earnings and entitlements from ICL for the year of assessment ended 31 December 2016 is as seen below:

	GH¢
Basic Salary	46,000
Bonus	9,500
Fuel allowance	1,750
Entertainment allowance	7,500

Additional information

- Agyemang stays in a fully furnished ICL bungalow at East Legon in Accra. ICL charges him a rent of GH¢150 per month.
- Agyemang makes use of ICL's company vehicle, driver and fuel for official use only.

- On 1 January 2016, Agyemang successfully applied for a GH¢10,000 loan from his employer, ICL. His employer charged him interest of 2% per annum on the loan. During this period, Bank of Ghana policy rate was 15%. The loan was repayable within ten months.
- On 1 October 2016, Agyemang commenced part-time lecturing in Accounting at a local private Senior High School. He was paid monthly for his services and the total amount received for the three months ended 31 December 2016 was GH¢5,000 gross.

Agyemang's other non-employment related income received during the year ended 31 December 2016 were:

	GH¢
Net royalties received for his Accounting text book	21,250
Gross local company dividends (Unquoted Company shares)	13,000
Interest on Bank deposits from local financial institutions	10,000
Gross lottery winnings	12,000

Required:

- Calculate Agyemang's taxable income for the year ended 31 December 2016. **(10 marks)**
 - State AMA's tax obligation when making the disbursement of GH¢10,000 to ICL. **(1 mark)**
 - What are the tax implications to Agyemang with respect to the following:
 - Part-time lecturing,
 - Royalty,
 - Dividends, and
 - Interest on bank deposit.**(2 marks)**
 - What is the tax implication of the loan taken by Agyemang? **(1 mark)**
- b) Section 7(m) of the Income Tax Act, 2015 (Act 896) as amended indicates that 'the income of an individual from employment in the public service of the government of a foreign country in Ghana is exempt from tax'.

Required:

Identify **FOUR (4)** conditions for granting such an exemption. **(2 marks)**

- c) Section 8(2) of the Income Tax Act, 2015 (Act 896) as amended provides that the Commissioner-General shall not allow a deduction in respect of domestic or excluded expenditure incurred by a person in the computation of assessable income of the person.

Required:

- What constitute domestic expenditure? **(2 marks)**
- What constitute excluded expenditure? **(2 marks)**

(Total: 20 marks)

QUESTION THREE

- a) Anthony purchased a house in Koforidua at a cost of GH¢480,000 in the year 2011. In 2011, he spent GH¢24,000 to repair and renovate the house. In March 2018, he spent extra GH¢18,000 on renovation with the intention to sell the house. Anthony engaged a Valuer in June 2018, to value the building and the Valuer charged GH¢5,400.

In July 2018, he placed an advert on 'Zuria FM' for the sale of the building and paid GH¢1,800. During the same period, he sold the house through an agent for GH¢660,000 to Kwame Burger and the agent's commission was 3% of the sale value. Anthony also paid GH¢1,500 for stamp duty and legal permit for conveyance of the building to Kwame Burger.

Required:

- i) Compute any tax payable. **(4 marks)**
ii) What constitutes realisation of capital assets? **(2 marks)**
- b) At a tax seminar organised by The Institute of Chartered Accountants (Ghana) in December 2016, the issue of tax implications for finance lease arrangement dominated the discussion. The facilitator said that both the lessor and the lessee shall be denied capital allowance under the tax law.

The facilitator intimated that capital allowance is granted to persons who acquire assets and own them and use such to generate business income. Both the lessor and the lessee, consequently do not qualify for capital allowance under the Income Tax Act (Act 896), 2015 and its regulations, he added.

Required:

As a tax advisor, submit a response to the above based on the tax provisions. The response is to be published in the Institute's Journal. **(7 marks)**

- c) Your senior brother has stayed in the United Kingdom for more than 20 years and would like to return to Ghana and establish a business. He is confused as to which area to invest to maximise the benefits from tax planning.

He has been told that you are undertaking a course in Taxation and would like to have your explanation and the tax benefits if any from investing in the following areas:

- i) Farming **(2 marks)**
ii) Agro-Processing Business **(2 marks)**

- d) Section 18 of the Revenue Administration Act 2016 (Act 915) makes provision for the use of Tax Consultant by a tax payer.

Required:

Examine **THREE (3) ethical and professional issues** that a tax consultant may consider in dealing with a tax payer. **(3 marks)**

(Total: 20 marks)

QUESTION FOUR

- a) Where required by law, all individuals and entities must file their tax returns on due dates, signed by the individual or authorised manager of an entity, and shall have a declaration to the effect that the return is complete and accurate.

Required:

- i) Under what circumstances would the Commissioner-General of Ghana Revenue Authority may, by notice, require a person to file a tax return before the due date for filing of tax returns? **(4 marks)**
- ii) What are the powers of the Commissioner-General, if a taxpayer fails to file tax return on time? **(3 marks)**
- b) The Commissioner-General may, in the exercise of his powers, audit the tax affairs of a person.

Required:

Identify **THREE (3)** factors considered for selecting a person for audit. **(3 marks)**

- c) Explain the following terms used under Value Added Tax (VAT) administration and provide **TWO (2)** examples under each term.
- i) Taxable activity **(2 marks)**
- ii) Exempt supply **(2 marks)**
- iii) Relief Supply **(2 marks)**
- iv) Zero-rated supply **(2 marks)**
- d) State the general rule on registration for VAT. **(2 marks)**

(Total: 20 marks)

QUESTION FIVE

- a) Kaato Mining Company Ltd (Kaato) has been operating in the mining sector for some time now. The following data is relevant to the company's operations for 2017 year of assessment.

	GH¢
Adjusted profit	100,000,000

The following additional information is relevant:

- Financial cost of GH¢900,000 inclusive interest on working capital loan of GH¢20,000 was adjusted in arriving at the adjusted profit.
- Financial gain from derivatives of GH¢600,000 was adjusted in arriving at the adjusted profit above.
- Depreciation of GH¢125,000 was adjusted to the profit above.
- Written down value brought forward from 2016 after 1 year capital allowance was granted stood at GH¢1,000,000. This was accordingly certified by the Audit Unit of the Ghana Revenue Authority.
- Revenue of GH¢1,200,000,000 was realized on a quantity of gold production of 80,000,000 ounces. A review of the tax returns of Kaato Ltd revealed that Mineral Royalty was not calculated for 2017. Kaato applied for a waiver of penalty and interest on the mineral royalty to which GRA obliged.

Required:

- i) Compute the taxes payable. **(6 marks)**
ii) What is the tax treatment of financial cost under mineral operations? **(2 marks)**

- b) The following relates to Ablorh Ltd from petroleum operations relating to 2017 year of assessment.

Production (in barrels)	100,000,000
Selling Price per barrel (\$)	100
Production cost per barrel (\$)	50
Capital allowance agreed (\$)	800,000

Required:

- i) Compute the royalty payable to the Government of Ghana by Ablorh Ltd and state the tax implication of production cost on Royalty. **(5 marks)**
ii) Explain **THREE (3)** relevance of initial interest of Government in the Upstream Petroleum Operations. **(3 marks)**
c) A company engages in exports of non-traditional products and makes local sales of its products. It has as recently, as of 2018 recorded huge loss on the exports but makes gains on the local sales and intends to offset the loss against the profit from the local sales as both represent its business activities.

Required:

Evaluate the above statement critically in the light of the *tax provisions and its effect if any* on revenue. **(4 marks)**

(Total: 20 marks)

SOLUTIONS TO QUESTIONS

QUESTION ONE

- a) The Management of Kwame Enterprise Limited's proposal to increase its stated capital will have to be given a legal effect. This arrangement therefore will require a payment of stamp duty.

The stamp duty which is a direct tax is calculated at the rate of 0.5% of the amount of stated capital. In this case, the amount of stamp duty is $(0.5\% \times 600,000) = \text{GH}\text{c}3,000.00$

The transfer from income surplus shall be treated as dividend with withholding tax at the rate of 8% imposed on the transfer.

Management of Kwame Enterprise Ltd shall pay an amount of three thousand Ghana cedis as stamp duty to Ghana Revenue Authority through the Registrar General Department before the proposed transaction will take legal effect and an amount of forty eight thousand as dividend withholding tax.

(3 marks)

b)

- Kofiga Kwame is sixty four (64) years of age which is above the 60 years retirement age and by law cannot contribute to social security and the tier three (3) pension funds as he proposes.
- Additionally, if the prospective employer pays the 13% and 6.5% contribution to SSNIT and Voluntary Provident Fund respectively on his behalf, they will be added to Kofiga Kwame's employment income and assessed to tax accordingly.
- There is no tax benefit to him on account of his contribution to the SSNIT and Voluntary Provident Fund as an individual.
- Kofiga Kwame would, however, be given an old age relief of GH¢ 200.00 per annum as a benefit which will be used to reduce his tax burden and other reliefs such as marriage, children education, disability, old age dependency and mortgage as the case may be.
- The prospective employer after adding contributions to the SSNIT and Voluntary Provident Fund to Kofiga Kwame's salary shall be allowed as a deduction of such if it were a tax paying entity.

(Any 4 points for 4 marks)

c)

Taxpayers are categorized into segments. Large Taxpayers, Medium Taxpayers and Small Taxpayers.

- The purpose of the segmentation of taxpayers is to allow the Ghana Revenue Authority cater for the specific need of taxpayers within each segment.
- Large taxpayers may have specific issues which may not be relevant to other segments and the reverse is true of the others.
- It will help tax administration to segment them and deal with them according to their needs and help them grow.

- All taxpayers will be accounted for as each segment will concentrate on its area.

(4 points for 4 marks)

d) Government raises revenue from taxes and non-tax sources. Taxes may be direct or indirect. There is a limit to how much government can raise from taxes. Imposition of new taxes can raise needed revenue for government to support government projects but a dangerous tool in creating some challenges for government and make the government unpopular.

Government could consider running state enterprises on business lines on the following grounds:

- Taxes are the function of economic performance. When an economy is not doing well, imposition of taxes cannot generate any income for projects.
- It is in view of this that others suggest that government could take up the running of some key institutions to create employment for the citizenry and to support government projects.
- Also the running of enterprises by the State will help provide goods for the common good of society and charge subsidized rates to help the lower income brackets and raise money to support government projects.
- The profits the institutions will make can be used to support government projects.
- In conclusion, government can run state institutions as a way of supporting governments rather than relying on taxes as the only source of funding with its terrible consequences.

(5 points for 5 marks)

e) **Negative Consequences of Public Debt**

The consequences considered are enumerated as follows:

- **The Tax Burden**

When the government borrows money from its own citizens, it has to pay interest on such debt. Interest is paid by imposing tax on people. If people are required to pay more taxes simply because the government has to pay interest on debt, there is likely to be adverse effects on incentives to work and to save. It may be a happy coincidence if the same individual were tax-payer and a bond-holder at the same time.

But even in this case one cannot avoid the distorting effects on incentives that are inescapably present in the case of any taxes. If the government imposes additional tax on Mr. X to pay him interest, he might work less and save less. Either of the outcome – or both – must be reckoned a distortion from efficiency and well-being. Moreover, if most bondholders are rich people and most tax-payers are people of modest means repaying the debt money redistributes income (welfare) from the poor to the rich.

- **Higher Interest Rates**

The government depends on investors' continuous purchase of Government of Ghana long-term bonds to fund its spending. If the bond market gets nervous

about the excessive borrowing of the government as a result of the high default risk and the demand for the government's bonds falls, their price also declines as a result.

The fall in the price will cause the yield on the bond to rise. This means the nation pays more in interest for every cedi borrowed. When the government borrows more from the domestic market through sale of treasury bills it increases the interest rates paid on them and this risk-free interest rate forms the basis for borrowing cost.

- **Stifling Economic Growth**

If the government borrows money from the people by selling bonds, there is diversion of society's limited capital from the productive private to unproductive public sector. The shortage of capital in the private sector will push up the rate of interest.

In fact, while selling bonds, the government competes for borrowed funds in financial markets, driving up interest rates for all borrowers. With the large deficits of recent years, many economists have been concerned in the competition for funds; also higher interest rates have discouraged borrowing for private investment, an effect known as crowding out.

This, in its turn, will lead to fall in the rate of growth of the economy. So, decline in living standards is inevitable. This seems to be the most serious consequence of a large public debt. As Paul Samuelson has put it: "Perhaps the most serious consequence of a large public debt is that it displaces capital from the nation's stock of wealth. As a result, the pace of economic growth slows and future living standards will decline."

- **Negative effect on long term investment**

Raising taxes or ramping up inflation to deal with the debt both have a negative impact on investors' willingness to invest. High levels of public debt also call into question whether the debt will be repaid in full. That can lead to a higher risk premium, and that's associated with higher long-term real interest rates, which in turn has negative implications for investment as well as for consumption of durables and other interest-sensitive sectors, such as housing.

- **Public Debt reduces society's consumption possibilities**

When a country borrows money from other countries (or foreigners) an external debt is created. It owes its all to others. When a country borrows money from others it has to pay interest on such debt along with the principal. This payment is to be made in foreign exchange (or in gold). If the debtor nation does not have sufficient stock of foreign exchange (accumulated in the past) it will be forced to export its goods to the creditor nation. To be able to export goods a debtor nation has to generate sufficient exportable surplus by curtailing its domestic consumption.

Thus, an external debt reduces society's consumption possibilities since it involves a net subtraction from the resources available to people in the debtor nation to meet their current consumption needs.

- **Public Debt and Growth**

By diverting society's limited capital from productive private to unproductive public sector public debt acts as a growth-retarding factor. Thus an economy grows much faster without public debt than with debt.

When we consider all the effects of government debt on the economy, we observe that a large public debt can be detrimental to long-run economic growth. What is more serious is that an increase in external debt lowers national income and raises the proportion of GNP that has to be set aside every year for servicing the external debt.

This seems to be the most important point about the long-run impact of huge amount of public debt on economic growth. To conclude with Paul Samuelson and W. D. Nordhaus: **"A large government debt tends to reduce a nation's growth in potential output because it displaces private capital, increases the inefficiency from taxation, and forces a nation to service the external portion of the debt."**

(4 points well explained for 4 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

- a) This question examined students on the implication of transfer from income surplus to stated capital account. This is a common accounting practice and is also a popular question with students. It required students to indicate that such arrangement is treated as deemed dividend and required a payment of 8% on the amount transferred as withholding tax on dividend and also a stamp duty of 0.5% by that arrangement to give legal effect to the transfer.

Familiar as this question was, the outcome in response to the question was shocking. Some few examples will suffice here: A particular student indicated that "income tax exempts private university". It was a clear case of resetting one's question and answering it based on the person's prepared answer, because the question posed had nothing to do with a private university. One other student indicated that "such transfers were criminal". How would a transfer to stated capital be criminal? Meanwhile, this student was taught or learnt company's account were ledgers were prepared to give effect to this arrangement. Yet one other student said that the "dividend will be added to income and taxed at a graduated tax rate." Another bizarre expression by one student had it that by that arrangement, "thin capitalization should be used".

The above examples of answers submitted by some students in response to transfer into stated capital are enough reason to conclude that a lot of them do not read and or do not understand what they read very well.

- b) This question tested knowledge of students on the tax implication of employees who are in employment after 60 years of age. Quite surprisingly, a lot of students did not understand that an employee aged 60 years or more is entitled to an old age relief and not social security relief and that the payment of 13% by the employer is taxable in the hands of such an employee as income. By law, at 60 years, every employee is obligated to go on pension and cannot contribute towards pension contribution.
- c) Students as part of the syllabus are required to study the Act 791 of 2009 establishing the Ghana Revenue Authority and its administration which include the rationale for the segmentation of the tax offices. Some of the students indicated as part of their answers that the rationale for the segmentation was to “give taxpayers different tax rates to pay tax”. That position is incorrect. This type of answers belies the principle of taxation that borders on fairness to taxpayers. The reason among others is to give tailor-made service to each category or segment. The segmentation is categorized into: Large Taxpayer Office, Medium Taxpayer Office and Small Taxpayer Office using turnover as a basis for the categorization and also to help deal with each category’s unique tax issues to help promote voluntary tax compliance.
- d) The question was on the running of State Enterprises as business entities by Government to increase revenue as against imposition of new taxes. This question was a well answered one. Many candidates got the pass mark in this question and others bagged beyond the pass mark.
- e) This question was on the negative consequences of public debt. This question was also well answered by all who attempted it. Candidates scored high marks in this question much to the admiration of examiners.

QUESTION TWO

- a) **Agyemang Boateng**
 i) **Calculation of Taxable Income**
Y/A 2016
Basis Period 1/1/2016-31/12/2016

	GH¢	GH¢
Basic Salary		46,000
Add Benefits in cash:		
Bonus $9,500 - (0.15 * 46,000)$	2,600	
Fuel Allowance	1,750	
Entertainment Allowance	7,500	
		11,850
Total Cash Emolument		57,850
Add Benefits in Kind:		
Accommodation (10% of 57,850)	5,785	
Less rent (150* GH¢12)	<u>1,800</u>	3,985
		61,835
Other Incomes		
Royalties $(21,250/0.85)$		25,000
Inconvenience Allowance (300x6)	1,800	
Extra Duties Allowance (200x6)	1,200	3,000
		89,835
Less:		
SSF : Employees (5.5% of GH¢46,000)		2,530
Taxable Income		<u>87,305</u>

(10 marks evenly spread using ticks)

- ii) In the absence of any further details on AMA or ICL being exempt from withholding taxes, AMA is required to withhold 7.5% on the engagement and remit same to GRA on or before the 15th of the month following the month of payment.
- (1 mark)

iii) **Tax Implications**

- The Part-time teaching would be taxed at 10% which is final and would not be added to Agyemang Boateng's income. (0.5 mark)
- The royalty income is taxed at 15% which is on account. This was net and was grossed up and added to the income of Agyemang Boateng. (0.5 mark)
- The dividend from the local company shares is taxed at 8% which is final. (0.5 mark)

- The interest income on the bank deposit from a local financial institution is tax exempt.

(0.5 mark)

iv) The loan taken by Agyemang Boateng would not be treated as benefit in kind because:

- The Loan repayment period does not exceed 12 months
- The loan amount of GH¢ 10,000 does not exceed his 3 months basic salary of $\text{GH¢}46,000/12 * 3 \text{ months} = \text{GH¢}11,500$.

(2 points @ 0.5 marks each = 1 mark)

b) Conditions for granting such an exemption:

The income of an individual from employment in the public service of the government of a foreign country is tax exempt where:

- The individual is either a non-resident or resident in the country solely by reason of performing that employment;
- The individual does not exercise any other employment or carry on business in the country;
- The income is payable from the public funds of the foreign country; and
- The income is subject to tax in foreign country.

(4 points @ 0.5 marks each = 2 marks)

c)

i) Domestic Expenditure constitutes the following:

Where an individual incurs expenditure in respect of that individual; the expenditure is domestic expenditure to the extent that it is incurred:

- In maintaining the individual, including the provision of shelter, meals, refreshment, entertainment or other leisure activities
- By the individual in commuting from home
- In acquiring clothing for the individual, other than clothing that is not suitable for wearing outside of work
- In educating the individual, other than education that is directly relevant to a business conducted by the individual and that does not lead to a degree or diploma.

Where another person incurs expenditure in making a payment to or providing any other benefit for an individual, the expenditure is domestic expenditure except to the extent that

- The payment or benefit is included in the calculation of the income of the individual
- The individual provides consideration of an equal market value for the payment or benefit; or
- The amount of the expenditure is so small as to make it unreasonable or administratively impracticable to account.

The expenditures as stated above include interest incurred on the amount borrowed that is used as described above.

(Any two points above shall go for 2 marks)

ii) Excluded Expenditure constitutes the following:

- Tax payable under Act 896
- Bribes and expenditure incurred in corrupt practices
- Interest, penalties and fines paid or payable to a government or a political subdivision of a government of any country for breach of any legislation
- Expenditure to the extent incurred by a person in deriving exempt amounts or final withholding payments
- Retirement contributions, unless they are included in calculating the income of an employee in line with the Pension Act 2008 Act 766
- Dividends
- Depreciation. Instead, capital allowance is allowed to the person.

(Any two points above shall go for 2 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

- a) This question was on computation of employment income. Some students did so well in this area. Others who had a challenge was that the income earned from AMA by Agyemang Boateng was added in the determination of the total cash emolument. This position is not supported by the tax provision. By this position most students took, the total cash emolument was bloated and consequently influenced wrongly the computation of the accommodation benefit which was a requirement. The income from AMA should be treated as other income and introduced after the total cash emolument had been determined from the main employment.
- b) This question which required students to determine condition under which income of an individual from employment in the public service of the government of a foreign country in Ghana is exempt from tax but was unfortunately not well answered. With a little effort, students could have gotten it right if even they never read about it by thinking laterally.
- c) This was on the concept "Domestic expenditure and excluded expenditure". This was a pretty much straight forward question. But a good number of students did not appreciate this basic concept underlying deductibility of expenses.

QUESTION THREE

a)

i)

ANTHONY			
CAPITAL OF TAX ON CAPITAL GAIN			
	GH¢	GH¢	GH¢
Consideration			660,000.00
Deduct Cost:			
Cost of Acquisition:			
Cost of building		480,000.00	
Repairs and Renovation		24,000.00	
Renovation		18,000.00	
Valuation		5,400.00	
		527,400.00	
Incidental Expenses:			
Adverts	1,800.00		
Legal and Permit	1,500.00		
Commission @3%*660,000	19,800.00		
		23,100.00	
Total Cost			550,500.00
Gain			109,500.00
Tax Charged @ 15%			16,425

ii) **Realisation of Capital Assets:**

It is an arrangement where one parts with ownership of a capital asset through

- Sale
- Exchange
- Destruction
- Loss
- Surrender
- Transfer
- Distribution

(4 points @ 0.5 marks each = 2 marks)

b) **FINANCE LEASE ARRANGEMENT**

- Finance lease arrangement is an arrangement where a lessor leases or transfers an asset to the lessee in return for a lease rental payment by the lessee. Risk and reward associated with the leased asset is transferred to the lessee. The lease term exceeds 75% of the useful life of the asset.

- Capital allowance is an incentive that is given to a person that acquires a depreciable asset and uses the depreciable asset in generating income for the business. The property under finance lease for accounting purposes is the property of the lessor but for the effect of substance over form, the asset belongs to the lessee for which depreciation is enjoyed and shown in the books of the lessee.
- For capital allowance purposes, the payment of the lease rental payment shall be apportioned between capital repayment and the interest component in accordance with section 31 of the Income Tax Act, 2015 (Act 896) and LI 2244 Regulation 17. The capital repayment shall be subject to capital allowance for the benefit of the lessee and the interest component shall be an allowable deduction for the lessee for tax purpose. In effect, the treatment of capital allowance and depreciation shall be the same except the amount that shall be different.

(Any 2 points for 4 marks)

- In summary the following shall be the treatment

Lessee shall be

Granted capital allowance on the principal repayment and the interest shall be allowable deduction.

In the case of a vehicle which is not a commercial vehicle, the amount shall be restricted to an amount of GH¢75,000.

(1.5 marks)

Lessor

The lessor shall not be granted capital allowance but may be given granted capital amount to be determined in accordance with guidelines to be issued by the Commissioner-General.

(1.5 marks)

c)

i) Farming

- The income of farming activity or business conducted wholly in Ghana shall be subject to tax temporary concessions. The following constitutes farming activities:
- In the case of farming tree crops (i.e. coconut, coffee, oil palm, rubber, and shear nut), income from the business for a period of ten years of assessment commencing from and including the year during which the first harvest of crops occurs
- In the case of farming livestock (excluding cattle), fish or cash crops, income from the business for a period of five years of assessment commencing from and including the year during which the business commences; and
- In the case of farming cattle, income from the business for the period of ten years of assessment commencing from and including the year during which the business commences.

The above activities are subject to tax at the rate of 1% during the temporary concessions of each of them when they make income.

(4 points @ 0.5 marks = 2 marks)

ii) Agro-business

- The income of a person from an agro processing business conducted wholly in Ghana is subject to tax at the rate of 1% for a period of five years of assessment commencing from and including the year in which commercial production commences.

- **Agro processing business** means the business of processing crops, fish or livestock produced, caught or raised in Ghana from their raw state into an edible canned or packaged product

(2 points for 2 marks)

d) As a professional tax adviser, it is absolutely essential that he conducts his affairs at all times following the professional code of ethics.

- **Objectivity** – Avoid conflicts of interest; not to allow bias, conflict of interest or undue influence of others to override professional or business judgements.
- **Professional** – Professional behaviour at all times, comply with relevant laws and avoid any action that discredits the profession.
- **Technical competence** – Keep up to date with new tax rules and legislation. To maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.
- **Integrity** – Must be honest and should not assist clients in committing an offence. To be straightforward and honest in all professional and business relationships
- **Confidentiality** – Client information should not be disclosed to other parties without the client's permission including Ghana Revenue Authority. The exception to this rule applies if the tax adviser has knowledge or suspicion that a person has committed a money laundering offence.

(3 points well explained for 3 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

- a) This question was on taxation of gain on realization of capital asset. This question was well answered. All students got more than fifty percent (50%) of the marks. However, some granted fifty Ghana cedis (GHS50.00) as an exemption threshold. This exemption rule was associated with the old law which has been repealed. Under Act 2015 (Act 896), the exemption is no longer part of the tax provisions and must be avoided.
- b) The question required understanding of the taxation principle of finance lease. Most students confused capital allowance on finance lease with condition for granting capital allowance. With finance lease, it is only the lessee who is granted capital allowance on the principal repayment with the interest component being an allowable deduction. The lessor may be granted capital amount as capital allowance to be determined by the Commissioner-General.
- c) The question was on the tax benefits of farming and Agro-business. While some students bagged impressive marks other students stated variables of tax planning as the solution but did not explain them and linking them to the requirement of the question which was the solution.

QUESTION FOUR

a)

i) **The Commissioner-General may, by notice, require a person to file a tax return if before the date for filing of tax returns**

- the person becomes bankrupt, is wound-up or goes into liquidation; or
- the Commissioner-General believes on reasonable grounds that the person is about to leave the country indefinitely;
- is otherwise about to cease activity or business in the country; or
- has committed an offence under a tax law; or
- the Commissioner-General considers it appropriate, including where the person fails to maintain adequate documentation

(Any 4 points for 4 marks)

ii) **Where a person fails to file a tax return by the due date required by a tax law**

- 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 shall make an assessment of the tax liability of the person as required by the tax law, including by way of adjusted assessment, and for this purpose may use any information in the possession of the Commissioner-General including information obtained above.

(2 points @ 1.5 marks each = 3 marks)

b) **The Commissioner-General may select a person for an audit having regard to**

- The history of the person with respect to compliance or noncompliance with tax laws;
- The amount of tax payable by the person;
- The class of business or other activity conducted by the person;
- Criteria developed under a compliance management plan, which may include random selection of returns for audit; or
- Other matters that the Commissioner-General considers relevant for ensuring the collection of tax due.

(Any 3 points for 3 marks)

c)

i) **Taxable activity** means an activity which is carried on by a person(a) in the country, or (b) partly in the country, whether or not for a monetary profit, that involves or is intended to involve, in whole or in part, the supply of goods or services to another person for **consideration**

(1 mark)

Taxable Activity specifically includes:

- The supply of staff;
- An activity of a local authority or unincorporated association or body that involves, in whole or in part, the supply of goods or services to another person for consideration
- The processing of data or supply of information or similar service;

- The making of gifts or loans of goods;
- The leasing or letting of goods on hire;
- The appropriation of goods or services for personal use or consumption by the taxable person or by any other person;
- The sale, transfer, assignment or licensing of patents, copyrights, trademarks, computer software and other proprietary information;
- The export of non-traditional products

(Any 2 points @ 0.5 mark each = 1 mark)

ii) The supply of goods and services is exempt supply when there is **NO VAT** charged. **(1 mark)**

These are:

- Accommodation at schools and hospitals
- A supply of the following agricultural and aquatic food products in a raw state produced in the country. A supply of the following live animals bred or raised in this country: (a) cattle; (b) sheep; (c) goat; (d) swine; and (e) poultry.
- A supply of water, excluding water commonly supplied in bottles or other packaging suitable for supply to consumers
- A supply of laboratory and library equipment for use in rendering educational services.
- A supply of medical services and medical supplies.

(Any 2 points @ 0.5 mark each = 1 mark)

iii) A supply is said to be a relief supply if the transaction is taxable under normal rules but the status of the taxpayer makes it effectively zero-rated that is not taxed when being sold. **(1 mark)**

The beneficiaries of relief under the law include:

- The President of the Republic of Ghana
- For the use of any Commonwealth or Foreign Embassies and Missions or consulate
- Emergency Relief items approved by Parliament
- Other International Agencies subjects to Agreement with the Government of Ghana.
- A supply for the use of a permanent member of the Diplomatic Service of any Commonwealth or foreign country that is exempted by Parliament from the payment of customs duties.

(Any 2 points @ 0.5 mark each = 1 mark)

iv) This refers to the supply of goods and services whose output tax is zero.

(1 mark)

Examples of zero rated items:

- A supply of services directly in connection with land or any improvement to land situated outside the country.
- A supply of services directly in respect of personal property situated outside the country at the time the services are rendered.
- A supply of services to the extent that the services are consumed elsewhere than in the country.

- A supply of freight and insurance directly attributable to the export of goods.
- A supply of goods where the Commissioner-General is satisfied that the goods have been exported from the country by the supplier without having been used in the country after the supply was entered, except as necessary for or incidental to, the export of the goods.
- A supply of goods under a rental agreement, charter party or agreement for chartering, where the goods are used exclusively in an export country.

(Any 2 points @ 0.5 mark each = 1 mark)

d) A person who is engaged in a taxable activity and is not registered for tax purposes shall register if:

- At the end of any period of twelve or less months, the person made, during that period, taxable supplies exceeding two hundred thousand Ghana Cedis; or
- At the end of any month, there are reasonable grounds to expect that that person will make taxable supplies in the next twelve or less months exceeding two hundred thousand Ghana Cedis or a period of three months or less, the taxable supplies will exceed fifty thousand Ghana cedis or at the end of any month, there are reasonable grounds that it will exceed fifty thousand Ghana cedis in three month period or less.

(Any 2 points @ 0.5 mark each = 1 mark)

(Total: 20 marks)

EXAMINER'S COMMENTS

- a) This question was on Filing of tax returns which is a very common topic as the Ghana Revenue Authority discusses this every time. Students should take interest in listening to the media on discussion of tax matters to broaden their understanding on tax matters and get them to be current. The Commissioner-General has the powers to appoint another person to file tax returns on behalf of a taxpayer who has failed to file their tax returns.
- b) This area was on the basis of selection of tax payers for audit. Some few students interpreted it to mean qualities of a good auditor. This clearly means that such students did not read the question well despite the fact that the question conveyed clarity beyond measure.
- c) This question was on Value Added Tax (VAT). It was a straight forward one. Most students did a good job on it. Others appeared not to have read anything on value added tax and as a result performed badly. Students should be encouraged to learn the value added taxation as well to enable them solve questions on VAT easily.
- d) The rule on registration was also a very familiar area. A lot of students did a good job on it and bagged the needed marks. On the whole, it was well answered. Thumps up for a good work done on this question.

QUESTION FIVE

a)
i)

Kaato Mining Company Ltd Computation of Tax Payable

Y/A 2017

Basis Period 1/1/2017-31/12/2017

	GH¢	GH¢
Adjusted Profit		100,000,000
Deduct: Financial Gain	600,000	
Royalty	<u>60,000,000</u>	
		<u>60,600,000</u>
		39,400,000
Add Back:		
Financial Cost (900,000-20,000)	880,000	
Depreciation	<u>125,000</u>	
		<u>1,005,000</u>
		40,405,000
Capital Allowance (1,000,000/4)		<u>250,000</u>
Chargeable Income		<u>40,155,000</u>
Tax Charged @ 35%		14,054,250

(6 marks evenly spread using ticks)

ii) Treatment of financial cost

Under mining, any financial cost shall be used against financial gain. Any financial cost remaining shall be carried forward for the next five (5) years. If there is no financial gain, financial cost shall be carried forward.

(2 marks)

b)

i) Royalty payable to Ghana Government by X ltd is calculated as follows:

Rate of Royalty 5%
Production 100,000,000
Royalty Payable to Government:
 $5\% \times 100,000,000 = 5,000,000$ barrels

The Royalty of government is taken in kind and GNPC sells it on behalf of Government.

(3 marks)

Tax Implication of Production Cost on Royalty

As per the petroleum taxation, Government takes Royalty without paying anything towards any cost.

The Royalty of 5,000,000 in barrels are without any cost to Ghana Government.

(2 marks)

ii) Relevance of the Initial Interest of Government in the Upstream Petroleum Operations

- Initial Interest of Government is the equity of government in the petroleum operations that entitles the government to the production of the oil. Government is being carried in this arrangement, meaning, government is carried through exploration and development costs. Government only pays in respect of production cost relative to its interest.
- The relevance of the initial interest is that if there is no production, government does not suffer anything as its payment is only in respect of production cost.
- Additionally, the greater part of the cost is from exploration to development, which government does not contribute towards. Getting in is therefore getting much with less cost.

(3 points for 3 marks)

c)

- Act 896 requires that income for tax purposes is determined separately. Under section 17 of Act 896, businesses are required to determine business income and investment loss separately and so is business income that is subject to a higher tax rate from losses on a lower tax rate if it were a profit would have been taxed at a lower rate.
- In the case of losses from a lower rate if it were a profit will be taxed at lower rate, should be carried forward and deducted from income on the lower rate and should not be used to offset against income/profit from that which should be taxed at a higher rate.
- Export of non-traditional products is taxed at the rate of 8% whereas the local sales shall be taxed at the rate of 25%. Losses on the exports of non-traditional products shall be carried forward against income in the same exports.
- The effect of this is that, taxes on the higher rate will be reduced when the loss on the lower rate is applied. This will lead to loss in revenue.

(4 points for 4 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

- a) Few students appeared not to have any knowledge of the treatment of financial cost from derivatives and financial gain. Some also answered the question by applying the general principle on the tax treatment of financial cost by computing 50% of chargeable income and added financial gain to arrive at the limit on financial cost. That manner of computation is the general one under section 16 of Act 896.

Mining and mineral, and petroleum operations have unique provisions which are specific. It requires that financial cost from derivatives be matched against financial gain from derivatives. If the cost is high, the excess financial cost shall be carried forward for the next five years and if the financial gain is high, the excess should be added to revenue. If there is financial gain without any financial cost from derivatives, the gain should be added to income.

Some solved the question without indicating title to the question. Others also left out the year of assessment and the basis period. Some also left out the currency signs. These are important part of taxation and must be provided in solving any computational question.

- b) This area was on oil and gas taxation and tested Students on the relevance of carried interest as part of revenue stream. Quite surprisingly, question on carried interest had been tested in the time past before. Most of the students did not understand the carried interest and consequently, could not provide the relevance of the carried interest (initial interest) of government. The initial interest allows government to participate in the upstream petroleum operations through GNPC. This allows government to share in the production and only pay towards production cost only proportionate to its interest. The computation of royalty was also a challenge. Royalty is computed on production (volume) and not on revenue. It is in mining and mineral sector that the computation of royalty is done on the basis of revenue.
- c) This area tested students on the rule on how business income that is required to be taxed at a high rate of a person should relate to a business loss of the same person that if it were a profit would be taxed at a lower rate. Under section 17 of Act 896, losses from business which if it were profit would be taxed at a lower profit, cannot be deducted from a business income with a high tax rate. Some students did not understand this rule well and created the impression that it was possible to deduct same and consequently lost marks for that.

CONCLUSION

In conclusion, students can always perform better if they stick to the right books and materials with the syllabus serving as a guide and also commit themselves to their studies.

We commend students who gave good account of themselves in the examination while we earnestly plead with those who have not made it that all is not lost, they would pass but they should put in a lot more effort. What this means is that if students prepare themselves well for the examination, they will pass.

Prospective students should as a matter of urgency put in some effort to enable them pass the examination which is not out of their reach.

Tuition Providers/Centres should help students in the application of relevant tax laws to questions. They should give exercises if possible and try and mark the exercises in order to help correct some of the lapses they may come out from the exercises. Students should continue to work hard and improve the pass rate.