

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

EXAMINER'S GENERAL COMMENTS

The questions tested candidates understanding of the basic principles of taxation. The questions were clear and straight to the point, devoid of ambiguities. Except for gift tax which did not feature, the spread of the questions were largely in line with the weightings in the syllabus.

The performance of candidates for this diet was very good. Approximately 59% of the candidates who wrote the paper passed. The best pass rate since the inception of the current syllabus in November 2019. Despite the impressive performance in this diet, the performance of candidates in VAT questions continue to be disappointing. Candidates and tuition providers are still being advised to spend their energies to go through the relevant VAT Acts and regulations if they do not want to be found wanting.

STANDARD OF THE PAPER

The standard of the questions was remarkable and up to the expected standard for level two of the examination structure and the best from previous diets. It really tested candidates on the principles of taxation. Apart from the questions on capital gain tax which was ten marks in all instead of five per the weighting in the Principles of Taxation syllabus, the spread was largely fair. The marks allotted and time allocated to the questions were commensurate with the amount of work required to pass. The questions were very clear, straight to the point with virtually no typographical errors. In fact, with these observations one can confidently say largely contributed to the notable performance of candidates.

PERFORMANCE OF CANDIDATES

Generally, the performance of the candidates was intriguing. The expectations of the examiner from the candidates were met compared to all previous diets. This impressive performance of the candidates as earlier adduced was as a result of the nature of the questions and the spread of the marks. The requirements were generally clear as to what the candidates were to do and the repetitive nature of the questions among others contributed to the excellent performance. Adequate preparation and willingness of candidates to learn across the syllabus will be required to maintain this high performance chalked in this diet.

NOTABLE STRENGTHS & WEAKNESSES OF CANDIDATES

It is evident after four years of the current syllabus that most candidates had excellent understanding of the syllabus and the weightings assigned. This was demonstrated in the answering of the questions. The coverage of the syllabus for the majority is appreciable. The questions were clear with some candidates scoring high marks in most of the questions. Prospective candidates should build on this strength if the remarkable performance is to be sustained.

Since November 2019, VAT questions have not been well dealt with. Students should take their time to learn VAT well since they can easily score good marks there. Students are advised to enroll with the reliable tuition centres to aid their preparations. The ICAG manual on the Principles of Taxation is also one of dependable reference guides. They should also make good use of the various examiner's reports from November 2019. Both lecturers and candidates should pay attention to the law and the basic principles of taxation.

QUESTION ONE

- a) When introducing new taxes in a developing economy like Ghana, the contribution of the new tax system to the tax buoyancy of the country is important. However, this will depend on whether the new tax instrument will be a progressive tax or a regressive tax.

Required:

Explain the difference between *progressive tax system* and *regressive tax system* and state **ONE (1)** example of each tax instrument. **(5 marks)**

- b) Distinguish between the features of *direct taxes* and *indirect taxes*. **(5 marks)**

- c) A taxpayer is not satisfied with the Commissioner-General's tax decision.

Required:

Explain the procedure to be followed in objecting to the Commissioner-General's tax decision.

(10 marks)

(Total: 20 marks)

QUESTION TWO

- a) Despite the turnover rules stated under section 6 of the Value Added Tax Act, 2013 (Act 870), there are certain exceptions to the turnover rules under section 11 of the same Act.

Required:

Explain the exceptions to the turnover rules under section 11 of the Value Added Tax Act 2013 (Act 870). **(6 marks)**

- b) An application for a voluntary VAT registration may be denied the opportunity to register for VAT although the Value Added Tax Act, 2013 (Act 870) makes provision for voluntary VAT registration.

Required:

State the conditions under which application for voluntary VAT registration may be denied. **(4 marks)**

- c) Atakora Manufacturing Ltd is a company at Winneba that manufactures roofing sheets. The Company has recently registered for VAT and is not sure about the treatment of its input VAT paid prior to VAT registration. The company has sought your guidance on how to treat input taxes paid prior to registration.

Required:

Advise the company on the deductibility rules of input VAT incurred by a company prior to VAT registration. **(5 marks)**

- d) Explain the three tier pension scheme under the National Pensions Act, 2008 (Act 766).
(5 marks)

(Total: 20 marks)

QUESTION THREE

- a) Kaakyire, the Finance Director of Dwarf Ltd is on monthly basic salary of GH¢1,400. She was paid an overtime amounting to GH¢500 during the month of April, 2022.

Required:

- i) State the principles underpinning the computation of overtime in accordance with the Income Tax Act, 2016 (Act 896). (6 marks)
- ii) State how her overtime will be taxed and compute the tax for the month of April, 2022. (6 marks)
- b) You are required to explain how the following are taxed in accordance with the Income Tax Act, 2016 (Act 896).
- i) Part-time teaching/lecturing
 - ii) Part-time employment
 - iii) Temporary employment
 - iv) Casual worker

(8 marks)

(Total: 20 marks)

QUESTION FOUR

Adwoa Mansa is a self-employed who has not filed her tax returns to Ghana Revenue Authority. She applied for a tax clearance certificate in the month of February, 2023 and the head of her Tax Office insisted that before the certificate would be issued she should submit her accounts for 2022 year of assessment for proper examination.

To this request, she obliged and had the following details from her Auditors for the year ended 31 December 2022.

| | GH¢ | GH¢ |
|---------------------|--------|-----------|
| Gross Profit | | 5,200,000 |
| Expenses: | | |
| Utilities | 70,000 | |
| Travelling expenses | 43,000 | |
| Depreciation | 30,500 | |
| Rent | 21,200 | |
| Maintenance | 25,260 | |
| Donations | 60,250 | |
| Bad debts | 52,000 | |

| | | |
|--------------------|--------|-------------------------|
| Sanitation | 20,000 | |
| Business promotion | 25,620 | |
| Salaries | 86,000 | |
| | | <u>433,830</u> |
| Net profit | | <u>4,766,170</u> |

The following additional information were obtained from Adwoa Mansa in response to queries raised on her account by the tax official handling her file:

i) Adwoa Mansa and her husband occupies the apartment next to the shop. 25% of the expenditure included in the profit and loss account for utilities and rent, relates to her home.

ii) During the year ended 31 December 2022, 28% of the travelling expenses were for private journeys.

iii) The figure for maintenance includes GH¢11,500 cost of Furniture & Fittings bought for the shop during the year under review and GH¢10,000 for painting the apartment occupied by Adwoa Mansa.

iv) Donations are made up as follows:

| | |
|---|----------------------|
| | GH¢ |
| Donation to Covid-19 fund | 32,250 |
| Donation to Mallam Atta Women's Association | 19,500 |
| Donation to Farmers Day celebration | <u>8,500</u> |
| | <u>60,250</u> |

v) Bad debt are as follows:

| | |
|---|----------------------|
| | GH¢ |
| General provision for Bad debts | 26,000 |
| Specific provision | 10,000 |
| Loan to Adwoa Mansa's husband written off | <u>16,000</u> |
| | <u>52,000</u> |

vi) Sanitation: An amount of GH¢1,000 was spent on acquiring equipment for the purpose of cleaning the offices premises.

vii) Business Promotion is made-up as follows:

| | |
|----------------------------|----------------------|
| | GH¢ |
| Permanent bill board | 8,000 |
| Television advertisement | 6,620 |
| Entertainment of customers | <u>11,000</u> |
| | <u>25,620</u> |

viii) Adwoa Mansa received dividend of Gh¢18,800 (net) from her investment with Tarzan Ltd and Interest of GH¢15,600 from Government Treasury bills. The amounts were included in arriving at her Gross Profit.

ix) The following assets were purchased during the year.

| | |
|------------------|------------|
| | GH¢ |
| Computers | 300,000 |
| Warehouse | 330,000 |
| Air conditioners | 100,700 |

All the assets are depreciable assets for capital allowance purposes.

Required:

- a) State the circumstances under which bad debt will be allowable. (4 marks)
b) Calculate the chargeable income of Adwoa Mansa for the 2022 year of assessment. (16 marks)

(Total: 20 marks)

QUESTION FIVE

- a) In 2021, the Ghana Revenue Authority migrated fully to an online portal for the filing and payment of taxes. One process included in this migration was the obtainment of a Tax Clearance Certificate (TCC) which plays an important role in tax compliance.

Required:

State **SIX (6)** transactions that require the use of a TCC. (6 marks)

- b) A resident person shall withhold the tax on payments of any dividends, interests, rent, royalties, natural resources and payments with the source country.

Required:

State **FOUR (4)** payments which withholding tax does not apply. (4 marks)

- c) What constitutes realisation of Capital Assets? (5 marks)
d) Explain transfer of asset for no consideration under section 45 of the Income Tax Act, 2015 (Act 896). (5 marks)

(Total: 20 marks)

Applicable Tax Rate

| | GH¢ | % |
|-----------|------------|----------|
| First | 1,200 | 0 |
| Next | 420 | 5 |
| Next | 1,104 | 10 |
| Next | 23,196 | 17.5 |
| Exceeding | 25,920 | 25 |

SUGGESTED SOLUTION

QUESTION ONE

a) **Progressive Tax:** As the name suggests, this is a tax regime in which the ratio of tax liability to income or other tax base rises or increases as the income increases. This implies that a greater percentage of income is taxed as income increases. Simply put, the higher the income of a person, the higher the tax liability and the lower the income, the lower the tax liability. This is a graduated form of taxation. A typical example of this type of tax system is the graduated rate of tax applicable to individuals found in the First Schedule of the Income Tax Act, 2015 (Act 896) as amended.

Regressive Tax: Unlike progressive tax, in a regressive tax system or regime, the tax ratio falls as the income increases. Thus, it is the tax system which exacts a smaller percentage of tax as income increases. This is the tax system that has less effect on the rich than on the poor. Regressive tax is the opposite of progressive tax system. Indirect taxes are generally regressive. Example is VAT, CST, Excise duty etc.

(2 marks for each explanation and 0.5 mark for each example = 5 marks)

b) Features of direct tax and indirect tax

| | Direct Tax | Indirect Tax |
|-----------------------|--|--|
| Meaning | Paid directly to the government | Paid to the government via intermediary |
| Levied on | Profits and income | Goods and services |
| Taxpayer | Individuals and businesses | End-consumers of products, goods and services. |
| Tax Rate | Directly depends on income and profits | Same for everyone |
| Tax Burden | Progressive | Rate of tax is flat, so tax burden is regressive |
| Transfer of liability | Not transferable | Can be transferable |
| Tax Collection | Complex | Quite convenient |
| Types | Income Tax and STT | Goods and Services Tax (GST) |
| Evasion | Possible | Not possible |
| Economy | Less economical | More economical |
| Certainty | More certain | Less certain |

(Any 3 distinction @ 5 marks)

c) **Objection to an assessment (Section 42 and 43 of Act 915 as amended)**

Objection to a tax decision (Section 42 of Act 915)

- A person who is dissatisfied with a tax decision that directly affects that person may lodge an objection to the decision with the Commissioner-General within 30 days of being notified of the tax decision.
- An objection to a tax decision shall be in writing and state precisely the grounds upon which the objection is made.

- A person may, before the expiration of the period, apply in writing to the Commissioner-General for an extension of time to file an objection. (on grounds of absence from Ghana by the objector, sickness or other reasonable cause.)
- When satisfied there are reasonable grounds for the extension, the Commissioner-General may grant the application for the extension and shall serve notice of the decision on the applicant.
- An objection against a tax decision shall not be entertained unless the person has
 - ✓ in the case of import duties and taxes, paid all outstanding taxes including the full amount of the tax in dispute; and
 - ✓ in the case of other taxes, paid all outstanding taxes including thirty percent of the tax in dispute.
- The Commissioner-General may however waive, vary or suspend the payment above pending the determination of the objection or take any other action that the Commissioner-General considers appropriate including the deposit of security. Here the Commissioner-General shall consider the need to maintain integrity of the dispute resolution procedure and the need to protect Government revenue and integrity of the tax system as a whole in exercising a discretion.
- A tax decision (i.e. the tax decision objected to, as may have been amended by an objection decision.

Objection decision (Section 43 of Act 915)

After consideration of an objection, the Commissioner-General may vary the tax decision in whole or in part or disallow the objection.

- The Commissioner-General shall, within sixty days of receipt of an objection, serve the objector with notice of the decision including the reasons for the decision.
- Where the Commissioner-General does not serve the person with notice of the decision within sixty days, the person may, by notice in writing to the Commissioner-General, elect to treat the Commissioner-General as having made a decision to disallow the objection

(Any 5 points @ 2 marks each = 10 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

Question one was in three parts. On the whole it was the best answered question. The first part was for candidates to differentiate between a progressive and regressive tax system and to give an example of each. The second part also requested candidates to distinguish the features of direct and indirect taxes. They were both straight forward questions and very familiar to students. The third part, which was for ten marks expected candidates to explain the procedure to be followed in objecting to the Commissioner-General's tax decision. In all, the majority of the candidates performed creditably. For the third part, few candidates indicated some procedures in appealing against the tax decision of the Commissioner-General (appealing to the Independent Tax Appeal Board and appealing to the superior courts) which was not a requirement of the question. The question was on the procedure in objecting to the tax decision of the Commissioner-General but not appealing against the tax decision.

QUESTION TWO

- a) Exceptions to turnover rules
- (i) A promoter of public entertainment,
 - (ii) An auctioneer, or
 - (iii) A national, regional, local or other authority or body which carries on any taxable activity shall apply for registration.

Registration of the above persons or entities occurs as follows:

- (i) A promoter of public entertainment, shall apply for registration at least forty-eight hours before the commencement of the public entertainment if, within any period of twelve or less months that includes the date of the public entertainment to which the application relates, the total value of taxable supplies of the promoter or the licensee or proprietor is reasonably expected to exceed ten thousand Ghana cedis;
- (ii) An auctioneer shall apply for registration within thirty days after the date on which that person becomes an auctioneer; or
- (iii) The national, regional, local or other authority or body shall apply for registration within thirty days after the date the national, regional, local or other authority or body commences a taxable activity.

(3 points @ 2 marks each = 6 marks)

- b) The Commissioner-General (C-G) may refuse to register a person for VAT on the following grounds.
- The person has no fixed place of abode or business (principal place of business unknown).
 - The person will not keep proper accounting records relating to any business activity carried on by that person.
 - The person will not submit regular and reliable tax returns as required by or under the Act.
 - Is not a fit and proper person to be registered.

(Any 2 points @ 2 marks = 4 marks)

- c) Section 48(12) of Act 2013, Act 870 as amended and Regulations 48 of L.I.2243 states that a taxable person may recover the VAT on stock and capital goods purchased or imported prior to registration provided that the goods are still in the ownership and possession of the taxable person and-
- In the case of stock, the purchase or import occurred not more than four months prior to the date of registration;
 - In the case capital goods, the purchase or import occurred not more than six months prior to the date of registration;
 - The taxable person is in possession of a tax invoice or relevant customs entries;
 - The taxable person produces an inventory of all goods on hand on the effective date of registration;
 - Claims for recovery of VAT shall be submitted in prescribed form.

(2 marks for the first paragraph and 1 mark for any 3 bullet point = 5 marks)

d) **THE THREE-TIER PENSION MECHANISM**

The Three-Tier Pension Scheme is the new pension scheme that was introduced into the country following the promulgation of the National Pensions Act, 2008 (Act 766). The Act is for both the public and private sector workers.

TIER 1 AND 2

- Tier 1 is a mandatory basic national social security scheme regulated by the National Pension Regulatory Authority (NPRA). It is a defined benefit scheme.
- Tier 2 also regulated by the NPRA is a mandatory fully funded and privately managed occupational pension scheme. It is a defined contribution scheme.
- Note that out of 18.5% compulsory contribution made by the employee (5.5%) and the employer (13%); 2.5% is paid as premium towards the NHIL. 11% is paid to SSNIT as Tier 1 towards the monthly pension of the retired employee at the age of 55 years (Reduced pension) or 60 years (Full pension).
- The remaining 5% is paid to the Fund Manager of the employer/employee choice towards the lumpsum pension as tier 2.
- Other benefits paid include survivors' benefit, invalidity and emigration benefit. The medical board set up by SSNIT (Tier 1) NPRA in collaboration with the Ministry of Health (Tier 2) is to certify the invalidity.
- Thus, to qualify for withdrawal for both Tier 1 and 2 pensions, applicant might have contributed for at least 15 years (180 months) and attain an age of 55 years.
- Maximum contribution - a maximum amount will be determined by SSNIT in consultation with the NPRA periodically. Currently, (2023), the maximum contribution is on a monthly salary of GH¢42,000.00 from GH¢35,000.00.
- Entry age/Maximum Age - New minimum age is 15 years and the maximum age for new entrants is 45 years.
- Age Exemption - those who were 55 years and above before the commencement of Act 766 were exempted from this new scheme. On the other hand, a person who is 55 years and above exempted from the Act may opt to join the scheme.

TIER 3

- A voluntary fully funded and privately managed provident fund and personal pension scheme also regulated by the NPRA.
- The amount to be contributed by the employee and/or the employer is not fixed.
- However, to qualify as a relief the total amount contributed by the employee and employer should not exceed 16.5% of the employee's basic salary.
- Withdrawal can be done by the employee only after 10 years, otherwise 15% tax will have to be paid on both principal and interest withdrawn.

(5 marks)

(Total: 20 marks)

EXAMINER'S COMMENT

Question two examined candidates on Value Added Tax (VAT) for a total of 15 marks exactly in line with the weight in the syllabus. It was in three parts. They were all straightforward and familiar areas which candidates should have taken advantage of.

In the first part, candidates were to explain the exceptions to the turnover rules under section 11 of the VAT Act (Act 870) as amended. It was an average performance. Most candidates were unable to establish the time period required to register once the person becomes registrable. It is advisable for candidates to take note of this in order not to lose valuable marks. In the second part, candidates were to state the conditions under which application for voluntary VAT registration may be denied for four marks. This was well dealt with. The performance of candidates in the third part was woeful, once again exposing the weaknesses of candidates in attempting VAT questions no matter how simple it might be. Candidates were to advise the company on the deductibility rules of input VAT incurred prior to VAT registration for five marks. Surprisingly, it was as if the candidates did not know whether this was in the VAT Act and VAT regulation. Tuition providers and candidates are advised to pay particular attention to this aspect of the syllabus since it continues to contribute to the failure of candidates. Finally, candidates were to explain the three tier pension scheme under the National Pensions Act. A typical and repetitive question. This time round most candidates did justice to the question.

On the whole, question two was somewhat below expectation because sub-question a) and c) of the VAT questions were not well answered.

QUESTION THREE

a)

- i) These are the principles underpinning the computation of overtime in accordance with Act 896.

Where an employer makes a payment during a year to a qualifying junior employee for overtime work by that employee, the employer shall withhold tax as follows:

- Where the overtime does not exceed 50% of the basic salary of the employee for the month, withhold tax from the payment at the rate of 5%; and
- Where overtime payment exceeds 50% of the basic salary of the employee for the month, the portion of the overtime which is up to 50% of the basic salary will be taxed at 5%. Overtime payment beyond the 50% of the basic salary shall be taxed at the rate of 10%.

Both constitute final withholding taxes.

- In all other cases, add all the overtime payment to the employee's basic salary and tax at the graduated rate under the first schedule.

"Qualifying junior employee" means

a junior staff member and the qualifying employment income of that employee from the employment for the year of assessment does not exceed eighteen thousand currency points.

(3 points @ 2 marks each = 6 marks)

- ii) Withholding tax on overtime is only applicable where an employer makes a payment during a year to a qualifying junior employee for overtime work by that employee. Therefore, the principle is not applicable where the individual is not a qualifying junior employee.

In this case, Kaakyire is the Finance Director and not a junior staff, therefore she is not a qualifying junior employee. Consequently, the overtime payment will be added to her basic salary for tax purpose using the graduated rate.

(3 marks)

Kaakyire

Determination of tax for April, 2022

| | | | |
|-------------------|--------------|--|--------------------|
| | GH¢ | | |
| Basic Salary | 1,400 | | |
| Overtime | <u>500</u> | | |
| Chargeable income | <u>1,900</u> | | (1.5 marks) |

| Tax liability | GH¢ | % | Tax |
|---------------|--------------|----------|------------|
| First | 1,200 | 0 | 0 |
| Next | 420 | 5 | 21 |
| Next | <u>280</u> | 10 | <u>28</u> |
| | <u>1,900</u> | | <u>49</u> |

(1.5 marks)

b)

i) **Part-time teaching**

Examining, invigilating, supervising an examination, or part time teaching or lecturing are subject to *final withholding tax of ten percent (10%)*.

ii) **Part-time employment**

A part-time employment other than (examining, invigilating, supervising an examination or part time or lecturing) shall be taxed as follows:

(a) In the case of a resident individual at the *rate of ten percent (10%) on account*

(b) In the case of a non-resident individual at the *rate of twenty percent (20%) final*.

iii) **Temporary employment**

Where a person makes payment to a temporary worker that payment shall be treated as income earned by that temporary worker and the person shall *withhold tax from that income using the graduated scale*.

iv) **Casual worker**

When a person makes payment to a casual worker, that payment shall be treated as income earned by that casual worker, and the person shall withhold tax from the gross income paid to that casual worker at the *rate of five percent (5%)*. *The tax withheld shall be treated as a final tax*.

(2 marks each = 8 marks)

(Total: 20 marks)

EXAMINER'S COMMENT

The first part of the question which was for twelve marks in all, tested candidates on the tax principles regarding overtime payment. This was a familiar area for candidates so the good performance was expected. A common error which was however identified was that most candidates in defining the qualifying employment income, equated it to basic salary.

The b) part was for candidates to explain how part-time teaching, part-time employment, temporary employment and casual workers are taxed. Aside from taxation of part-time employment, candidates gave a good shot to the question. Some few candidates could not state whether the tax constitute a final tax or on account accordingly.

On the whole, question three was the second best answered question.

QUESTION FOUR

a) The circumstances under which bad debt will be allowable are as follows:

- The bad debt should be specific and not general
- The bad debt should arise out of ordinary course of business.
- The amount should have been included in the previous year's income.
- Evidence of necessary steps taken to recover the debt

(4 marks)

b) **Adwoa Mansa**
Computation of Chargeable Income for the Assessment Year 31 December, 2022

1/1/2022-31/12/2022

| | GH¢' 000 | GH¢'000 | |
|------------------------------------|---------------|---------------|------------------|
| Net profit per draft | | | 4,766, 170 |
| Less: | | | |
| Dividend | | 18,800 | |
| Interest | | <u>15,600</u> | <u>34,400</u> |
| | | | 4,731,770 |
| Add backs: | | | |
| Utilities (25% x 70,000) | | 17,500 | |
| Depreciation | | 30,500 | |
| Travelling expenses (28% x 43,000) | | 12,040 | |
| Rent (25% x 21,200) | | 5,300 | |
| Maintenance: | | | |
| Furniture and Fittings | 11,500 | | |
| Painting | <u>10,000</u> | 21,500 | |
| Donations: Mallam Atta Association | | 19,500 | |
| Bad debt- | | | |
| General provision | 26,000 | | |
| Loan to Adwoa Mansa's husband | <u>16,000</u> | 42,000 | |
| Sanitation: Equipment | | 1,000 | |
| Business Promotion: | | | |
| Permanent bill Board | 8,000 | | |
| Entertainment of customers | <u>11,000</u> | <u>19,000</u> | <u>168,340</u> |
| Adjusted Net Profit | | | 4,900,110 |
| Less | | | |
| Capital Allowance | | | 176,440 |
| Chargeable Income | | | 4,723,670 |

(Marks are evenly spread using ticks = 12 marks)

Adwoa Mansa**Computation of Capital Allowance**

| | Class 1 | Class 3 | Class 4 | Total |
|-------------|-----------------------|----------------------|-----------------------|----------------|
| | Gh¢'000 | Gh¢'000 | Gh¢'000 | Gh¢'000 |
| Cost | 300,000 | 100,700 | 330,000 | |
| Additions | | 11,500 | 8,000 | |
| Additions | | 1,000 | | |
| | <u>300,000</u> | <u>113,200</u> | <u>338,000</u> | |
| Capital All | <u>(120,000)</u> | <u>(22,640)</u> | <u>(33,800)</u> | 176,440 |
| | <u>180,000</u> | <u>90,560</u> | <u>304,200</u> | |

(4 marks)

(Total: 20 marks)

EXAMINER'S COMMENT

Question four was on business income requesting candidates to compute the chargeable income of a self-employed for twelve marks and computation of capital allowance as workings for 4 marks. The a) part requested candidates to state the circumstances under which bad debt will be allowed. Unfortunately, most candidates lost precious marks. The computation of the chargeable income was quite satisfactory. Computation of capital allowance continue to pose challenges to candidates no matter how simple it has been. Depreciable assets continue to be misclassified under the various classes. Some candidates who were able to rightly add back depreciable assets which were expensed by the business did not rightly treat them as capital allowance expenditure for capital allowance purposes. Incidentally, it was just a near average performance on the whole.

QUESTION FIVE

- a) The Income Tax Act states that you must provide a valid Tax Clearance Certificate (Now E-TCC) to complete the following transactions:
- To import and clear goods in commercial quantities from a port or a factory in Ghana under the Customs Act, 2015, (Act 891).
 - To apply for a license to operate as a custom clearing and forwarding agent, under the Excise Act, 2014 (Act 878).
 - To register a title to land and perform other transactions at the Lands Commission.
 - To bid for any contracts awarded by Ministries, parastatals, departments and agencies within the government or for any government tenders.
 - To enable members of professional bodies to renew their licenses.
 - The Tax Clearance Certificate may also be required in the instances below:
 - To act as an authorized supplier to the government, some businesses, private or government, may require a TCC to make their authorized supplier list.
 - When acquiring a visa, some embassies in Ghana might require you to produce a TCC before a VISA is issued to you, to validate the income you declared in your visa application.
 - To renew a residence or work permit, an expatriate must present a TCC to support their application.

(Any 6 points @ 1 mark each = 6 marks)

b) **Payment which withholding tax does not apply**

- Payments by an individual unless made in conducting a business;
- Interest paid to a resident financial institution;
- Exempt amount;
- Contract sum for the supplies of goods, works and services not exceeding GH¢2,000 for the year;
- Payment for the sale of goods that constitute trading stock for both vendor and the purchaser;
- Where the Commissioner-General exempts a person accordingly;
- Interest received by an individual from a resident financial institution;
- Interest or dividend paid or credited to a holder or member of an investment in approved unit trust scheme or mutual funds;
- Premiums paid to a registered resident insurance company; or
- Where a resident company acquires 25% or more voting power of another resident company. (This excludes Upstream Petroleum and Mining Companies).

(Any 4 points @ 1 mark each = 4 marks)

c) What constitute realisation of capital asset

- If the person parts with the ownership of that asset under the following circumstances: when the asset is
 - ✓ sold
 - ✓ exchanged
 - ✓ transferred
 - ✓ distributed

- ✓ redeemed
 - ✓ destroyed
 - ✓ lost
 - ✓ expired or
 - ✓ surrender
- In the case of an asset of a person who ceases to exist, including because of death, immediately before that person ceased to exist
 - In the case of an asset other than trading stock or a depreciation asset, if the sum of the consideration received by that person from the sale of the asset exceeds the cost of that asset
 - In the case of an asset that is a debt claim owned by a person other than a financial institution,
 - ✓ if that person reasonably believes that the debt claim will not be satisfied
 - ✓ has taken reasonable steps in pursuing the debt claim and
 - ✓ has written off the debt claims as a bad-debt
 - If that person uses trading stock, a depreciable asset, a capital asset of a business, or an investment asset in a way that changes the original characterization of that asset.

(5 marks)

d) Transfer of asset for no consideration

(1) Subject to sections 43 and 44, where a person realises an asset (a) by way of transfer of ownership of the asset to a person who is in a controlled relationship with that person, (b) by way of transfer to any other person, (c) by way of gift other than under a will, (d) upon intestacy, or (e) by way of transfer to the spouse, child or parent of that person, that person is treated as having derived an amount in respect of that realisation equal to the greater of the market value of the asset or the net cost of the asset immediately before the realisation.

(2) A person who acquires ownership of an asset realised in accordance with subsection (1) is treated as incurring expenditure of the amount equal to the market value or the net cost of the asset immediately before the acquisition.

(3) Where a person realises by way of transfer of ownership of the asset to an associate of the person, an asset which is a trading stock, a depreciable asset or a capital asset of a business, and the requirements of subsection (4) are met, (a) the person, in respect of the realisation, is treated as having derived an amount equal to the net cost of the asset immediately before the realisation; and (b) the associate of that person is treated as incurring expenditure of an amount equal to the net cost of the asset immediately before the realisation.

(4) The requirements referred to in subsection (3) are, (a) either the person or the associate is an entity; (b) that the asset is a trading stock, depreciable asset or capital asset of a business of the associate immediately after transfer by that person; (c) that at the time of the transfer (i) the person and the associate are residents; and (ii) the associate, or in the case of an associate partnership, none of its partners is

exempt from income tax; and (d) that there is at least fifty percent continuity of the underlying ownership in the asset.

(5 marks)

(Total: 20 marks)

EXAMINER'S COMMENT

Question five was in four parts: The worst answered. Less than 18% of candidates had ten marks and above out of twenty marks. The first part was for candidates to just state six transactions that require the use of TCC. Surprisingly, most candidates did not score all the marks. Perhaps, the surprise may be due to the fact that it was being examined for the first time with the inception of the current syllabus. Candidates were to state four payments which withholding tax does not apply in the second part. The question even though straight forward and has been repeated severally, was not dealt with properly. This is clearly an indication that most candidates are still not reading all the examiner's reports. The third part, which simply asked candidates on what constitute realisation of capital assets was also poorly answered. What was worst, was the last part which asked candidates to explain transfer of asset for no consideration under section 45 of the Income Tax Act, 2015 (Act 896). Virtually, all candidates could not get half of the five marks awarded. The question look technical for candidates. They could not fathom what the requirement was. Tuition providers are advised to take the pain to explain the quite technical issues in the law regarding the taxation of assets and liabilities to students preparing for the exams.