



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 026
COURSE TITLE : Tax Law
DURATION : 3 Hours
LEVEL : 5.1
DATE : 19 AUG 2021

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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**.
5. Notes, handouts and textbooks **are not** allowed into the examination.
6. Cellphones **are not** allowed into the examination room.
7. Begin each answer to a full question on a fresh page.

SECTION A

Answer all questions in this section

Question One

- a) Compare and contrast the following tax regimes, using clear illustrations and relevant legal authority to substantiate your explanation:
- i. Source based tax system (15)
 - ii. Resident based tax system.
- b) Discuss the roles, functions, powers and constitution of the Zimbabwe Revenue Authority (ZIMRA) using relevant legal authority. (15)

TOTAL MARKS [30]

SECTION B

Answer any two questions

Question Two

'The meaning of 'received by' or 'accrued to' in the definition of gross income should go beyond the aspect of physical control of money'. 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 Three

You have been invited to write a sound legal article to be published in the Zimbabwe Tax Journal (ZTJ). The article requires you to write on the topic 'The materiality of the source of income in the definition of gross income'. In terms of this article, you are required to give a legal opinion assessing whether or not the source of income (whether legal or illegal) should be material in the definition of gross income. Motivate your opinion with legal arguments and authority. [20 MARKS]

Question Four

Shelford private limited is an American company duly registered in Zimbabwe. The company is involved in goldmining in the remote areas of Bindura. In 2019, the company enlisted the services

of Owen McBride, an expert geologist and a South African citizen and resident. However, part of their agreement was that Owen will receive 12% shares in the company as part of his remuneration 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 Owen. Owen 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. **[20 MARKS]**

End of Examination