JULY 2024 PROFESSIONAL EXAMINATIONS
ADVANCED TAXATION (PAPER 3.3)
CHIEF EXAMINER'S REPORT, QUESTIONS AND MARKING SCHEME

STANDARD OF THE PAPER
The standard of the questions compared favourably with that of the previous diets. There was a feeling of originality in the performance of candidates. This is a feather in the cap of candidates and also the Institute for conducting the examination with finesse.

PERFORMANCE OF THE CANDIDATES
The performance of candidates was generally impressive. The performance rate would certainly surpass previous diets as a lot of the candidates put in their best.

NOTABLE STRENGTHS AND WEAKNESSES
Strengths
Generally, candidates are beginning to have smattering knowledge of all the topics in the syllabus. All candidates who passed attempted all questions. Candidates also appeared to have control over the taxation of the following:
- Acquisition of companies
- Permanent Establishment
- Transfer pricing issues.

Weaknesses
The following weaknesses were established
- No headings to the computation questions
- Some candidates indicated that individuals are taxed using the corporate tax rates. Individuals (employees and self-employed persons) use the individual tax rates.
- Spelling continues to worry candidates. Construction or composition of sentences is also a nightmare for many candidates.

QUESTION ONE

a) The transfer pricing rules require the use of the "most appropriate" method to price related party transactions. Two of such methods are 'The Resale Price method' and 'The Cost-Plus method'.

Required:
Explain with a simple numerical example, the ***resale price method*** and the ***cost-plus method*** of transfer pricing. **(10 marks)**

b) Zanku Ltd is a member of a multinational group, Chamez Ltd. Zanku Ltd, which is resident of a country known for its closed economy, provides financial services to other subsidiaries in the multinational group.

Chamez Ltd, the parent company, has its headquarters in a country where the company's tax rate is 30%.

Zanku Ltd is responsible for raising funds on the international markets from different commercial institutions. The company is also permitted to issue bonds. In 2022, Zanku Ltd signed a contract with a consortium of commercial banks to borrow $10 billion at a rate of Base Rate + 2%, which is consistent with its AA credit rating (Zanku Ltd credit rating is the same as its parent credit rating).

Zanku Ltd on-lends the funds borrowed to the multinational group members which have operations in countries in which it is difficult to raise finance, at a fixed rate of 13% while the commercial rate is between 15% and 20%. The credit rating of the companies which borrow from Zanku Ltd is usually far lower than the group credit ratings. In view of this, Zanku Ltd often request a financial guarantee from the Chamez Ltd parent at a fee of 4% of borrowings. When borrowings are granted to member companies in a currency other than Zanku Ltd's functional USA dollar currency, Zanku Ltd hedges the risk with Chamez Ltd, the parent.

You are a newly appointed tax adviser to Chamez Ltd group, and you are required to advise Chamez Ltd board of directors.

Required:
Advise on whether the group's transfer pricing approach meets international arm's length standards with respect to intragroup lending, the imposition of guaranteed fees and hedging policies. Your advice should be based on the arm's length standards and factors that determine *comparability* as well as the most appropriate transfer pricing method to use. **(10 marks)**

(Total: 20 marks)

QUESTION TWO

a) Adama Abu, a Ghanaian residing in the United Kingdom married Sharon Shaw, a British citizen with whom they have two children. For the past twenty-five years, they lived in the United Kingdom. In 2020, they decided to relocate to Ghana, leaving the two children in school with a caretaker in a newly acquired house in Croydon-United Kingdom.

They decided to invest in estate development in Ghana having been told about the tax incentives in that sector. They acquired large parcels of land across the country for the purpose. They put up large mansions for sale and rental at Dodowa in the Greater Accra region.

Additionally, they hired two persons to run a company that they have established in the United Kingdom to help take care of the children through intermittent dividend payments.

They established a company in Ghana called Bushaw Ltd to undertake cleaning solution for the Ghana CashewBoD company.

Sharon Shaw re-connected to her school mate who is the CEO of an advertising company in The Gambia. She submitted a proposal to the company in The Gambia and got the nod to provide cleaning solution to the friend's company through Bushaw Ltd.

Sharon Shaw established a Non-Governmental Organisation (NGO) in Ghana which buys data from telecommunication companies and makes it available to the universities for a service fee. Sharon Shaw wrote to the universities the NGO does business with, that it is exempt from withholding taxes. The NGO has only 5 staff including Sharon Shaw who is the CEO.

Required:

What is the status and tax implication of:

i) Adama Abu and Sharon Shaw as they live and work in Ghana
ii) The NGO with its staff
iii) The withholding tax exemption of the NGO Sharon Shaw wrote about
iv) Bushaw Ltd as a company
v) The Real Estate business

(15 marks)

b) The following relates to the tax affairs of Edem Enterprise, a business of Mr. Edem Kora who is the Managing Director for the 2021 year of assessment:

		GH¢
	Profit before tax	200,000,000
	The following additional information was considered in arriving at the profit before tax above:	
i)	Salaries paid to the Managing Director (MD) (net of social security)	1,020,000
ii)	Social Security Contribution -MD	200,000
iii)	Salaries paid to wife of the MD	120,000
iv)	Son's salary (son in Junior High School)	40,000
v)	13^{th} month salary paid to staff (including MD and Son)	6,000,000
vi)	Depreciation	400,000

Note the following also:

- The MD and family used their salaries to facilitate a trip to Dubai amounting to GH¢1,000,000.
- Capital allowance agreed with the Revenue Authority was GH¢300,000.
- The wife of the MD does not work there but occasionally comes around to motivate staff to work hard when the MD is out of town.

Required:
Prepare the taxable income of Edem Enterprise after the above consideration.

(5 marks)

(Total: 20 marks)

QUESTION THREE

a) Taxation Experts and Economists in Africa have consistently questioned the essence of bilateral double taxation treaties relating to the taxation of income and capital for the resolution of international tax problems in Africa. Yet African countries continue to sign such treaties.

Required:
Explain **FIVE (5)** reasons as to whether such double taxation treaties serve any useful purposes, and to examine **THREE (3)** challenges associated with such double taxation treaties. **(8 marks)**

b) A withholding tax at the rate of 7.5% was imposed on goods on account of trading with Ghana in respect of goods supplied by Abade Ltd, a non-resident person.

Management of Abade Ltd showed evidence that Abade Ltd was not trading in Ghana and threatened legal action if the company was denied the right to be considered as trading with Ghana.

Required:
Evaluate the tax position of the above. **(3 marks)**

c) Pappin Ltd is a fully owned Ghanaian real estate company. The company intends to raise additional capital to expand its activities. Pappin Ltd is seeking for an investor who would acquire a minimum of 55% of the shares of the company. The financial statements of Pappin Ltd shows that the company made a loss of GH¢2,500,000 for the period ended 31 December 2022. The company also had financial cost of GH¢100,000. The management of Pappin Ltd expects the financing to be available from the prospective investors by January 1, 2023.

Required:
Advise the Management of Pappin Ltd on the income tax implications for the company if an investor ***acquires*** 55% of the company's equity shares or invest in loan. **(9 marks)**

(Total: 20 marks)

QUESTION FOUR

Toamines Ltd, a mining company that has been operating in the Bono Region of Ghana since 2012, has the following data relating to 2022 year of assessment.

	GH¢
Revenue	3,712,530,000
Cost of Operation	2,587,020,000
Net Profit	**1,125,510,000**

The following additional information is relevant for the 2022 year of assessment:

i) Toamines Ltd conducted research and development activities during the year 2022. The cost of the research and development of GH¢3,300,000 is included in the cost of operation.

ii) Depreciation, amortisation, and depletion of an amount of GH¢636,750,000 was part of the cost of operation for the year 2022.

iii) The company has been engaging in hedging to secure its revenue from fluctuations in foreign currencies. In the first quarter of the year 2022, financial cost through swap arrangements of GH¢21,000,000 was incurred. During the last quarter of 2022, a financial gain from hedged transactions of GH¢12,000,000 was made. These transactions were included in arriving at the net profit in 2022.

iv) Refreshment and entertainment of GH¢1,440,000 was incurred in 2022 and included in the cost of operation.

v) Cost incurred in overburden stripping and shaft sinking during production to improve access to the ground amounted to GH¢26,400,000. This was added to the cost of operation for 2022.

vi) Contributions towards approved rehabilitation fund of GH¢600,000 is included in the cost of operation for 2022.

vii) Royalty of GH¢150,626,500 was paid without recourse to the revenue from production.

viii) Ten fresh graduates were recruited in 2022 year of assessment, four of the fresh graduates completed universities in the United States of America while the others completed University for Development Studies in Ghana. They were paid GH¢1,800,000 as salaries. Total workforce for 2022 year of assessment was sixty.

ix) Written down value of depreciable assets of the company brought forward from 2021 to 2022, after 3 years' capital allowance was granted, stood at GH¢600,000,000. This was accordingly certified by the Audit Unit of the Ghana Revenue Authority.

Required:
Compute the tax payable by Toamines Ltd for the 2022 year of assessment.

(Total: 20 marks)

QUESTION FIVE

a) Oil and gas activities may be divided into one of three groups, upstream, downstream, and midstream.

Required:
Explain these three activities. **(6 marks)**

b) The Income Tax Act, 2015 (Act 896) has provided certain deductions that are not allowed in calculating income from a separate petroleum operation.

Required:
Explain **FOUR (4)** of such deductions. **(4 marks)**

c) The Ministry of Trade and Industry as part of its programme for 2022, organised a trade show in the United States of America. Wesseh Incorporation, a New York based company, got so enthused about the investment opportunities available in Ghana. Wesseh Incorporation is therefore, considering the possibility of establishing a company in Ghana. It intends making its presence in Ghana through an external company, that is, a Permanent Establishment (Branch).

Required:
What are the tax implications to Wesseh Incorporation? **(5 marks)**

d) You are a Tax Consultant and Selasie Ato is one of your clients. She has just told you that she is in a bad state because she cannot file her tax returns by the due dates and cannot meet her tax payment deadlines for 2022 year of assessment.

Required:
Address her concerns by briefing her on the following:
i) Extension of time for the filing of tax returns. **(2.5 marks)**
ii) Extension of time for the payment of taxes. **(2.5 marks)**

(Total: 20 marks)

SUGGESTED SOLUTION

QUESTION ONE

a) **Resale Price (RP) method**

The resale price method is based on the price at which a product that has been *purchased from a related party* is *resold to an independent person*.

This resale price is *reduced by the resale price margin* representing the amount out of which the reseller would seek to cover its selling and other operating expenses and, make an appropriate profit.

The resale price margin should be calculated by reference to the margin in *similar internal or external uncontrolled transactions*.

Resale Price method starts from the *final selling price* and *subtracts* an *appropriate gross margin* to arrive at a purchase price.

The appropriate resale profit margin might be expected to increase with increased assets, functions, and risks.

Situations where it is most appropriate to apply the resale price method include:

- Where the reseller contributes little to the value of the product ultimately sold in an arm's length basis.
- Where an enterprise performs all the functions an independent distributor might be expected to perform.
- If the reseller on-sells within a short time because the more time that lapses, the greater the risks assumed in relation to changes in the market, in rates of exchanges, etc.

Example

Company C resident in Ghana purchases clothing from its U.K. parent company and sells them through various retail outlets in Ghana. Company Y, independent distributor purchases similar products from various suppliers in the Far East and sells the same to end customers and earns an average gross margin of 40 per cent. Company Y carries out comparable functions (including assets used and risks assumed) to Company C.

Assume Company C sold a particular line of women's clothing it purchased from the UK parent company and derived sale proceeds of GH¢2.0 million. The arm's length price for this line of clothing it purchased from the UK parent company should be GH¢2.0m * (1 – 0.4) = GH¢1.2 million

(5 marks)

Cost Plus (CP) method

The CP method uses the **costs incurred by the supplier** of property, goods, or services in a controlled transaction. An appropriate CP **mark-up is added to this cost**, to make an appropriate profit in the light of the functions performed considering assets used, risks assumed and the market conditions.

What is arrived at after adding the cost-plus mark-up may be regarded as an arm's length price of the controlled transaction.

The CP method starts by computing the cost of providing the goods or services and adds an appropriate mark-up.

Under the CP method, the mark-up should be calculated by reference to similar internal or external uncontrolled transactions.

The CP method is particularly useful in transactions between related parties such as:

- Sale of manufactured goods where the manufacturer does not contribute valuable unique intangible assets or assume unusual risk in the controlled relationship.
- Joint facility agreements or long term buy and supply arrangements.
- Provision of service for which the provider does not contribute any valuable unique intangible assets or assume unusual risk in the controlled relationship.
- Where sale of components or semi-finished goods are subject to additional manufacture outside the country.

Example

Company B resident in Ghana specializes in the production of chip board for a related overseas person under a contract manufacturing arrangement. Under the arrangement, Company B would be provided by the overseas related person with all the technical know-how used in the manufacturing of the chip boards and manufacture to the order of the related parties.

Company X is an independent contract manufacturer of chip boards in Ghana. It sells the products to an independent German distributor. Similarly, to Company B, it is provided with technical know-how by, and it manufactures to the order of, the German distributor. Company X is identified as an external comparable person, charges an average mark-up of 10 per cent.

Assume Company B incurred direct and indirect costs of GH¢200.00 in producing one unit, the arm's length cost plus mark-up would be (GH¢200 x 10%) = GH¢20.00

(5 marks)

b) An accurate separation of the actual financial transactions is required for transfer pricing purposes and includes analysis of the economically significant circumstances of the controlled transactions including:

- **The Contractual terms and form of the intragroup loans.**

  The analysis of contractual terms between controlled and uncontrolled transaction is important as it sets out the nature of assignment, responsibilities, risks, and returns shared between parties in a transaction.

- **Functions of borrower and lender and financial capacity to assume risks.**
  This refers to the functional similarity between controlled and uncontrolled transaction in relation to the: functions performed (it is important to identify economically significant functions as it should be compensated for the functions performed), assets employed, and risks assumed **(e**valuation of risks is important in determining the arm's length price with the economic assumption that higher risks generate higher expected return. The type of risks includes operational risk, market risk, product risk, business risk, financial risks, and credit risk)

  Including policies and procedures of the group and whether the group has similar funding strategies to other independent groups in the industry sector. The strategic significance of Zanku Ltd and other subsidiaries within the group; and the specific credit rating of the borrowing and lending entities based on an independent credit assessment or public listed rating- e.g., if the subsidiary is a core subsidiary, then it would be able to notch up to the group credit rating.

- **Characteristics of the loans made by Zanku Ltd including term or tenor, amount of loans, currency and guarantee or collateral.**

- **Economic circumstances of the issuing market and comparability of other loans in the same business position as the borrowing subsidiaries of Chamez Ltd.**
  Different markets affect the arm's length price even for transactions of the same services. Factors that may affect the pricing of a loan transaction include: the geographical location, the market size, the extent of competition in the markets, the borrowing company purchasing power, and the Government policy and regulations.

- **Business strategies of the group**
  What independent borrowing options would be available to the subsidiaries and on what terms compared to the transactions with Zanku Ltd? Would any of the subsidiaries have implied support from the parent Chamez Ltd by virtue of group affiliation? Would an independent lender in similar circumstances require a guarantee? External borrowing features indicate a much lower cost of finance to the group than what Zanku Ltd charges to its subsidiaries- hence, not arm's length pricing.

  Comparable Uncontrolled Pricing method is a useful transfer pricing methodology where there are comparable independent transactions, for both the loans transactions and the guarantee payment.

(10 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

The a) part of the question required candidates to demonstrate knowledge and understanding of transfer pricing method, that is, resale price method and cost plus method. All candidates attempted this question and their performance was quite impressive. It was observed that some of the candidates did not appear to have prepared in this area and therefore did not put in their best. Candidates were required to provide example of the cost plus method. A lot of them unfortunately were unable to provide the answers.

Sub-question b) required candidates to demonstrate knowledge of lending credit facility by an entity in a group to other members in the group as well as others who are not group members. Thus, candidates were expected to provide answers using the comparability factors as basis for their argument. Unfortunately, most candidates did not use the comparability factors to answer the questions. Those who did, could not provide the nexus between the comparability factors and the answers, making them lose marks.

QUESTION TWO

a) Ghana tax system is based on resident or non-resident. A resident person is taxed on the global income while non-resident persons are taxed on income accrued in Ghana and derived from Ghana.

i) Adamu Abu and Sharon Shaw, having relocated in Ghana and to the extent that they will do 183 days or more in any twelve-month period shall be considered resident persons and therefore all income globally shall be subject to tax in Ghana.

ii) The NGO obviously is resident for tax purpose inclusive of its staff. If the management of the NGO demonstrates that the NGO is of a public nature and has a written constitution that speaks to the following:

- It does not engage in partisan political activities
- Or uses its platform to promote partisan political activities.

Then the NGO's operations shall not confer private benefits on the individuals who establish them.

iii) Its income is exempt from tax but business income is taxable.

- From the information available, the NGO buys data from the Telecommunication companies for the universities which falls directly under taxable income.
- The withholding tax exemption it is claiming is inappropriate and not in accord with the law. It must file and pay taxes on the income as business income.
- The employees will also pay taxes on their salaries (Pay As You Earn).
- The withholding tax exemption was wrong and therefore does not sit well with the law.

iv) Bushaw Ltd operating in Ghana shall be liable to tax in Ghana. When it launches operation in the Gambia as a foreign PE, it shall be exempt from tax if it stays continuously for 6 months or 183 days or more. Its income from Ghana shall be taxable in Ghana.

v) The Real Estate Development falls under the temporary concession where the first 5 years, it shall be taxed at the rate of 1% after the 5 years, it shall pay corperate tax at the rate of 25%. (the 1% has been amended to 5% from 3rd April 2023)
The employees shall be liable to pay tax on their salary.

(15 marks)

b) **Edem Enterprise**
Computation of Taxable Income
Year of Assessment 2021
Basis Period January 1-December 31, 2021

	GH¢	**GH¢**
Profit		200,000,000
Add back the following:		
Salary-MD	1,020,000	
Salary –Wife	120,000	
Salary –son	40,000	
SSNIT-MD	200,000	
Depreciation	400,000	
		1,780,000
Adjusted Profit		201,780,000
Less Capital Allowance		300,000
Taxable Income		**201,480,000**

(Marks are evenly spread using ticks = 5 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS
This question was in two parts with the a) part testing candidates on the taxation of resident and non-resident persons and how permanent establishment is to be taxed. The b) part of the question had to do with determination of chargeable income from records of income splitting arrangement. Candidates performance in these questions were very encouraging.

Candidates should note that the 13th month salary of the MD and the son are not allowable. The question did not specify how the apportionment should be done. The Pension Act allows the self-employed person to contribute up to 35% of declared income to pension and tier 3 and it would be exempt from tax.

QUESTION THREE

a)

Objectives and advantages of tax treaties

- A major objectives of bilateral tax treaties is to *remove impediments to international trade and investment* by reducing the threat of double taxation.
- Tax treaties *provide certainty for taxpayers*. Certainty concerning the tax consequences of cross-border investment is an important factor in facilitating such investment.
- Tax treaties *facilitate administrative cooperation between the contracting States*. This administrative cooperation has three main dimensions: exchange of information, assistance in the collection of taxes and dispute resolution.
- Tax treaties have the objective to *eliminate discrimination* against foreign nationals and non-residents.
- Treaties may remove tax impediments to desirable scientific, educational, cultural, artistic and athletic interchanges.
- Tax treaties promotes transfer of technology.
- It promotes goodwill between contracting countries/States.

(Any 5 points @ 1 mark each = 5 marks)

Problems and Dangers of Double Taxation Treaties

- There is no credible evidence that tax treaties have significant positive effects on Foreign Direct Investment activity.
- Treaty negotiation involves dealing with a broad range of complex matters. Double Taxation Agreement (DTA) ought to meet the political and economic interests of both parties as far as possible and this ensures that it works smoothly in practice, and it avoids creating a strenuous relationship among relevant authorities. Unfortunately, there is lack of clear guidelines and understanding of DTAs by policy makers.
- DTAs inherently pose as a risk to development financing in Africa in the sense that they skew taxing rights away from African countries, are now subject to abuse that eventually erodes the tax base.
- DTAs have also been used by foreign and local companies to pay as little tax as possible or no tax at all. Assisted by accounting and advisory firms, multinationals shift their profits from high-tax to low-tax jurisdictions. While this may make sense for the bottom line, it is highly questionable and at odds with the intention of such agreements.
- Double taxation induces a hardship on taxpayers through an increased tax burden on the investor and can result in the increase of the price of goods and services, discourages cross border investment through curtailing capital movement.
- Double taxation may violate the tax fairness principle.

(Any 3 points @ 1 mark each = 3 marks)

b) Abade Ltd must prove that it has no presence in Ghana and does not enjoy the economic space of Ghana. If the above conditions are met, obviously Abade Ltd is trading with Ghana and therefore the withholding tax argument was not sustainable and therefore not be liable.

If on the other hand it has presence in Ghana, the tax is payable.

On the basis of the above, there is no information to the effect that it is trading in Ghana. **(3 marks)**

c) The income tax treatment of providing the asset to the company as equity contribution.

The following are the tax implications:

- The returns a person receives for holding equity in a company is dividend.
- Dividend is not deductible for tax purposes.
- Dividend paid is subject to a withholding tax of 8%.
- Where a company which is controlled by not more than five persons and their associates do not distribute to its shareholders as dividends, a reasonable part of the income of the company, the Commissioner-General may treat any part of the company's profit as dividend after considering the current business requirement of the company and any other requirement necessary for the maintenance and development of the business.

The income tax treatment of providing the asset to the company as a loan.

The following are the tax implications:

- The returns on a loan or debt obligation are interest.
- Interest paid on debt obligations which is employed in the business or used to purchase an asset which is employed in business is generally deductible for tax purposes thereby reducing the chargeable income on which tax is imposed.
- Interest on debt paid to an individual other than interest paid by a resident financial institution is subject to a withholding tax of 1%.

(9 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

Sub-question a) looked at double taxation agreement while the b) part considered acquisition through equity and through debt with their corresponding tax implications. This was one of the best answered questions as most of the candidates scored more than half of the allocated marks for the question.

QUESTION FOUR

Toamines Ltd
Computation of Tax Payable
Year of Aassessment: 2022
Basis Period: January 1 to December 31, 2022

			GH¢000
Net Profit			1,125,510
Adjustments for:			
Research and Development activities			3,300
Depreciation, Amortisation and Depletion			636,750
Financial cost			21,000
Financial gains			(12,000)
Cost of Refreshment and entertainment			1,440
Royalty (5% x 3,712,530,000) – 150,626,500			(35,000)
Fresh Graduates:			
6/10 staff x 1,800,000	=	1,080,000	
Thus 50% x 1,080,000			(540)
Capital Allowance:			
Written Down Value 600,000,000/2			(300,000)
Chargeable Income			**1,739,980**
Tax Payable 35% x 1,739,980 =			**608,993**
Royalty			35,000
Tax payable			**573,993**

(Marks are evenly spread using ticks = 20 marks)

EXAMINER'S COMMENTS
This question is on the examination of mineral and mining taxation. Candidates were to determine what to add back as non-allowable deduction and what to deduct as non-business income. This is a familiar area and a lot of the candidates bagged maximum marks.

Many candidates did not provide heading for the question, with the basis period and the year of assessment missing, consequently losing marks. Candidates must note that research and development expenditure is not allowable deduction. Financial cost from derivative and financial gain from derivative shall be treated as investment income.

Overburdening and shaft sinking cost to improve access to the oil must be an allowable deduction

QUESTION FIVE

a) **Upstream Activities**
Upstream activities identify deposits, drill wells, and recover raw petroleum materials from the underground. They are also often called exploration and production companies. This sector also includes related services such as rig operations, feasibility studies, machinery rental, and extraction of chemical supply.

Mid-Stream Activities
These are activities associated with the transportation of the crude oil and gas from the upstream stage to a place for **storage** and **refinery**. The crude oil is usually transported by tankers, barges, trucks etc. With gas, the transportation is done mainly through pipelines.

Down Stream Activities
This sector of the oil and gas industry is represented by **refiners** of petroleum crude oil and natural gas, and those who bring usable petroleum products to end users and consumers. Downstream operations are oil and gas processes that occur after the production phase to the point of sale. They also engage in the **marketing and distribution** of crude oil and natural gas products.

(6 marks)

b) In calculating income from a separate petroleum operation, the Commissioner-General shall not allow a deduction

- For research and development expenditure;
- For an amount, unless the amount
    - ✓ is wholly, exclusively and necessarily incurred in the acquisition or improvement of a valuable asset used in the operation; or
    - ✓ is wholly, exclusively and necessarily incurred in acquiring services or facilities for the operation;

    and is income of the recipient which has a source in Ghana;
- If the amount contravenes section 31;
- For a bonus payment made in respect of the grant of the petroleum right; or
- For expenditure incurred as a consequence of a breach of a petroleum agreement.

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

c) **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.

- Stamp duty is not payable by a branch.

(Any 5 Points @ 1 mark each = 5 marks)

d)

i) Extension of time to file tax return.

Section 30 (1) of the Act says a person who is required to file a tax return under a tax law may apply to the Commissioner-General for an extension of time to file the return.

An application shall:

- be in writing.
- state the reasons for the request for extension; and
- be made before the due date for filing the return.

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

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

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

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

(2.5 marks)

ii) Extension of time for paying tax

A taxpayer may apply, in writing, to the Commissioner-General for an extension of time to pay tax under a tax law.

On receipt of an application, the Commissioner-General may, where good cause is shown:

- Extend the date on which the tax or part of the tax is payable on the terms and conditions that the Commissioner-General considers appropriate including the deposit of security;
- Notify the applicant in writing of the decision.

A taxpayer may re-apply to the Commissioner-General before the end of the extension period but an extension of time to pay tax shall not exceed twelve months in aggregate.

Where an extension is granted and the taxpayer is permitted to pay by instalments and the taxpayer defaults in paying any of the instalments, the whole balance of the tax outstanding becomes payable immediately.

(2.5 marks)

(Total: 20 marks)

EXAMINER'S COMMENTS

Many candidates did not do well in the a) part of the question, arguably because it is a tax paper and the thrust of the question should be the taxation of the various activities rather than the explanation of the activities. The b) part however, received average responses from candidates.

For the c) part, it was a familiar area in taxation and candidates appeared to have control over the area and consequently did so well. Others still have a lot to do as they demonstrated paucity of knowledge in taxation.

The d) part looked at the extension of time to file a tax return and also extension of time to pay taxes. This was also very familiar with candidates and as a result they performed very well.

RECOMMENDATIONS

The reading of the Tax Acts and Regulations are of serious concern. Most candidates give wrong context to the tax provisions.

Candidates in their interest should learn to provide headings to calculation questions rather than throwing numbers without providing the basis for the computations.