

**UGANDA MARTYS UNIVERSITY NKOZI
FACULTY OF LAW**

**SEMESTER II 2022/2023
END OF SEMESTER EXAMINATION**

COURSE NAME: REVENUE & TAXATION LAW II

COURSE CODE: LLB 4103

Date: Tuesday 20th December 2022

Time: 9.30am – 1.00pm

Duration: 3 & ½ HRs

Instructions.

1. This paper has 2 sections. There is no compulsory question.
2. You must answer any four (4) QUESTIONS. All questions carry equal marks.
3. This examination is fully open book and students **SHALL** during the examination make reference to any materials including texts, notes, reading lists and the relevant statutes.

SECTION A

QUESTION ONE

“Uganda needs more taxes to support its growing National Budget and decrease dependence on Foreign Aid and Debt, to this end, growing the Tax Base has become a critical matter. Most of the provisions governing exempt income under Uganda’s Income Tax Act Cap 340 are unnecessary and counterproductive. It is high time that the Parliament of Uganda reviewed these provisions with a view of scrapping them and maintaining only those that are necessary”. Acting Commissioner General Uganda Revenue Authority, at the Deloitte Budget Breakfast 2022.

Discuss (25 marks)

QUESTION TWO

(a) Compare and contrast the taxation of a partnership with that of a limited liability company.
(10marks)

(b) Ssentamu, Mukasa and Opiyo are members of SABEDI Tourist Company Ltd., with interests of 45%, 30% and 25% equity, respectively in the company’s one million shares, each valued at UGX 10,000/=. The company’s profits for the period July 2021 to June 2022 are declared at UGX 500 million. The directors recommend 30% of the profits as dividend. During the same period the directors transferred to Ssentamu part of its land valued at UGX 100 million. Mukasa is given a SUV vehicle valued at UGX 130 million. Opiyo carried out development work on the company’s athletics field worth UGX 50 million but was paid UGX 120 million.

Assess, with justification

- (i) The company’s tax liability, if any, and
- (ii) Ssentamu, Mukasa and Opiyo’s respective tax liability, if any. **(15 marks)**

QUESTION THREE

- (a) Compare and contrast the relevant provisions of the Income Tax Act (Cap. 340) with any Double Tax Convention to which Uganda is a party. **(15marks)**
- (b) Explain the need, if at all, for the review of the Double Taxation Agreements to which Uganda is a party. **(10 marks)**

SECTION B

QUESTION FOUR

- (a) "Business Assets are always a taxable. Any disposal thereof deemed or otherwise, without exception, results into immediate capital gains tax consequences."

With the help of decided cases, discuss the above assertion and the rules relating to Capital Gains Tax. **(15 marks)**

- (b) Daudi built a block of high-end shops in Kyanja a thriving Kampala suburb. The block was completed in 1996 at a cost of USD 1M. He sold the block of shops in December 2022 at USD 2.5M.
- i. Advise the Uganda Revenue Authority on the additional information required to make a proper assessment of tax if any arising from this transaction. **(5 marks)**
 - ii. What information relating to this transaction would you advise the tax payer to disclose to the Uganda Revenue Authority and why? **(5 marks)**

QUESTION FIVE

INTERSEN, a Ugandan company conducts business operations in both Uganda and Tanzania. In 2022, its first year in business, INTERSEN had a net profit of UGX 2,500,000 from its operations in Uganda and a net profit of UGX 1,000,000 from its operations in Tanzania. INTERSEN paid out a dividend of UGX 3,000,000, of which 60% went to its Ugandan-resident shareholders, and 40% went to its non-resident shareholders.

Citing relevant laws and precedents, discuss the following questions;

- (a) Is the dividend paid to the Ugandan-resident shareholders Ugandan-sourced? **(5 marks)**
- (b) Is the dividend to the non-resident shareholders Ugandan-sourced? **(5 marks)**
- (c) How much of the dividend, if any, is subject to Ugandan tax? **(5 marks)**
- (d) If INTERSEN has incurred Tanzanian corporate income tax on the Tanzanian-sourced profits, explain the mechanism under the Uganda Income Tax Act by which INTERSEN can avoid double taxation on the Tanzanian sourced income. **(5 marks)**
- (e) If INTERSEN hires an expatriate (an American citizen) to work at its Tanzania branch, what are the Ugandan Income tax implications for the INTERSEN and this expatriate? **(5 marks)**

QUESTION SIX

UBA Bank Plc is a US incorporated Bank, controlled and managed in the USA. UBA Bank Limited is incorporated in Uganda. UBA Bank Plc extends a loan in the sum of \$10bn to UBA Bank Limited in Uganda at a rate of 5% per annum. The security provided by UBA Bank Limited for the loan is comprised of shares held by UBA Bank Limited in MTN, a Ugandan telecom company. UBA Bank Limited wishes to use the loan monies to open and operate a branch in Kigali, Rwanda

Citing relevant authorities, discuss the following questions

- a) Analyse the applicable source rules and advise whether the interest payable under the loan is Ugandan sourced or otherwise? **(5 marks)**

- b) Advise UBA Bank whether the interest payable on the loan is subject to Ugandan Tax?
Would the answer be different if the loan was interest free **(10 marks)**
- c) Advise UBA Bank whether any obligation to withhold tax will arise with respect to the interest payable on the loan? **(5 marks)**
- d) In (b) above. Would your answer be different if the lender to UBA Bank were ABSA BANK UK, instead of UBA Bank Plc? Give Reasons **(5 marks)**

QUESTION SEVEN

- a) With examples define a Permanent Establishment under Tax Law and as provided for under the OECD International Double Taxation Agreement Model **(15 marks)**
- b) You are a new recruit at SENA Consult a leading Tax Consulting firm in Uganda, a prospective new International Company would like advice on whether to set up a Subsidiary or a Branch in Uganda.

Discuss and explain the taxation of branches in Uganda highlighting how it differs from taxation of subsidiaries in Uganda. Advise the client on which of the two entities you would recommend as a Tax advisor **(10 marks)**