**TAXATION 2 NOVEMBER 2015**

**SUGGESTED SOLUTIONS D319**

**Question 1**

1. Four income tax collection methods are;
   1. Pay As You Earn (PAYE) (1 Mark)
   2. Non resident tax or Border tax (1 Mark)
   3. Withholding tax (1 Mark)
   4. Provisional tax (1 Mark)
2. Advantages of these methods
   1. It accords government a steady flow of income (1 Mark)
   2. They are cost effective methods i.e. MRA does not deal with individual tax payers (1 Mark)
   3. They discourage and check tax evasion (1 Mark)
   4. The collecting body gets money faster other than waiting at the end of the tax year (time value of money) (1 Mark)
3. Computation of provisional tax

Amount due in the first, second and third quarters;

Taxable income = 134,000,000.00

Estimated liability for the year {30% × 134,000,000.00} **(½**)= 40,200,000.00 **(½)**

Each of the three quarters {40,200,000/4} **(½)** = 10,050,000.00

|  |  |
| --- | --- |
| Quarter | Amount due |
| 01.07.04 to 30.09.14  01.10.14 to 31.12.14  01.01.15 to 31.03.15 | 10,050,000.00 **(½)**  10,050,000.00 **(½)**  10,050,000.00 **(½)** |
|  | 30,150 ,000.00 **(½)** |
| 01.04.15 to 30.06.15  Amount due in this quarter should make the company to have paid at least 90% of the actual liability. **(½)**  Actual liability={202,000,000×30%} **(½)**=60,600,000 **(½)**  90% of actual liability =90%×60,600,000 **(½)**=54,540,000 **(½)**  Therefore {54,540,000 – 30,150,000) **(½)**=24,390,000.00 | 24,390,000.00 **(½)** |

**Total 15 Marks**

**QUESTION 2**

(a)

1. Taxable supplies made will be subject to value added tax (VAT) irrespective of whether they are sold to customers who are registered for VAT or not. Of relevance is the fact Mpemba Private Limited is registered forVAT and therefore charges VAT on all its supplies as long as they are taxable supplies. 1

2. The brand new pick-up will be subject to VAT by the supplier. Mpemba Private Limited will claim the VAT as input tax. 1

3. The stationery bought from an unregistered supplier will not have VAT charged and therefore will not ½ be subject to a VAT claim. ½

4. The VAT charged by the hotel on an entertainment invoice of K46,200 will not be claimable by ½ Mpemba Private Limited, since Mpemba Private Limited is not involved in the entertainment business. ½

5. Cassava are exempt from VAT. Vegetable products in a raw state are exempt from VAT. 1

6. Electricity and telephone charges are subject to VAT. As these are used for the purpose of the business,

the VAT will be claimed as input tax by Mpemba Private Limited. ½

7. The consultancy services are subject to VAT. Although the consultant would not charge VAT on his ½

invoice, Mpemba Private Limited has to self declare and pay the relevant VAT as input tax. ½

8. The bad debt written off will be claimed by Mpemba Private Limited and will reduce the output tax on sales. ½

9. VAT would be paid on the deposit and included as output tax. As receipt of part payment is a time of ½supply, even if earlier than delivery of the goods. ½

–––

8

–––

**(b)** Calculation of VAT payable or carried forward for the month ending 29 February 2012

Value of VAT rate VAT

taxable supply 16·50%

**Output tax**

Sales for the month 3,250,000 16·5 536,250 1

Deposit 745,000 16·5 122,925 1

Bad debt (275,600) 16.5 (45,474) 1

––––––––

613,701

––––––––

**Input tax**

Capital goods – Toyota 13,000,000 16.5 2,145,000 ½

Stationery 165,000 0 ½

Entertainment 46,100 0 ½

Cassava 4,150,000 Exempt 0 ½

Electricity and telephone 376,500 16,5 62,122.5 ½

Consultants 5,250,000 866,250 1

––––––––

3,073,372.5

–––––––––

VAT payable/( Claimable (2,459,769.5) ½

–––----------

**7**

–––

**15**

**QUESTION 3**

a) There are two main types of clubs and associations which are

recognized under the Taxation Act and they are as follows:

1. Clubs which are formed or are operated solely or principally for ½

- social welfare ½

- civic improvement ½

- other similar purposes ½

- and which do not distribute any income to members½

Those which are formed or operated solely or principally for ½

* pleasure ½
* recreation ½

(ii) Taxation = Treatment

The income of clubs, societies and associations which are formed or operated solely or principally for social welfare or civic improvement are exempt from tax. 1

Certain types of income of clubs formed or operated solely or principally for pleasure or recreation are subject to tax. 1

(b) The taxable income of a taxable club or association is deemed to be an amount equivalent to 6¼% of all receipts or accruals to or in favour of the club or association for: 1

- sales of goods ½

- cinematograph performances ½

- stage plays ½

- gambling machinery ½

(c) (i) Computation of taxable income for Bvumbwe Sports Club –

financial year ended 31 December 2014

K’000

|  |  |
| --- | --- |
| Restaurant sales  Bar sales  Drama shows  Video Shows  6¼ % thereon = | 6,750 ½  7,650 ½  650 ½  275 ½ 15,325  957,812.50 1 |
|  |  |

Tax Payable

|  |  |
| --- | --- |
| Taxable income  Rate applicable 30%  Amount 30% x 957,812.50  Less Provisional tax paid | K’000  957,812.50 ½  ½  287,343.75 1  145,000 ½ |
|  |  |

Tax payable therefore  **142,343.75**  ½

**6 marks**

**Total 15 Marks**

**QUESTION 4**

1. Direct taxes are assessed on income or property with the expectation that the persons from whom the tax is collected lose purchasing power (cannot be passed on). **1**

Indirect taxes are collected from producers or sellers in the expectation that they will pass it on to consumers. **1**

**(b)**

(b) (i) Rent payable MK1,520,000

Amount of withholding tax 15% x 1,520,000 = K228, 000 1

No, it was not correctly operated as the tenant was supposed to deduct MK228,000 but only withheld K136,000. 1

Penalties

There are penalties applicable to the tenant and not the landlord these are:

- Failure to deduct tax makes one personally liable to pay the tax which was not withheld; ½

plus 20% additional tax if paid late . ½

- Failure to operate a withholding tax scheme makes one guilty of an offence punishable by a fine of K1, 000. 1

1. Penalties for under deduction of PAYE are

- 20% of the tax payable ½

- and further additional 5% per month or part thereof. ½

1. Income tax computation

K’000

Rent 1,520 ½

Salary 11,500 ½

13,020

Less Rates 18.4 ½

Subscription 175 ½

12,826.6

Tax Payable

1st 240,000 @ 0% = 0 ½

Next 60,000 @ 15% = 9,000 ½

Balance 12,526,600 @ 30% = 3,757,980 ½

3,766,980

|  |  |  |  |
| --- | --- | --- | --- |
| Tax payable  Less : withholding tax  : PAYE tax  Net tax payable  Tax on estimated assessment  Tax over-estimated | 136,000  3,351,000 ½ | 3,766,980  ½  3,487,000  279,980 ½  875,500 ½  595,520 ½ |  |

**6 Marks**

**Total 15 marks**

**SECTION B**

QUESTION 5

1. Staff housing means any dwelling house erected for occupation by an employee engaged in the business or farming operations of a taxpayer who is a manufacturer or a farmer.

**(2 Marks)**

1. Staff housing must be occupied by
2. A full time employee (**1 Mark)**
3. Somebody who is not able to directly or indirectly control more than 5% of the voting rights attaching to all classes of shares of the company (**1 Mark)**
4. Expenditure incurred in connection with erecting a fence which will be used in the carrying on of farming operations **(1 Mark)**
5. Capital allowances
6. Tax written down value for machinery that sold

Sale proceeds K4, 550, 000 **(½)**

Loss K 1, 800, 000 **(½)**

Tax Written down value K2, 750, 000 **(1)**

1. Gain loss on vehicle sold

Sale proceeds K6, 500, 000**[½]**

Tax written down value K2, 070, 000**[½]**

Gain K4, 430, 000 **[1]**

1. Capital Allowances

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Description | Factory buildings | Plant & Machinery | Motor vehicles | Furniture and Fittings |
|  | K’ 000 | | | |
| Opening TWDV | 35,200 **[½]** | 15, 600 **[½]** | 56, 700 **[½]** | 7, 200 **[½]** |
| Additions | 8, 365 **[½]** | 9, 560 **[½]** | 11, 000 **[½]** | 1,750 **[½]** |
| Disposals |  | [2, 750] (½) | [2, 070] **[½]** |  |
| Sub-total | 43, 565 **[½]** | 22, 410 **[½]** | 65, 630 **[½]** | 8,950 **[½]** |
| Investment allowances | 8,365 **[½]** | 9, 560 **[½]** |  |  |
| Initial allowances |  |  |  |  |
| Annual allowances | 1, 760 **[½]** | 2,241 **[½]** | 13, 126 **[½]** | 1,790 **[½]** |

Factory building additions

Fencing 2,665, 000 **[½]**

Staff housing 5, 700, 000 **[½]**

8, 365, 000

**11 Marks**

**Total 20 Marks**

**QUESTION 6**

1. The tax in the four schemes is due for payment as follows:

(1) PAYE – 14 days after the end of the month in which the tax was deducted. **½**

(2) Provisional Tax – 25 days after the end of each quarter in the year of assessment. **½**

(3) Fringe Benefits Tax – 14 days after the end of each quarter in the year of assessment. **½**

(4) Withholding Tax – 14 days after the end of the month in which deduction was made. **½**

Penalty Rates

(1) PAYE - 15% initial **½**

5% additional on accrued amount monthly or

part thereof. **1**

(2) Provisional Tax - Amount unpaid

- Not exceeding 10% = 0% of amount not **½**

paid between 10 – 50% = 25% of amount **½**

not paid

- over 50% = 30% of amount ½

not paid

(3) Fringe Benefits Tax - 20% of amount due **1**

1. Liability to non resident tax arises when income arising from a source within Malawi is payable to a person not being resident in Malawi. The income must not be attributable to a permanent establishment belonging to the recipient of the income. The rate is 15% of the gross amount of such income. 2½ marks
2. Non resident tax is not payable in respect of:

- Income and other amounts which are exempt from tax under theprovisions of the first schedule; **1 mark**

- any pension or annuity payments **1 Mark**

Note To Markers

Any mention of the items listed under the first schedule would deserve one mark and suffice for the first part. To get full marks candidates should also mention the pension or annuity payment.

1. Person resident in Malawi includes

(i) Any individual present in Malawi for an aggregate of 183 days or more in the year of assessment. **½ Mark**

(ii) A partnership established under any written law of Malawi. **½ Mark**

(iii) A company which is incorporated in Malawi. **½ Mark**

e. Taxation is an important instrument because governments

- Raise revenue to provide goods and services to the people. **1**

- Re-distribute wealth between the poor and the rich.  **1**

- Protect local industries from foreign competition **1**

- Discourage the consumption of certain commodities which

are considered undesirable.  **1**

- - Make necessary adjustments to the economy depending on the  economic situations. 1

**Any four 1 Mark each= 4 Marks**

f. An accounting loss is an add back item in the tax computation it increases the taxable income or reduced computed loss. **½ Mark**

On the other hand, an allowable capital loss is a deductible item in the tax computation. It reduced the taxable income or increases computed losses. **½ Mark**

g.The following expenditure incurred by a person carrying on or about to carry on mining operations in Malawi, is regarded as mining expenditure:

(i) In searching for or in discovering and testing or in winning access to mineral deposits. ½

(ii) In the acquisition of rights over such deposits other than from a person who has carried out mining operations in relation to such deposits. ½

(iii) In the provision of machinery which would have little or no value to such person if the mine ceased to work. ½

(iv) On the construction of any building or works which would have little or no value if the mine ceased to be worked . ½

(v) On development, general administration and management prior to the commencement of mining operations. ½

Where a person carrying on mining operations incurs mining expenditure in any year of assessment he shall be entitled to an allowance of 100% of the expenditure in the first year of assessment. ½

**3 marks**

**TOTAL 20 Marks**

**QUESTION 7**

1. General conditions that all traders dealing with goods and services that attract Excise tax must comply with according to the customs and excise tax law
   1. No other business should be conducted on the entered premises except with the permission of the Controller. **(½)**
   2. No other excisable goods may be kept on the entered premises except those manufactured on the premises **(½)**
   3. All rooms, stores, plant, equipment and warehouses must be given distinguishing marks and numbers **(½)**
   4. The licensee must provide office, sanitary or living accommodation for an officer or facilities for proper excise of the officers functions as the Commissioner require . **(½)**
   5. The name of the licensee must be exhibited on a conspicuous place outside the entered premises. **(½)**
2. Circumstances that may necessitate the Commissioner General of the Malawi Revenue Authority to allow an importer to clear their goods at the inland port.
   1. Finance institutions are not available at the border **(½)**
   2. Need to facilitate trade **(½)**
   3. Carriers are not the owners of the goods and may not possess all the necessary documents for clearance at the border **(½)**
   4. No customs clearing agents at the border **(½)**
   5. Security reasons (**½)**
3. Explain briefly
   1. C.I.F = Cost **(½)** Insurance **(½)** and Freight **(½)** of the imported goods
   2. cost of cards [500\* 2] **(½)** = $ 1, 000.00 **(½)**

Malawi Kwacha [1, 000 \* 450] **(½)** = K 450, 000.00**(½)**

Value for Duty Purposes [VDP] =K 450, 000.00**(½)**

Customs duty [10% \* K450, 000] **(½**)=K 45, 000.00(**½)**

Value for Excise Tax purposes [450, 000+45, 000] **(½)** =K 495, 000.00**(½)**

Excise Tax [20% \* 495, 000] **(½)**  =K 99,000.00**(½)**

Value for VAT purposes [495,000+99,000] **(½**)=K594, 000.00**(½)**

Value Added Tax [594, 000 \* 16.5%]**(½**)=K 98,010 **(½)**

Total payable to Malawi Revenue Authority

[45,000+99,000+98,010] **(½)**=K 242,010 (**½)**

10 marks

1. Transaction value method: is the price actually paid or payable for export to the country of importation adjusted in accordance with the provisions of article 8 GATT CODE.

Transactional value of identical goods method: is the customs value sold for export of the same country of importation and exported at or about the same time as the goods being valued. 1

Transactional value of similar goods: the value of goods alike in nature. 1

Deductive method: 1

Fall-back-method: 1

Computed value method 1

5 Marks

Total 20 Marks

**QUESTION 8**

1. (i) A fringe benefit is an asset, service or other benefit in kind provided by an employer to an employee where such benefit includes an element of personal benefit to the employee. **2 marks**

(ii) Liability to fringe benefit tax arises where an employer provides fringe benefits to an employee. **1 mark**

(iii) Every employer shall keep and maintain proper records showing:

- the nature of the fringe benefits provided. ½

- the names of employees to whom the benefits are ½

provided; and

- the taxable values of fringe benefits as determination in ½

accordance with these regulations.

- and such records shall be made available for inspection

at anytime by the Commissioner or any authorized public ½

officer. **2 marks**

(iv) Fringe benefits tax is due for payment not later than (14) fourteen days after the end of each quarter. **1 mark**

b (i) (1) Housing rent of K245,000 per month is taxable in the hands of the employer because it is paid to the landlord**. 1 mark**

(2) School fees of K375, 000 per term will be taxed in the hands of the employee as it is paid directly to employee.  **1 mark**

(3) The tax burden falls on the employer as this is a fringe benefit.**1 mark**

(4) No liability on vehicle insurance as it is covered together with the motor vehicle benefit. **1 mark**

The employee bears the tax burden for the vehicle running costs as they are paid to him in cash.  **1 mark**

(5) The cost of the gardener will be a taxable benefit to be borne by the employer. 1 mark

Fringe benefit tax for rent.

Cost for the quarter = K245,000x 3= 735,000 ½

Taxable value = 735, 000 ½

Tax for the quarter at 30% = 735,000 x 30% = 220,500 1 mark

1. Liability to non-resident tax arises where:
   1. income is payable to a person, not being a person resident in Malawi; 1

(ii) the income is from a source in Malawi; 1

(iii) the income is not attributable to a permanent establishment belonging to the recipient of the income. ½

The tax is calculated at the rate of 15% of the gross amount of the income. ½

1. Non -resident tax is not payable in respect of:

- Income and other amounts which are exempt from tax under the **provisions** of the first schedule; 1½

- any pension or annuity payments 1½

Note To Markers

Any mention of the items listed under the first schedule would deserve one

mark and suffice for the first part. To get full marks candidates should also

mention the pension or annuity payment.

**(TOTAL 20 Marks)**