



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 026
COURSE TITLE : LAW OF TAX LLB 026 2022
DURATION : 3 Hours
LEVEL : 5.1 & 5.2
DATE : 14 FEB 2022

INSTRUCTIONS TO CANDIDATES:

1. This exam is out of 70
2. Answer three questions only.
3. SECTION A is compulsory which means you have to answer all questions in Section A.
4. Choose any two questions from SECTION B.

INFORMATION FOR CANDIDATES

1. This is an **Open Book Exam**, as such notes, hand-outs, statutes and textbooks are allowed into the examination venue.
2. Cell-phones are not allowed into the examination room.
3. Begin each answer to a full question on a fresh page.

NB: DO NOT TURN OVER THE QUESTION PAPER OR COMMENCE WRITING UNTIL INSTRUCTED TO DO SO.

SECTION A

Answer all questions in this section

Question One

Farainite private limited is a Chinese company duly registered in Zimbabwe. The company is involved in gold mining in the remote areas of Mt Darwin. In 2019, the company enlisted the services of Mr Xin Gi, an expert geologist and a Chinese citizen and resident. However, part of their agreement was that Xin Gi will receive 12% shares in the company as part of his remuneration instead of being paid in monetary terms for the job he will do over a period of 6 months. Pursuant to this agreement, ZIMRA immediately wanted to levy 15% income tax on the basis that the money had either accrued to or received by Xin Gi. Xin Gi disputes this claim and argues that he is not a Zimbabwean resident hence he should not be taxed. Secondly, he argues that he should not be taxed because he has not received any money since he is only entitled to shares in the company. Thirdly, the money has not been received or accrued to him in any way.

You have been invited to advise both parties concerning this dispute. To this end, write a legal opinion settling this dispute.

[30 MARKS]

SECTION B

Answer any two questions

Question Two

In any Sovereign state, there is a body corporate entrusted with the levying of tax. The same can be said about Zimbabwe. In light of this, discuss the roles, functions, powers, composition and constitution of a body corporate responsible for levying taxes in Zimbabwe relying on relevant legal authority.

[20 MARK]

Question Three

'The meaning of terms such as 'received by' or 'accrued to' in the definition of gross income are not confined to the aspect of physical control of money only. In line with this assertion critically discuss the extent of what these terms mean in the definition of gross income. Your analysis should also compare and contrast the similarities between the two terminologies. [20 MARKS]

Question Four

You have been invited to write a sound legal article to be published in the Zimbabwe Tax Journal (ZTJ). The article requires you to critically evaluate the decision in **COT v G** and motivate a motion that the source of income should be immaterial (whether legal or illegal) in the determination of taxable income. [20 MARKS]