



NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B FINAL EXAMINATIONS

L593 – TAXATION

MAY 2018

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. Answer any **FOUR (4)** questions.
2. Question 1 is compulsory.
3. Show all relevant workings where appropriate.
4. Applicable tax rates and allowances are appended to this question paper.

QUESTION 1: THIS QUESTION IS COMPULSORY

(a) (i) Explain why value added tax (VAT) is classified as an example of indirect taxes. **3 Marks**

(ii) Explain the meaning of a taxable supply. **5 Marks**

(iii) Describe the conditions which are necessary for a person to compulsorily register for VAT. **5 Marks**

(iv) Describe the main difference between exempt supply and zero-rated supply. **2 Marks**

(b) Provide an applicable VAT rate for each of the following supplies. In the case of exempt supplies (if any), indicate by 'exempt' against a supply. The following is a list of different supplies:

- (i) Agricultural inputs
- (ii) Banking services
- (iii) Health services
- (iii) Electricity
- (iv) Purchase of office equipment
- (v) Supply of water
- (vi) Milk
- (vii) Legal services
- (viii) Goods exported
- (ix) Tobacco

10 Marks

[25 MARKS]

QUESTION 2

Discuss the different sources of income for an individual taxpayer as provided by the Income Tax Act 1993 (as amended).

[25 MARKS]

QUESTION 3

(a) State the factors which are used to determine the residence status of an individual taxpayer. **5 Marks**

(b) Atang, Bonzi and Charles operate a business consultancy which has registered as a partnership, trading as ABC Consultants. Atang is a citizen of Lesotho, Bonzi is an Indian, who resides in Ladybrand, South Africa. He commutes every day to Maseru where their business is located. Charles is a South African and a silent partner who resides in Ficksburg, South Africa and hardly comes to Lesotho.

For the year of assessment ended 31 March 2018, the notional chargeable income of ABC Consultants was M915,000. This amount comprised the following:

	M
- Lesotho source income	615,000
- Foreign source income	<u>30,000</u>
	<u>645,000</u>

At the end of the year of assessment in question, the tax payable by each partner was not the same, notwithstanding the same share of interest they own in the partnership.

With relevant calculations, give reasons why the three partners cannot be liable for the same amount of tax payable.

20 Marks

[25 Marks]

QUESTION 4

Mohale, an individual resident taxpayer and renowned entrepreneur, declared a chargeable income of M45, 700 for the year of assessment ended 31 March 2018. Given the nature of his businesses and his extravagant lifestyle, the Lesotho Revenue Authority (LRA) decided to undertake an intensive investigation into his private life, on the basis that the income declared was inconsistent with his businesses. The following information which relates to the year ended 31 March 2018 was revealed:

- (i) Mohale travelled to Dubai with his spouse and their two children. The first born is 23 years old, and last born is aged 14 years. Mohale spent M16,000 for air ticket for each member of the family.
- (ii) Mohale owns a principal residence located at Maseru-West, where he lives with his entire family. The adjusted cost base of the house amounts to M630,000. Its fair market value was stated as M1,300, 000.
- (iii) Mohale also owns a secondary residence located at Khubetsoana. The house is available for use to Mohale's younger brother who pays a minimal rent of M800 for a four-roomed house.
- (iv) The amount of annual electricity consumption in Mohale's Principal residence amounted to M66,600.

- (v) The two children are attending school in China. Mohale spent M75,000 per annum per child as school fees.
- (vi) Mohale also owns three vehicles which are exclusively for private purposes. The vehicles values are given as follows:

Vehicles	Values
1	M730,000 (used by Mohale)
2	M540,000 (used by Mohale's spouse)
3	M210,000 (used by their first born during school vacations)

Apply the minimum chargeable income principle to determine the chargeable income of Mohale for the year of assessment ended 31 March 2018. You should provide reason(s) for any amount(s) excluded from your computations.

[25 MARKS]

QUESTION 5

Hloni is a resident individual who operates a fleet of taxis which are used as public transport in Maseru and other districts of Lesotho. According to his self-assessment income tax return for the year ended 31 March 2018, Hloni realised a profit of M65,000. The LRA queried the assessment on the basis that Hloni overstated the expenses by claiming expenses which are not deductible for income tax purposes. Hloni was therefore issued with a revised assessment which required him to pay additional tax.

The expenses which appeared in Hloni's self-assessment return are given as follows:

Expenses	Amount
Wages and salaries	105,000

Maintenance and running costs	71,000
Purchase of office desktop and printer on 1/04/2017	25,200
Insurance premiums:	
Paid to Alliance Lesotho (including M6,000 for private car)	43,500
Paid to LHR Insurer, a South African Company	12,000
Tuition fees for children	52,000
Renewal of trader's licences and permits	5,100
(including M2,300 for late renewal)	
Other sundry expenses which are all tax deductible	30,100

(a) Explain whether the act of overstating the expenses constitutes tax evasion or tax avoidance. **4 Marks**

(b) With reference to Section 33 of the Income Tax Act which defines an allowable expense, advise Hloni, with relevant calculations, on the allowable expenses which should appear in his income tax return for the year ended 31 March 2018. **21 Marks**

[25 MARKS]

QUESTION 6

'Malira, a resident individual, is employed by Lesotho Communications Authority (LCA) as a Corporate Secretary. Her remuneration for the year ended 31 March 2018 consisted of the following:

- (i) Annual salary of M540, 000.
- (ii) Housing allowance of 5% of the annual salary.
- (iii) Education allowance for her children totalling M22,000.

- (iv) Use of company car for both private and business purposes. The market value of the car was M410,000 when it was first provided to 'Malira in April 2015. The current market value of the car is M350,000.
- (v) 13th cheque of M24,500.
- (vi) Discharge by LCA of the cellphone bill expenses to the value of M12,500, paid directly to Vodacom.
- (vii) Medical expenses paid by LCA totalling M4, 800. All employees are entitled to this benefit on equal terms.
- (viii) Free meals and refreshments provided to 'Malira and other senior officials at different luxurious suites of their choice at the end of every quarter. LCA incurred annual cost of M2, 600 per person.
- (ix) 'Malira also received other payments and benefits from different sources as given below:
 - M25, 500 from her ex-spouse for maintenance and support of children
 - An inheritance of land valued at M48, 000 from her grandfather.

The total amount of Pay As You Earn (PAYE) remitted by LCA on behalf of 'Malira, to the LRA amounted M160, 000.

(a) For each item listed from (i) to (ix) above, indicate whether it is taxable for either income tax (IT) or fringe benefits tax (FBT) purposes. Any exempt items should also be identified, by indicating whether they are exempt for (IT) or (FBT) purposes. **10 Marks**

(b) Calculate tax payable by or refundable to 'Malira for the year of assessment ended 31 March 2018. **10 Marks**

(c) Calculate fringe benefits tax payable by LCA in respect of fringe benefits provided to 'Malira for the year ended 31 March 2018.

5 Marks

[25 MARKS]

APPENDIX

Value Added Tax (VAT) ACT Rates

Supplies	Rate of tax
Alcoholic and tobacco	15%
Standard rate	15%
Utilities:	
Electricity	8%
Telephone calls	9%
Basic food stuff, and exports	0% (zero-rated)

INCOME TAX ACT

Second Schedule

(Section 9(1))

Resident individual income tax rates

Chargeable income	Rate of tax
First M58,680	20%
Over M58,680	30%
Personal tax credit	M6,960

Fourth Schedule

(Section 116)

Tax rate for fringe benefits	30%
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Fifth Schedule

(Section 16(2))

Minimum chargeable income

The multiplication factors are:

Air travel	100%
Electricity amount	100%
Principal residence amount	5%
Schooling amount	100%
Secondary home amount	5%
Vehicle amount	25%

The amounts specified are:

Air travel amount	M2,500
Electricity amount	M3,000
Principal-residence amount	M150,000
Schooling amount per child	M1,000
Secondary home amount	M20,000
Vehicle amount	M20,000

Sixth Schedule

(Section 41)

Desktop and printer are part of office equipment depreciated at 20%