

NOVEMBER 2018 PROFESSIONAL EXAMINATIONS
TAXATION & FISCAL POLICY (PAPER 3.4)
CHIEF EXAMINER'S REPORT, QUESTIONS AND MARKING SCHEME

EXAMINER'S GENERAL COMMENTS

The final level paper is designed to help students practice tax alongside accounting after their qualification. The paper was set taking into account the level of difficulty appropriate for the final level and the technical level in my estimation, was not above any well prepared candidate. Candidates would naturally wait until last minute and try to do "cramming" in order to pass. This way is certainly a slippery-slop as it cannot guarantee success.

The Institute should continue to support students in their bid to pass with intervention classes and technical journals on relevant areas to enrich and deepen their understanding on some topics in taxation and fiscal policy.

STANDARD OF THE PAPER

The questions as usual assumed the normal trend depicting the spread in the syllabus and the weighting in line with the syllabus grid. The marks allocation appeared good and followed previous examination diets.

There were no ambiguities in the questions. The clarity of the questions was not in doubt as most students demonstrated understanding of the requirement of questions but others showed largely the usual lack of preparation in the way they answered some of the questions.

The performance of students was not affected in the negative at all from the point of the administration of the examination. The performance largely could be judged by their individual preparation and access to tax literatures. Some of the questions had sub-questions and were equally clear in a well-constructed English language. The questions were not also error-ridden and conveyed the thoughts of the examiners in a clear and concise manner not capable of creating confusion in the minds of the candidates.

The typing of the questions was very impressive and the choice of the words used were exceptionally good just so nobody could complain of not seeing the words clearly.

In short, the standard of the paper was appropriate for the final level professional examination in taxation.

PERFORMANCE OF CANDIDATES

Generally, the performance of the candidates were above average and perhaps better than the previous diets but there is more room for improvement.

The performance cut across the various centres and there was no noticeable and unique performance associated with (a) particular centre(s). In effect, the performance did not show any particular pattern.

There was no evidence to suggest copying by students. Each candidate gave their own account from the display of the English language and or the style of presentation demonstrated in their answer sheets.

The level of preparation continues to be a problem and a source of worry to the examiners. This is largely because most of the candidates at the final level are workers and hardly had time except taking few days close to the examination to enable them prepare. There was obvious lack of adequate preparation on the part of some students. It is hoped that students would in future study over a long horizon to be able to sit for the examination and pass well.

NOTABLE STRENGTHS AND WEAKNESSES OF CANDIDATES

Students should by now know that the Institute has adopted the spread as shown in the syllabus and as seen in the setting of its questions. This is aimed at helping an average student who has gone through the entire syllabus to be able to have grips of the questions and to give good account of themselves.

The topics selected were the normal questions from within the syllabus and selected on account of the spread as the syllabus packages the topics as a portfolio. This approach to say the least is to help discriminate between good students and an ill prepared student. Students demonstrated understanding of all the areas but clearly some lacked adequate preparation and this might have accounted for their inability to record impressive results everyone would have hoped for. Going forward, students should continue to place reliance on the spread of the questions and to give attention based on the marks and weighting awarded in each grid in the syllabus.

Passing Taxation and Fiscal Policy examination continues to be hinged on adequate preparation and reading the right materials and not the exhibition of stickers by no less a student than final level ones at that. Students are warned that foreign materials continue to be unacceptable in the examination halls.

Poor grammar continues to be an albatross around the necks of students and the use of abbreviations continue to rear their ugly heads in the examination. The poor grammar is becoming a norm rather than an exception and therefore is of a grave concern for examiners and for that matter stakeholders. Students should read story books to widen their vocabulary range.

Additionally, spellings have become an issue. Students who have read widely did not show this malady and consequently gave a good account of themselves but others did show this weakness.

In future, Tuition Providers should set mock examinations for students to help correct obvious grammar deficiency, abbreviations and spellings before the examinations start to help improve the pass rate of students.

The Institute should continue to organize intervention classes as was the case in the past to help correct deep-seated aberrations in the paper.

Another area of concern was writing two separate questions on the same page as if they are sub-questions of the same question number. Each question should be answered on a fresh page and properly labelled to facilitate ease of marking.

The weaknesses as established above were wide spread across all the centres and could not be traced to some select centres.

QUESTION ONE

- a) Taxation is an important tool that has helped and hurt economies the world over including those of the developing countries.

Required:

Identify **FOUR (4)** social impacts of taxation in Ghana.

(4 marks)

- b) The use of debt for country's financing has engaged the attention of economists and also the ordinary man in the interest regarding its impact on our economy. While some prefer domestic debt others are making a case for foreign debts as part of government's fiscal policy.

Required:

What are the benefits to a government for going in for a foreign debt as opposed to going in for domestic debt as a support to revenue base from taxes?

(6 marks)

- c) Tax reforms have characterised global taxation. Countries have embarked on various reforms geared towards improvement in tax revenue to help provide the basis for infrastructural and guarantee sustainable development. Ghana has not been left out in these critical tax reforms.

Tax administration in Ghana therefore has seen a number of reforms since the 1960s, with the most recent being the integration of the Revenue Agencies to an Authority to act as a one stop shop as per the Ghana Revenue Authority Act, 2009 (Act 791).

Required:

Evaluate **FOUR (4)** roles played by the Ghana Revenue Authority in the management of the Ghanaian economy.

(6 marks)

- d) In line with best practices, the Ghana Revenue Authority is mandated to encourage voluntary tax compliance to shore up revenue. This, among others includes responding to taxpayers' requests promptly.

Required:

Explain the term *class ruling* and its relevance.

(4 marks)

(Total: 20 marks)

QUESTION TWO

- a) Long term contracts span over a long period of time and have tax implications.

Required:

- i) What is **long term contract** as defined in the Income Tax Act, 2015 (Act 896)? (1 mark)
ii) What are the **tax rules** on long-term contracts? (2 marks)
- b) The Income Tax Act, 2015 (Act 896), provides under subsection (2) of section 100 a list of worthwhile causes approved by Government that a person can deduct in the course of doing business.

Required:

Explain **THREE (3) worthwhile causes** and the basis of approval by the Commissioner-General of GRA? (3 marks)

- c) Kate Oppong, a physically challenged, works for the Ministry of Health as an eye surgeon and optician based at Komfo Anokye Teaching hospital in Kumasi. She dedicates most of her free time to her private practice, as well as writing books and articles for the Ghana Medical Journal. Kate is also part of the medical team for the local NGO and Sight Restoration, which is involved in cataract surgery for the disadvantaged members of society in remote rural areas.

Kate's private practice is located in Kumasi and has a staff complement of six employees who are all full time workers. Kate only attends to the patients at her private practice strictly by appointment and her patient base has been steadily growing due to her experience and dedication.

In terms of her service contract with Sight Restoration, Kate is required to participate in all the cataract operations scheduled for the year. Her service contract is for a year, subject to renewal as and when donor support is available. Sight Restoration's field staff, of which Kate is one, are paid a predetermined monthly salary plus an attendance allowance which is paid only after each cataract operation. The field staff is also entitled to a one-off representation allowance for participating in scheduled seminars.

Kate Oppong's earnings and deductions for the year ended 31 December 2017 were:

	Notes	GHC
From Ministry of Health:		
Basic Salary		30,000
On call allowance		12,000
Transport allowance		3,000
Bonus		2,500
Representation allowance		1,200
Cash in lieu of leave		2,500
Loan repayment	(1)	(550)
Provident Fund: Employee's contribution		(1,000)
Employer's contribution		(3,000)

Free Accommodation only

From her private practice:

Salary		60,000
School fees benefit		15,000
Home security benefit		10,000
Gym subscriptions benefit		4,000
South African trip	(2)	6,000
Utility bills benefit		5,000
Retirement annuity fund (RAF) contributions		(3,000)
PAYE	(3)	0

From Sight Restoration:

Salary	16,000
Attendance allowance	20,000
Representation allowance	7,000

Notes:

- 1) This amount is part repayment of the interest free personal loan of GH¢12,000 advanced to Kate on 1 January, 2017, repayable over two years. The Bank of Ghana interest rate for the year ended 31 December 2017 was constant at 20%.
- 2) This amount was fully expended towards the travelling costs for Kate and her minor son for his medical treatment in South Africa.
- 3) No employees tax (PAYE) or corporate income tax was paid in respect of the amounts paid to the employees of the private practice (including Kate) or the profits from the practice. This was because in Kate's opinion her operations were 'private' and as such not subject to tax and also because she believed that she was already contributing her fair tax share from her other two employers.
- 4) Kate is a single parent and takes care of her single son in the senior high school. She also takes full responsibility of her aged mother.

Required:

- i) State the Ghana Revenue Authority's (GRA) requirements which have been breached by Kate Oppong and consequences of the breach based on the information given in note (3). **(5 marks)**
- ii) Calculate the taxable income of and income tax payable by Kate Oppong for the year ended 31 December 2017. Note: All computations should be rounded to a whole cedi. **(9 marks)**

(Total: 20 marks)

QUESTION THREE

- a) The management of Smith Plc, a UK based Company, is considering the possibility of launching its presence in Ghana and it is not too sure of the tax implication of the following in the light of the tax laws of Ghana:
- i) It is considering making its presence through incorporation in Ghana or create an external company that is a Permanent Establishment (Branch) instead.
 - ii) It intends to acquire all its non-current assets through finance lease as against buying the assets outright when it makes its presence in Ghana.
 - iii) It intends to bring some staff from the United Kingdom to work in Ghana who will be paid half salary in Ghana and the other half paid directly to their accounts in the United Kingdom as against paying their full salary in Ghana.
 - iv) Management intends to acquire shares in many companies in Ghana as part of efforts to create value for shareholders through dividend receipts as against granting loans to interested companies in Ghana if it is unable to make its presence in Ghana.

Required:

Evaluate the above policy interventions and advise on the tax implication on each one of them to enable management of Smith Plc take a decision on them. **(10 marks)**

- b) The following information is an extract of projected financial performance of YZ Ltd a manufacturing company that intends to go into operation with a basis period from January to December. Management is contemplating operating in either Kumasi or Konongo but the results are expected to be the same irrespective of the location. The following projected results from January to December Year 1 are worth analysing.

	Kumasi (Regional Capital)	Konongo (District Capital)
	GH¢	GH¢
Revenue	3,000,000	3,000,000
Cost	1,200,000	1,200,000
Gross Profit	1,800,000	1,800,000
Expenses	1,000,000	1,000,000
Net Profit	800,000	800,000

The following additional information is relevant:

A building to be bought on 1 March Year 1 for GH¢400,000 has been granted full year's depreciation at the rate of 20% and same has been added to projected cost above.

Required:

- i) Compute the projected tax payable on the above and state where management is likely to site the entity and why? **(4 marks)**
- ii) What other **TWO (2)** factors apart from what has been identified in (i) above may dictate siting a manufacturing business in a regional capital? **(1 mark)**

- c) Ghana Revenue Authority (GRA) has embarked on serious tax reforms to enable it achieve its tax revenue year after year. As part of the reforms, it has been said that GRA should pursue voluntary tax compliance if it really wants to meet its revenue target.

Required:

Recommend **THREE** factors that are necessary to ensure voluntary tax compliance.

(3 marks)

- d) Under what condition should Research and Development Expenditure be capitalised?

(2 marks)

(Total: 20 marks)

QUESTION FOUR

- a) Mr. Patapaa commenced trading on 1 April, 2017 and has made the following sales:

April to June 2017	GH¢29,500 per month
July to September 2017	GH¢12,200 per month
October to December 2017	GH¢21,500 per month

These figures are stated exclusive of value added tax (VAT). Mr. Patapaa's sales are all taxable activities.

As a trainee Chartered Accountant you have advised Patapaa in writing that he should be registered for VAT, but he has refused to register because he thinks his net profit is insufficient to cover the additional cost which would be incurred.

Required:

- i) Explain what period Mr. Patapaa was required to compulsorily register for value added tax (VAT) and the implications of continuing to trade after this period without registering. Note: You are not expected to explain the VAT penalties arising from late VAT registration.
(2 marks)
- ii) What are the *sanctions* for failure to register for VAT?
(4 marks)
- iii) Briefly explain from an *ethical viewpoint* the issues you, as a trainee Chartered Accountant, should consider in order for your firm to deal with Mr Patapaa's refusal to register for VAT.
(2 marks)
- iv) State the activities or persons that are exceptions to the normal threshold rules. **(2 marks)**

- b) The Income Tax Act 2015 (Act 896) as amended requires all tax payers to be on self-assessment as tax payers know better their circumstances for tax purposes.

Required:

Evaluate **FOUR (4)** benefits of the self-assessment regime.

(6 marks)

- c) As part of tax administration, the government rolls out tax amnesty from time to time.

Required:

- i) What does tax amnesty seek to serve?

(2 marks)

- ii) What are the effects of tax amnesty on revenue?

(2 marks)

(Total: 20 marks)

QUESTION FIVE

- a) The following is relevant for the operation of AB Ltd, operating in the upstream petroleum sector for 2017 year of assessment.

	\$
Revenue	100,000,000
Cost	<u>80,000,000</u>
Profit	<u>20,000,000</u>

The following additional information forms part of the above:

- The revenue above includes financial gain from swaps of \$1,000,000
- The financial cost of \$1,200,000 was added to cost
- The cost includes a depreciation of \$200,000
- Research and development of \$100,000 incurred was added to the cost of operation
- Revenue on 20,000 barrels of oil sold was added to revenue. It came to light that the disputed price used on the 20,000 barrels was \$70 in its tax returns. What has finally been agreed now is put at \$67 and this has been certified by the Petroleum Unit of the Ghana Revenue Authority.
- Written down value as of 31/12/2016 was \$1,800,000 after granting capital allowance the second time as of 2016 year end. This information is yet to be adjusted.

Required:

- i) Compute tax payable.

(6 marks)

- ii) Comment on the deductibility of financial cost in petroleum operations.

(2 marks)

- b) Manla Ltd since its incorporation has been providing Mining Support Services (MSS) in line with its mandate and the following is relevant to its operations for 2017 year of assessment.

	GH¢
Chargeable income	240,000,000

The following is relevant:

- Loss from investment deducted in arriving at the chargeable income GH¢ 700,000.
- Dividend (gross) received from A Ltd, a mining company, where Manla Ltd has 26% voting power in A Ltd amounting to GH¢ 20,000 and this amount was added in arriving at the chargeable income above.
- A provision for bad debts amounting to GH¢ 400,000 was written off as part of chargeable income.
- Manla Ltd had a tax loss of GH¢ 20,000 from 2014 year of assessment which it deducted in arriving at the chargeable income above.
- Manla Ltd received a net dividend from a company based in the USA of the equivalent of GH¢ 9,500 after 5% tax was deducted and the net income was added to chargeable income above.
- A powerful shareholder was granted items worth GH¢60,000 which was adjusted in arriving at the chargeable income to neutralize the shareholder's influence at Annual General Meeting.

(Note: Manla Ltd has a basis period from January to December)

Required:

- Compute the taxes payable by Manla Ltd. **(6 marks)**
 - Comment on the treatment of investment loss of GH¢700,000. **(2 marks)**
- c) A mining company with two contracts operating in the Western and Ashanti Regions of Ghana has one processing facility for its mining operations from both separate contracts. This action has engaged the attention of the Ghana Revenue Authority for some time now regarding how to handle its activities for tax purposes.

Required:

As a final level tax candidate, how will revenue received from a shared processing facility by a mining company be accounted, for tax purposes? **(4 marks)**

(Total: 20 marks)

The Tax Rates-2016 to date (ANNUAL)

First	2,592	Nil
Next	1,296	5%
Next	1,812	10%
Next	33,180	17.5%
Exceeding	38,880	25%

SOLUTION TO QUESTIONS

QUESTION ONE

- a) Taxation has both upside and downside. It has helped in economic growth and has also hurt economies by collapsing businesses.

The social impact of taxation is seen from the following:

- It sees to the redistribution of income by taxing the rich more than the poor to provide services for the benefit of both.
- It prevents dumping of products from other countries to make our environment safe. Taxation can be used to rid our society of unwanted goods which create more social cost than good.
- Imposes heavier taxes from the consumption of certain harmful products (sin tax) to help conserve energies of our productive workforce.
- The provision of social amenities for the benefit of all.

(4 points for 4 marks)

- b) Domestic debt is borrowing from within the country by Government to support its projects and programmes while foreign debt is the external borrowing by government.

The benefits from external borrowing are as follows:

- More inflows from foreign sources to support our development as a country
- The private sector can borrow within to expand their businesses as they have no competition from government.
- Government can carry out its project successfully as loans from foreign sources can be acquire in large chunk.
- Government can use the loans from foreign sources to support local firms that otherwise will not be able to acquire in view of collateral and or credit rating.
- Borrowing from foreign sources allow locals to have money to spend to boost the economy.

(4 points @ 1.5 marks each = 6 marks)

- c) **Roles played by the GRA in the management of the Ghanaian economy**

- Assess and collect taxes, interest and penalties on taxes due to the Republic with optimum efficiency;
- Pay the amounts collected into the Consolidated Fund unless otherwise provided by this Act and other Acts;
- Promote tax compliance and tax education
- Combat tax fraud and evasion and co-operate to that effect with other competent law enforcement agencies and revenue agencies in other countries;
- Advise District Assemblies on the assessment and collection of their revenue;
- Prepare and publish reports and statistics related to its revenue collection

- Make recommendations to the Minister of Finance and Economic Planning on revenue collection policy; and perform any other function in relation to revenue as directed by the MOFEP assigned to it under any other enactment

(Any 4 points @ 1.5 marks each = 6 marks)

- d) As part of the functions of the Commissioner-General, he may issue a ruling upon application by a taxpayer.

A class ruling is a ruling issued by the Commissioner-General to a specified class of Taxpayers. It becomes applicable to persons within the class. Eg. Real Estate Developers requesting for a ruling. **(2 marks)**

Relevance/Effects

- It sets out the position of the Commissioner-General regarding the application of tax laws with respect to an arrangement proposed or entered into by the class of Taxpayers.
- Class ruling binds the Commissioner-General to the extent that the Taxpayers in the class make full and true disclosure of all aspects of the arrangement.
- It does not bind the taxpayers in question.

(Any 2 points for 2 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

Question 1A. This question required the identification of social impact of taxation. Unfortunately some students wrote on the economic impact of taxation instead of the social impact hence lost the allocated marks. This brings in its wake the attitude of not reading questions carefully by students before they start answering.

Question 1B. This question was on benefits from foreign debt as against domestic debts. Some answered this question as though the examiner was asking for benefits from debts in general. Candidates should read questions carefully in future examinations before going ahead to answer. Examiners do not award marks for boldness of students but for doing the right thing as required by the question.

Question 1C required the role played by the Ghana Revenue Authority. Some candidates understood the question as the administrative function of the Ghana Revenue Authority. Others on the other hand did justice to the question and bagged the needed marks.

Question 1D. This question required some understanding of class ruling which is a ruling by taxpayers as a group in the same industry or to specified class of taxpayers. A particular candidate wrote as this rendition as an answer on class ruling "is the fixing of taxes that have to be paid by the taxpayer". This is unacceptable. By looking at the term only, one should be able to write on it if even one has not come across it. On the whole, most candidates were able to write impressively on it.

QUESTION TWO

a)

i) **long-term contract** means a contract:

- for manufacture, installation or construction or, in relation to each, the performance of related services; and
- which is not completed within 12 months of the date on which work under the contract commences.

(1 mark)

ii) **Tax rules on long-term contracts**

- Amounts to be included or deducted in calculating the person's income that relate to a long-term contract are taken into account on the basis of the percentage of the contract completed during each basis period.
- The percentage of completion is determined by comparing the total expenses allocated to the contract and incurred before the end of a basis period with the estimated total contract expenses as determined at the time of commencement of the contract.
- The Commissioner-General may allow any unrelieved loss to be carried back and treated as an unrelieved loss of an earlier basis period. The amount carried back is limited to the profit (if any) from the contract for the basis period to which the loss is carried back.
- The above rule applies where a long-term contract is completed and the person has an unrelieved loss attributable to that contract for the basis period in which the contract ended or any earlier basis period.
- An unrelieved loss of a business for a basis period is attributable to a long-term contract to the extent that there is a loss from the contract for the period.
- A profit or a loss from a long-term contract for a basis period is determined by comparing amounts included in income under the contract with deductions under the contract for that period.

(4 points @0.5 mark each = 2 marks)

b) **Approval of a worthwhile cause**

• **Charitable Organisation**

The organisation must be in possession of an unexpired written approval issued by the Commissioner-General in accordance with the section 97 of the Act.

(Refer also to the Practice Note of the Commissioner-General on Charitable Organisations).

• **A scheme or course of study**

A scheme of scholarship for an academic, technical, professional or other course of study should be backed by a written attestation issued by the Minister for Education, confirming the scheme or course of study as a worthwhile cause for the purpose of section 100 of the Act.

- **Rural or Urban Development**

An activity or event carried out for the purpose of the development of an urban or rural area should be backed by a written attestation issued by the Minister for Local Government, confirming the activity as a worthwhile cause for the purpose of section 100 of the Act.

- **Sports development or promotion**

An activity or event carried out for the purpose of sports development or promotion should be backed by a written attestation issued by the Minister for Youth and Sports, confirming the activity as a worthwhile cause for the purpose of section 100 of the Act.

- Other worthwhile cause approved by Commissioner-General.

(Any 3 points for 3 marks)

c)

- i) **GRA requirements which have been breached**

- Every employer is to withhold tax from the payment of an amount to be included in ascertaining the income of an employee from the employment. This requirement has been breached by Nora as an employer.
- The amount to be withheld should be remitted to the GRA by the 15th of the month following the month of withholding. This has been breached.
- Kate has also not paid any company tax on the income of the private practise and that is also a breach.

(Any 2 points for 2 marks)

Consequences of the breach

- The GRA can backdate both the PAYE and the company tax to the date when the business commenced. All the outstanding tax returns would have to be submitted and taxes due paid.
- The GRA can impose penalty and interest of 125% over the statutory rule on the overdue tax amount.

(2 points@ 1.5 marks each = 3 marks)

- ii) **Computation of Assessable Income for the year ended 31 December 2017**

Ministry of Health	GH¢	GH¢
Basic Salary		30,000
Add Benefits in cash:		
On call Allowance	12,000	
Transport Allowance	3,000	
Representation Allowance	1,200	
Cash in lieu of Leave	<u>2,500</u>	
	18,700	<u>18,700</u>
		48,700
Add Benefits in kind		
Accommodation 7.5% * GH¢48,700	3652	

Loan Benefits $(20-0)\% * 12,000 * \frac{1}{4}$	<u>600</u>	<u>4,252</u>
		52,952
Private Practise		
Salary	60,000	
School fees	15,000	
Home Security	10,000	
Gym Subscription	4,000	
South African trip	6,000	
Utility bills	<u>5,000</u>	
		100,000
NGO		
Salary	16,000	
Attendance	20,000	
Representative allowance	<u>7,000</u>	
		<u>43,000</u>
		195,952
Less Reliefs		
SSF: Employee	1,650	
Provident Fund	1,000	
Disability allowance $(25\% * 52,952)$	13,388	
Child Education	200	
Aged Dependence	<u>100</u>	
		<u>16,188</u>
		<u>179,764</u>

(Maximum of 30 ticks @ 0.3 marks each = 9 marks)

(Total: 20 marks)

Assumption

1. Loan was from employer. The question gave a hint
2. 16.5% of basic salary exceeds the provident fund contribution, hence the contribution was legitimate for voluntary fund and allowable
3. The travelling allowance was not a medical expense hence taxable
4. The primary employment takes the reliefs
5. Quantification of loan benefit $(20\% * 12000) * \frac{1}{4} = 600$

EXAMINER'S COMMENTS

Question 2A, the long term contracts question appeared new and unfamiliar to students. But with application of knowledge from accounting one should be able to answer it. Others did not answer it at all. Some attempted it and got some marks above average. Question 2B was on contribution towards worthwhile causes. Others gave example of the activity but did not mention the worthwhile causes at all. Some also listed them as "Capital allowance, Reliefs and Interest on Debt". But on the whole, it came across as a popular question.

Question 2C was a popular question but appeared a bit loaded vis-à-vis the marks on the face of it. It was generally agreed initially by the examiners that it appeared loaded. But one would agree that it did not require any much adjustment and could be managed pretty quickly by any serious student. Many candidates did so well in this question though. On the whole, it was a good question that gave students more than average pass mark.

QUESTION THREE

a) Evaluating the Policy Interventions

i) Incorporation:

- A company that is incorporated in Ghana through the Registrar General shall be required to pay a stamp duty on the shares introduced as stated capital at the rate of 0.5% on the value of the equity, and pay corporate taxes when profits are made.
- Additionally, anytime dividend is declared, the shareholders, in this case the Smith Company Ltd shall be subject to dividend withholding taxes at the rate of 8% in line with section 115 of Act 896 and the first schedule of the same Act.
- Again, it shall be responsible for the deduction of Pay As You Earn (PAYE) from the employment income of its employees on their behalf and other withholding taxes to the Ghana Revenue Authority (GRA) in respect of payment for goods, services and works at the rates of 3%, 7.5% and 5% respectively, for payment to resident persons and 20% in respect of non-resident person on only goods, services and management and technical services if any subject to double taxation agreement.

(2 points for 2 marks)

Permanent Establishment (Branch)

- It will register as an external company and pay corporate taxes on its profits. It will be subject to a branch profit tax at the rate of 8% in line with section 60 of Act 896 and Regulation 21 of LI 2244 of 2016. The branch shall pay tax on the gross amount of earned repatriated profits.
- Additionally, it shall pay PAYE to GRA on behalf of its employees and pay other withholding taxes in respect of goods, services and works at the rates of 3%, 7.5% and 5% respectively. Non-resident at the rate of 20% including payment of management and technical services if any.
- In conclusion, if both of them engage in the same business, they shall have the same tax exposure except that with branch profit tax, it is paid whether profits have been repatriated or not but with the dividend, it becomes payable when it is declared by the company.

- Stamp duty is not payable by a branch.

(2 points for 2 marks)

ii) Non-current assets acquired through finance lease

- Non-current assets acquired through finance lease shall be granted capital allowance to the lessee in respect of the capital portion of the lease rental payment.
- Interest portion on the lease rental payment shall be granted as an allowable deduction when it meets the deductibility principles
- Outright acquisition of capital assets shall be granted capital allowance on the amount of the acquisition paid or payable. Both shall be entitled to capital allowance. Under both cases, the base rule for granting capital allowance shall apply.

(2 points for 2 marks)

iii) Bringing staff from UK to work in Ghana

- Income is subject to tax based on the residence status of the person. A resident persons shall pay tax on their global income (world-wide income) with non-resident persons paying taxes on incurred derived from or accrued in Ghana only.
- The salaries of the expatriate employees shall be subject to tax in Ghana. The tax implication of paying the salary in Ghana and paying half in Ghana has the same effect. They are free to use their salaries after the taxes are paid.
- Following from the above, the employment income of the expatriate employees derived from Ghana shall be subject to tax fully in Ghana. Any part of the salary that is remitted through their foreign accounts should be done after the taxes have been paid. There is no tax benefits in either case.

(2 points for 2 marks)

iv) Acquisition of shares by management

- Any person that acquires shares in an entity becomes a shareholder of that entity. In this case, Smith Company Ltd shall become a shareholder. Any dividend that is declared shall be subject to tax at the rate of 8% being a final withholding tax, meaning the shareholder shall not be allowed to pay further tax in respect of the same income.
- On the grant of loans to interested persons, this shall undoubtedly provide additional funding to persons that access them in Ghana. The interest on the loan that shall be paid to the provider of the loan in this case Smith Company Ltd shall be subject to withholding tax at the rate of 8% final as it is being paid to a non-resident person.

(2 points for 2 marks)

b)

i)

YZ Ltd
Computation of projected tax payable
Year of Assessment Year 1

	Kumasi	Konongo
	GH¢	GH¢
Net Profit	800,000	800,000
Add back Depreciation	<u>80,000</u>	<u>80,000</u>
	880,000	880,000
Capital allowance (@10% of 400,000)	40,000	40,000
Chargeable Income	840,000	840,000
Tax Rate	18.75%	12.5%
Tax Charged	157,500	105,000

Proposed Capital Allowance

Class 4
GH¢

Cost	400,000
Capital Allowance 10% SLM	40,000
Written Down Value C/F	360,000

(3 marks evenly spread using ticks)

Comments:

Management is likely to invest in Konongo as it has a lower tax rate. The tax saving is (157,500-105,000) GH¢52,500.00 by siting the manufacturing company in Konongo as against Kumasi.

Management is likely to invest in Konongo instead of Kumasi as it offers a lower tax rate and consequently a better value for shareholders.

(1 mark)

ii) **Other factors other taxes include but not limited to the following:**

- Proximity to labour
- Proximity to power supply
- Proximity to Market
- Proximity to Raw Materials

(Any 2 points for 1 mark)

c) To achieve voluntary tax compliance, the following factors shall be considered:

Simple tax laws
Simplified procedures
Tax Amnesty
Penalty and sanctions
Taxpayers Service

- **Simple tax laws:** When the laws are simple, it allows for compliance as taxpayers are able to interpret it well
- **Simplified procedures:** Procedures to be followed to pay tax should be simplified to ensure that tax payers spend less time to complete them.
- **Tax Amnesty:** where taxpayers are allowed not to pay interest and penalty on non-disclosure of income and in some cases, taxes are forgiven, it allows for tax compliance.
- **Penalty and sanctions:** Penalty should be imposed with severe sanction to ensure compliance
- **Provision of Tax payers' service:** Services in the form of tax education, provision of assistance to help in filing shall be helpful in the voluntary tax compliance.

(Any 3 points well explained for 3 marks)

- d) Research and development expenditure should be expensed if even it is of a capital nature. However, when the Research and development expenditure is added to a cost of an asset, it should be capitalized and capital allowance granted if it means the base rule.

(2 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

Question 3A. This question tested tax implication on certain tax policies. Some candidates argued though wrongly that "acquiring shares in Ghana, one will be subject to tax at the rate of 8%". On the issue of acquisition of assets against leasing, some argued that "capital allowance will be derived on outright acquisition as against lease". It must be noted that capital allowance is granted to the lessee on the principal repayment only with the finance cost as an allowable deduction on finance lease. A particular student said "permanent establishment is an estate separate from its owners". Candidates should read the tax laws well to allow them offer better answers.

Question 3B. This was a pretty straight forward question that did not require any struggle at all. But interestingly, others had difficulty in calculating the depreciation as "an-add back". This was quite strange to most examiners. Others also computed the capital allowance using basis period as basis of apportionment. However, the question indicated that the basis period was from January to December. The fact that the asset was acquired in March was irrelevant. The computation should have taken the full year's capital allowance without any apportionment.

Question 3C and D was well answered by some candidates. Others had it tough though. Apparently, lack of adequate preparation could be the only simple reason for that.

QUESTION FOUR

a)

- i) Except as otherwise provided in Value Added Tax Act, 2013 (Act 870), as amended, 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 month 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.

Despite the above provisions, a person shall register if:

- At the end of any period of three months, the person made, during that period, taxable supplies exceeding, fifty thousand Ghana cedis; and
- There are reasonable grounds to expect that the total value of the taxable supplies made by that person during that period and to be made during the next consecutive nine months will exceed two hundred thousand Ghana Cedis.

All things being equal, and assuming there are no reasonable grounds to estimate future sales, during the first three months of April to June, sales was GH¢29,500 x 3 = GH¢88,500. This is more than GH¢50,000 for the first three months. Registration is due before the end of the month following the month in which the limit is exceeded, so Mr Patapaa should register by 31st July or within 30 days.

If Mr Patapaa continued to trade after 31st July, which he did, without registering for VAT, he would still have to pay for the VAT due from the time he should have registered. **(2 marks)**

- ii) A person who fails to apply for registration is liable to a penalty of not more than two times the amount of tax on taxable supplies payable from the time the person is required to apply for registration until the person files an application for registration with the Commissioner-General. **(4 marks)**

- iii) The matter is one of *professional judgement* and the Accountant would be expected to act *honestly and with integrity*. If Patapaa refuses to register for VAT, the Accountant would be obliged to report the company to the Ghana Revenue Authority. The Accountant should cease to act for Mr Patapaa and need to provide reasons for unable to work for him.

- iv) Exceptions to the normal threshold rules

- A promoter of public entertainment,
- An auctioneer, or

- A national, regional, local or other authority or body, which carries on any taxable activity shall apply for registration

(Any 2 points for 2 marks)

b) Benefits of the Self-assessment regime

- Self-assessment regime is a regime that allows the taxpayers to estimate their chargeable income in advance and their tax payable on the chargeable income.
- This allows the government to be able to make its projections on expected revenue from taxes and given that the taxpayers themselves provide the projections on their business activities they pay in comfort.
- The benefits of the self-assessment regime has reduced objections by taxpayers and interest and penalties.
- Self-assessment regime gives taxpayers greater equity and fairness, increased certainty and simplicity as it places greater responsibility on the taxpayer to assess their tax debt or refund.

(4 points @ 1.5 marks each = 6 marks)

c)

- i) **Tax Amnesty** is a limited-time Government pardon to eligible taxpayers- individuals and businesses- who have failed to register with the Commissioner-General, or file returns, or pay taxes as required by Law.

The purpose of the Amnesty is to improve voluntary tax compliance, increase tax revenues, make fairer tax reforms possible due to an expanded tax base and accelerate economic growth.

(2 marks)

- ii) An amnesty typically allows individuals or firms to pay delinquent taxes without being subject to some or all of the financial and criminal penalties that the discovery of tax evasion normally brings. Tax amnesties are a controversial revenue-raising tool.

Tax amnesty has immediate and short-run revenue impact, and future tax revenues may increase if the amnesty induces individuals or corporations not on the tax rolls to participate, and if the amnesty is accompanied by more extensive taxpayer services, better education on taxpayer responsibilities, and, especially, stricter post-amnesty penalties for evaders and greater expenditures for enforcement.

(2 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

The question 4(a) was on "Value added Tax". This was well answered though others had difficulty appreciating the question. Candidates should read the value added tax law as well. The "B" part of the question was on self-assessment which was quite a popular area and consequently got students doing well in it.

Part "C" was on tax amnesty. This was a "regular song" between January and August 2018 in the print and electronic media. Many performed abysmally poor and others recorded an average performance on that question.

QUESTION FIVE

a)

i)

AB ltd		
Computation of tax payable		
Y/A 2017		
Basis Period 1/1/2017 -31/12/2017		
	\$	\$
Profit as per accounts		20,000,000
Deduct: Revenue from Swaps	1,000,000	
Revenue Dispute (70-67) X (20,000)	<u>60,000</u>	
		<u>1,060,000</u>
		18,940,000
 Add back: Financial cost	 1,200,000	
Depreciation	200,000	
Research and Development	<u>100,000</u>	
		<u>1,500,000</u>
Adjusted Profit		20,440,000
Capital Allowance (1,800,000/3)		<u>600,000</u>
Chargeable Income		19,840,000
Tax Charged @ 35%		6,944,000

(Maximum of 12 ticks @ 0.5 marks each =6 marks)

ii)

Treatment of Financial Cost:

Computation of Financial Cost to be carried forward:

	\$
Financial Gain	1,000,000
Less Financial Cost	<u>1,200,000</u>
Unutilized Financial Cost carried forward	200,000
	(1 mark)

Commentary

- The deduction of the financial cost from the revenue was not correct as the provision of the law allows a unique treatment as demonstrated below.
- Financial cost incurred shall be deducted from financial gain. Any financial cost incurred which cannot be deducted from financial gain shall be carried forward for the next five (5) years. The amount of \$ 200,000 shall be carried forward.
- It shall continue to be matched against financial gain if any. If for the next five years, there is no financial gain, it shall be abandoned and ignored.
- It is not used as an allowable deductions and financial gain is not added to income. They are both reversed.

(Any 2 points for 1 mark)

b)

i)

Manla Ltd		
Computation of Tax Payable		
Y/A 2017		
Basis Period 1/1/2017-31/12/2017		
	GH¢	GH¢
Chargeable Income		240,000,000
Deduct the following:		
Dividend from Mining	20,000	
Dividend Foreign Source	<u>9,500</u>	
		<u>29,500</u>
		239,970,500
Add back the following:		
Tax Loss	20,000	
Investment loss	700,000	
Provision for bad debts	400,000	
Items -Shareholder	<u>60,000</u>	
		<u>1,180,000</u>
		241,150,500
Add Foreign Dividend		<u>10,000</u>
Chargeable Income		241,160,500

Tax Charged @ 25%	60,290,125
Less Foreign Tax Credit	<u>500</u>
Net Tax Payable	60,289,625

Other Taxes:

Deemed Dividend withholding Tax (8%*60,000) (Final)	4,800
Dividend -Withholding (from Mining) (20,000*8%) Final	<u>1,600</u>
Total Tax payable	60,296,025

(Maximum of 15 ticks @ 0.4 marks each =6 marks)

ii) Loss from Investment of GH¢ 700,000 shall be carried forward in line with section 17 of Act 2015 Act 896 to be deducted from future investment income. It should not be deducted in the determination of business income of Manla Ltd. **(2 marks)**

c) Revenue received from shared processing facility

- Revenue earned from shared processing facility of a mining entity shall be considered as one and therefore the revenue shall be combined as one and should not be separated as separate mineral operations for tax purposes.
- Two separate contracts should be considered separate mineral operations but should be seen as one if the processing facility is a shared one.

(2 points @ 2 marks each =4 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

Question 5 was on petroleum operations. It was well answered largely. It had the features of examination of accounts which students always prepare very well on. Some few candidates allowed research and development as an allowable deduction contrary to the provision of the law. It is not an allowable deduction in both petroleum and mineral operations.

Additionally, the loss on investment was not an allowable deduction hence was added back to revenue. Most candidates missed this treatment. Section 17 of Act 896 provides that loss from business may be deducted from investment but not vice versa.

The "B" part of the question was on mining support service. Few candidates wrongly calculated the tax using graduated tax rate given the fact that it was a limited liability company-this position was worrying!. Candidates had difficulty with the foreign income treatment. Foreign income in any form is taxable and in some cases subject to Double Taxation Agreement (DTA) if any.

The shareholder who was given items could not have been an allowable deduction by the company as shareholders are entitled to dividend. The right treatment was to disallow it and to also subject it to withholding tax as deemed dividend at the rate of 8%.

CONCLUSION

In conclusion, some candidates did so well and gave good account of themselves. Others gave the impression that they just wanted to be seen as attempting the final level without any seriousness in their output.

It is advised that candidates should read widely the tax laws relevant to the syllabus and try to learn their tax laws by association and not in isolation to be able to provide good answers.

Additionally, the grammar of students should be worked on by themselves. It is hoped that in future some of the questions would require report and memo writing to force students to read widely to improve upon their writing skills.

Tuition Providers should help students in the application of relevant laws. They should give exercises and try and mark the exercises to have inkling of what they can help correct in their write ups in order to help them improve.

Prospective candidates should try and learn according to the syllabus and follow the grid in the syllabus as the Institute has shown consistency in the pattern the questions are set to enable them make the mark required to pass.

It is hoped that this report would help students work on their weaknesses and enhance their strengths by reading widely to enable them record impressive performance in future examinations.