

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW
BACHELOR OF LAWS EXAMINATION, YEAR IV – 2023
TAX LAW
(3 HOURS)

Total number of questions: 07

Answer any **FOUR** questions and **NO MORE**

(Candidates will be penalized for illegible handwriting)

1. 'Adam Smith's principles of good taxation form a sound basis for taxation today; however, they are not always followed.' With reference to these principles, write an opinion on how government officials should acquire and spend public money.

(25 Marks)

2. Kavin is a businessman based in Colombo engaged in the business of importation and distribution of Urea fertilizer. He often travels to other districts due to his business commitments. In 2010, he commenced constructing a house in Colombo. He incurred Rs. 20,000,000/- in acquiring the land and Rs. 10,000,000/- for the construction of the house. Construction of the house was completed in 2011. In 2012, he spent Rs. 2,000,000/- for laying tiles. In 2013 the tiles started to come off, and Kavin spent Rs. 1,000,000/- for the repairs. Between 2014 - 2018, Kavin filed action in the District Court of Colombo to evict an intruder who claimed title to both the house and the land. He spent Rs. 3,000,000/- on this litigation. Due to the Government's policy to shift to organic fertilizer, Kavin decided to relocate closer to his estate in Ratnapura with the intention of commencing a large-scale organic fertiliser farm. In all these years, Kavin had resided in his Colombo house only in 2021 and the first 10 months of 2022. In November 2022, he wrote a Deed of Exchange, for his Colombo land and house in exchange for a building in Ratnapura. The fair market value of the Ratnapura building in 2022 was Rs. 40,000,000/-.

- i. Discuss the income tax liability of Kavin in this scenario.

(20 Marks)

- ii. Assuming Kavin passed away in 2021 leaving his wife as his sole heir, how would the income tax liability be different?

(5 Marks)

3. Answer **both** part A and B:

A. Partnerships and Companies are two of the most common form of types of persons engaged in business. Discuss the concept of residence and tax liability of said persons considering the relevant statutory provisions of the Inland Revenue Act No. 24 of 2017 (as amended) and case law.

(12.5 marks)

B. Discuss the distinction between Investment Income and Business Income and critically evaluate the tax liability attached to Investment Income focusing on the reasons why it is included in the Inland Revenue Act No. 24 of 2017 (as amended).

(12.5 marks)

4. Duncan Silva, a doctor attached to the Ragama Teaching Hospital receives a monthly salary of 700,000/-. He uses the doctors' quarters worth 60,000/- per month and gets a fuel allowance worth 75,000/- per month as well. He also gets an allowance of 300,000/- for working night shifts and 20,000/- as a living expense allowance provided by the Government. He received a scholarship for a postgraduate degree and its value is 20 million rupees. Three months ago, when he left the National Hospital and joined the Ragama Hospital, the staff of the National Hospital gave him a prize worth 500,000/- in recognition of his services. Moreover, Dr. Duncan, who is also a director of City Hospital Pvt Ltd, founded by his father, examines patients there every day after 5.00 pm. For that he receives a monthly amount of 1,500,000/-. In addition, as a director of that hospital, he gets his share of the profits valued at 3,000,000/- for the current year. City Hospital won the competition to measure productivity in private hospitals and Dr. Duncan, who took the initiative, personally received a prize of 2,500,000/-.

Discuss how Dr. Duncan's income tax should be calculated for the year of assessment 2022/2023.

(25 Marks)

5. City Hospital Pvt Ltd incurred the following expenses for the assessment year 2022/2023. Accordingly, discuss the applicability of those expenses in the calculation of City Hospital's income tax based on legal provisions and case law.

a. 1,500,000/- for the night party held at Temple Trees Hotel to introduce the new Board of Directors to the hospital staff;

b. 3,000,000/- for a medical team brought from India for the delivery of quintuplets;

c. 2,000,000/- for newly purchased ventilators for the hospital and 1,000,000/- for the loss incurred in the auction of the old ventilators;

d. 500,000/- for repairing the air conditioning machines in the laboratory and theater;

e. 200,000/- incurred for renewal of the annual hospital license;

f. 3,000,000/- for the purchase of medicines for the pharmacy and for laboratory tests on the new coronavirus strain.

(25 Marks)

6. Answer **both** part A and B:

A. Critically analyze the Appeal Process, under the Provisions Inland Revenue Act No. 24 of 2017 (as amended) in offering relief to a taxpayer who is not satisfied with the determination of the Commissioner General of Inland Revenue.

(15 Marks)

B. *“Once an assessment has been made, whether it is one made on a return furnished by the assessee, or an estimated assessment made by the assessor under the powers vested in him, there arises a rebuttable presumption that the official act of assessment has been rightly and regularly performed. Therefore, when an assessee appeals, against such an assessment, the onus of displacing the assessment rest on him, and it is for the assessee to begin to satisfy the Commissioner General that the assessment is wrong and is excessive.”*

Guillain v. CIT: CTC 361

Discuss the above statement with reference to the Provisions of the Inland Revenue Act No. 24 of 2017 (as amended) and relevant case law.

(10 Marks)

7. Answer **either A or B**:

A. From an economic point of view, tax avoidance and tax evasion have similar effects, such as a reduction of revenue yields, and are based on the same desire to reduce the tax burden. Due to legal differences and moral concerns, it is, yet expected that individuals recognize them as different and as unequally fair. Discuss.

(25 Marks)

B. The ability to collect taxes and strengthen the government tax revenue is central to a country’s capacity to finance social services such as health and education, critical infrastructure such as electricity and roads, and other public goods. Hence, the immense power of the Commissioner General of Inland Revenue to recover tax in default is reasonable even though it may have harsh impacts on the taxpayers.

Discuss the above statement with reference to the provisions of the Inland Revenue Act No. 24 of 2017 (as amended) and relevant case law.

(25 Marks)
