

**ZIMBABWE EZEKIEL GUTI UNIVERSITY**

**FACULTY OF LAW**

**TAXATION - LLB 026**

**2022**

**DURATION: 3 HOURS**

**INSTRUCTIONS TO CANDIDATES**

1. This exam is out of 70
2. Answer Three questions.
3. **SECTION A** is compulsory.
4. Choose any two questions from **SECTION B**

**INFORMATION FOR CANDIDATES**

1. Notes, handouts and textbooks **are not** allowed into the examination.
2. Cellphones **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**

Mr Brown is a Zimbabwean national and major shareholder of Afro-fibers which is incorporated in Zimbabwe. He is also employed as a general manager at this company and is entitled to a monthly fixed salary of 2000\$. The company is into the extractives industry and owns up to 2/3 of Zimbabwe Platinum Group of Minerals. In January 2022, Mr Brown incorporated another company called Brown Plus as a sole shareholder in Mulungushi, Zambia. Mr Brown is also employed as an Operations Manager at this company and is entitled to 2000\$ per month. In June 2022, Afro-fibers sold raw platinum to Brown Plus for a market related value of 20000\$. However, Brown Plus purified the raw platinum and further sold it for an improved value of 80000\$. From this transaction, Mr Brown received the following payouts

- a) A salary of 2000\$ from Afro-fibers
- b) A salary of 1800\$ from Brown Plus
- c) A payout of 20000\$ from the sale of raw Platinum
- d) A Payout of 80000\$ from the sale of purified Platinum.

You have been approached by the ZIMRA to offer them advice as to which payouts are taxable under the definition of gross income. **[30 Marks]**

## **SECTION B**

### **Answer any two questions from this section.**

#### **Question Two**

Compare and contrast the following tax regimes, using clear illustrations and relevant legal authority to substantiate your explanation:

- i. Source based tax system
- ii. Resident based tax system.

**(10)**

- a) Discuss the roles, functions, powers and constitution of the Zimbabwe Revenue Authority (ZIMRA) using relevant legal authority. (10)

### Question Three

Gold-class is a company duly registered in Zimbabwe. In 2022 ZIMRA discovered that Gold-Class was involved in a syndicate that was illicitly selling gold at the black market. To this end, ZIMRA further discovers that Gold-Class has successfully evaded paying tax for a period exceeding 2 years. Gold-Class alleges that they have not avoided paying any taxes since this was an illegal deal. The case has been brought before the High Court for deliberations.

You have been approached by a High Court Judge to write a legal opinion of the following topic.

‘As a general rule, the source of income (whether legal or illegal) should be immaterial in the determination of gross income as per section 8 of the Income Tax Act’. Discuss this assertion in context of the decided cases such as COT v G, the two MP Finance cases and any other relevant case law. [20 Marks]

### Question Four

ABC company decided to sell a portion of land which had a value of 30000\$ to XYZ company. However, instead of paying 30000\$ for the property, it was agreed that XYZ will instead give ABC company a 15 stake in its company. This 15% stake had a value of 10000\$ by the date the transaction took place on 3 March 2021. As at 5 December 2021, the 15% stake given to ABC is now worthy 70000\$. On 5 March 2022 ZIMRA wanted to levy a tax under gross income to ABC for the sold property. ABC alleges that ZIMRA cannot levy a tax on them because no money was received by ABC.

You have been approached to offer legal advice to ZIMR with regards to this developments

[20 Marks]

## **SECTION A**

### **Answer all questions in this section**

#### **Question One**

Mr Brown is a Zimbabwean national and major shareholder of Afro-fibers which is incorporated in Zimbabwe. He is also employed as a general manager at this company and is entitled to a monthly fixed salary of 2000\$. The company is into the extractives industry and owns up to 2/3 of Zimbabwe Platinum Group of Minerals. In January 2022, Mr Brown incorporated another company called Brown Plus as a sole shareholder in Mulungushi, Zambia. Mr Brown is also employed as an Operations Manager at this company and is entitled to 2000\$ per month. In June 2022, Afro-fibers sold raw platinum to Brown Plus for a market related value of 20000\$. However, Brown Plus purified the raw platinum and further sold it for an improved value of 80000\$. From this transaction, Mr Brown received the following payouts

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## **SECTION B**

### **Answer any two questions from this section.**

#### **Question Two**

Compare and contrast the following tax regimes, using clear illustrations and relevant legal authority to substantiate your explanation:

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- ii. Resident based tax system.

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