
CERTIFIED PUBLIC ACCOUNTANT
ADVANCED LEVEL 2 EXAMINATIONS

A2.3: ADVANCED TAXATION

MONDAY: 2 DECEMBER 2019

INSTRUCTIONS:

1. **Time Allowed: 3 hours 45 minutes** (15 minutes reading and 3 hours 30 minutes writing).
2. This examination has **two** sections; **A & B**.
3. Section **A** has **one** Compulsory Question while section **B** has Four optional questions to choose any three
4. In summary attempt **Four** questions.
5. Marks allocated to each question are shown at the end of the question.
6. Show all your workings

SECTION A

QUESTION ONE

You are a senior tax manager in one of the reputable audit firms in Rwanda. Your client, **Imena Group Ltd**, has requested for tax advice on Corporate Income Tax (CIT) and other tax advisory services. **Imena Group Ltd** deals in the business of marketing and particularly in the advertising on Bill Boards in the City of Kigali. The company recorded the following transactions in the financial year 2018.

The following is the Profit or Loss account of **Imena Group Ltd** for the financial year ended 31st December 2018.

Revenue	Rwf “000”
1. Cash sales	1,000,000
2. Debtors	10,000
3. Other incomes including rental income of Imena Group Ltd from rented business premises	30,000
4. Grant received from the Ministry of Trade and Industry (MINICOM) for the support of its activities	40,000
Expenses:	
1. Accounting depreciation	20,000
2. Communication expenses	40,000
3. Training and research expenses	60,000
4. Hotel accommodation expenses	100,000
5. Cash withdraw by the owner	30,000
6. VAT apportionment expenses	33,000
7. Donations	130,000
8. Other expenses	300,000
9. Employment expenses	400,000

Notes:

1. **Imena Group Ltd** has identified an international investor, **London Brokers PLC**. The management is considering an option of selling 40% of the business to the **London Brokers PLC** to raise capital.
2. In the year 2018, the company applied for the investment certificate from the Rwanda Development Board (RDB) and the certificate was granted.
3. In addition to the marketing and Bill Boards, the company sells flavoured cheese and butter imported from Europe. This is why the company apportions its VAT input.
4. Included in the sales is the realised exchange gain of Rwf 100M from the international clients who pay in foreign currencies. The company also incurred unrealised exchange loss of Rwf 20M, but this was not accounted for by the accountant.
5. Included in the assets are motor vehicles used by the company employees and that of the managing director. The total cost of vehicles is Rwf 100M and all carry 9 passengers each. Other assets are buildings of Rwf 100M and plant and machinery of Rwf 300M
6. Communication expenses include internet expense of Rwf 7M that the company pays every month. Staff can access internet for 24 hours a day including weekends even when doing their private work.
7. Training and research expenses include contributions to ICPAR on behalf of its staff who are professional members to the institute. The total contributions for the year 2018 was Rwf 4M for the total of seven (7) staff members.
8. Hotel accommodation expenses include VAT of Rwf 10M.
9. The VAT turnover for **Imena Group Ltd** for the financial year 2018 was higher than the turnover in the audited financial statements by Rwf 75M. Accountants cannot explain the cause of the difference in turnovers and yet the company uses Electronic Billing Machine (EBM).
10. Donations were made to charity organisations operating in the Democratic Republic of Congo (DRC) to assist the war-ravaged areas.
11. Other expenses include Rwf 20M relating to destruction of the sign posts that did not meet the requirement of Kigali City. This amount was paid to the unregistered people in Kigali.
12. Included in the employment expense is payment of Rwf 20M to expatriate staff who came to assist **Imena Group Ltd** to design bill boards in Kigali. These expatriates were not included on the **Imena Group Ltd.**'s payroll for the year 2018.
13. **Imena Group Ltd** is a subsidiary of a Kenyan company that produces bill boards and **Imena Group Ltd** paid Rwf 40M to this company as management fees in December 2018.
14. The tax allowances of **Imena Group** are Rwf 5M.

REQUIRED

- a) i) As a tax adviser, assist **Imena Group Ltd** to review the corporate income tax payable to the Rwanda Revenue Authority for the year ended 2018 in accordance with the current income tax law of Rwanda **(23 marks)**
- ii) Compute any withholding tax payable by **Imena Group Ltd** **(2 marks)**
- b) Advise on the treatment of;
- i. losses, if any, if **Imena Group Ltd** is acquired by **London Brokers PLC** **(2 marks)**
- ii. The documents that should be attached to the income tax return and their authenticity and the consequences if they are not attached to the tax return? **(3 marks)**
- c) **London Brokers PLC** will pay **Imena Group Ltd** Rwf 600m upfront. The new investor will be lending money to **Imena Group Ltd** in form of a loan at the interest rate of 30% per month. The registered share capital of **Imena Group Ltd** is Rwf 50m as shown on the certificate of incorporation obtained from RDB.

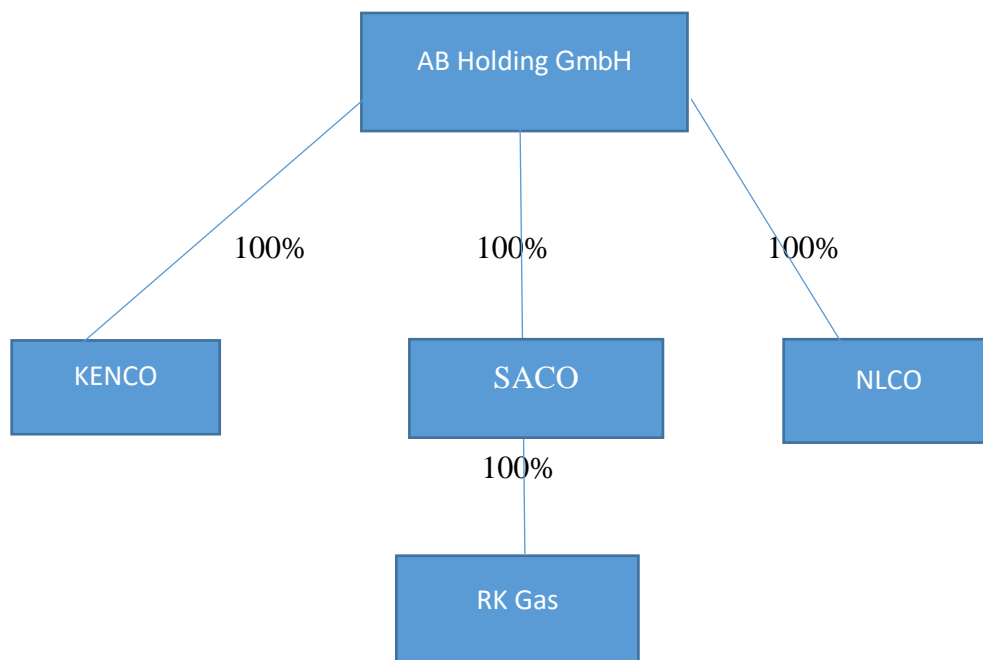
REQUIRED:

- i) Discuss whether this is the best tax saving option for **Imena Group Ltd** to raise finance given that the local lenders can charge 20% interest on loans **(3 marks)**
- ii) Compute the Capital Gains Tax (CGT) applicable on sale of shares and indicate how it is declared and paid to the Rwanda Revenue Authority **(3 marks)**
- iii) The new investor wants **Imena Group Ltd** to change its tax calendar year which currently runs from 1st January - 31st December. They want to change to 1st September - 31 August. Assist **Imena Group Ltd** to draft application letter for the change of its fiscal year by applying to the relevant authorities **(4 marks)**
- (Total 40 marks)**

SECTION B

QUESTION TWO

AB Holding GmbH is a company registered in Germany. It holds three subsidiaries, one in Netherland (**NLCO**), another one in South Africa (**SACO**) and another subsidiary is in Kenya (**KENCO**). The South Africa subsidiary (**SACO**) owns 100% of a Rwandan entity called **RK gas Energy Ltd** that is in the business of extracting Methane Gas from Lake Kivu. The Group structure is as follows:



AB Holding GmbH has decided to sell its entire control in **SACO**. **SACO** will pay **AB Holding GmbH** USD10m. This means that **AB Holding GmbH** will lose its indirect control in the **RK gas**. After the acquisition of the shares of **AB Holding GmbH** by the **SACO**, **SACO** will sell its stake in **RK gas** to another investor based in Singapore (**SIN Hold**). **SIN Hold** will pay **SACO** USD 4m cash. At the end of the year 2019 **RK gas** will pay USD 500,000 as dividends to **SIN Hold**.

REQUIRED:

- From the above transactions, discuss and compute where applicable the taxes that should be accounted for by **RK gas Ltd** in Rwanda based on Rwandan tax laws
(10 marks)
- Discuss the penalties and interests applicable if **RK gas Ltd** does not account for the applicable taxes in a above and remit it to the Rwanda Revenue Authority within three months after they become due. Assume the transaction will happen in December 2019. **RK Gas Ltd** is a large taxpayer
(3 marks)

- c) i) Discuss the concept of thin capitalisation as per the Rwandan income tax law (2 marks)
ii) The shareholders of **RK gas** have acquired a loan from **SIN Hold** totalling to USD 800m. The loan will be paid in one year at the interest rate of 25% per month.

REQUIRED:

Compute what will be allowed as an interest expense for corporate income tax purposes if the registered share capital of **RK gas Ltd** is Rwf100m (1 USD=920 Rwf)

(5 marks)

(Total 20 marks)

QUESTION THREE

Underneath Water Ltd is a company incorporated in Rwanda. The company has been awarded a tender to catch all crocodiles found in Lake Ihema in the Akagera National Park (ANP) located in the Eastern Province of Rwanda because these animals are a threat to tourists.

The tender amount is USD10M to be paid in three equal instalments in the year 2019. **Underneath Water Ltd** decided to subcontract and pay USD 5m to **Crocs PLC** based in the UK because **Crocs PLC** has experience in catching crocodiles.

REQUIRED:

- a) i) Compute the taxes applicable in Rwanda as a result of the above transaction between **Underneath Water Ltd** and **Crocs PLC** and show how and when they are paid (1 USD=920 Rwf) (3 marks)
ii) Assume that **Underneath Water Ltd**, a large taxpayer, did not account for taxes computed in a (i) above in the month they became due, what are the likely consequences in accordance with the tax laws of Rwanda (3 marks)
- b) Rwanda Revenue Authority (RRA) has audited **Underneath Water Ltd** and established that taxes were not computed and paid according to the tax laws of Rwanda and RRA has issued assessment notice No. 002/RRA/CG/2019 to **Underneath Water Ltd**.

Underneath Water Ltd has hired you as a tax consultant to appeal to the Commissioner General (CG) of the RRA against the assessment.

REQUIRED:

Draft an appeal letter to CG in accordance with the tax procedure law and in it state the possible arguments you would include to win the case (6 marks)

- c) The CG retained and upheld the decision of the Commissioner for Income Taxes. **Underneath Water Ltd** was not happy and applied for an amicable settlement. Going forward and in order to avoid penalties in future, **Underneath Water Ltd** has decided to gross up withholding tax because **Crocs PLC** wants its USD5m to be paid net of taxes if it is contracted again.

- i) What is meant by the “amicable settlement” in accordance with tax procedure law of Rwanda and state the condition(s) for it to be accepted by RRA? (3 marks)
 - ii) Discuss the consequence(s) of grossing up withholding tax and expensing it and show how this will be treated by RRA in case of a tax audit of corporate income tax (2 marks)
 - d) Discuss the circumstances under which an amicable settlement may be sent back to RRA by the commercial court of law. (3 marks)
- (Total 20 marks)

QUESTION FOUR:

Ganza Ltd is a company incorporated in Rwanda. The company has been awarded a tender by the Government of Rwanda to extract methane gas from Lake Kivu. The tender amount is equal USD 6M exclusive of taxes. **Ganza Ltd** is considering sub-contracting a firm from Kenya to assist in the installation of pipes in the Lake, pipes will be used to deliver gas to the main land from the lake. The sub-contractor is considering incorporating a company in Rwanda for tax planning purposes. This Kenyan firm, once incorporated in Rwanda, will be employing both expatriates and local staff. This is an EPC contract (Engineering, Procurement and Construction contract).

Ganza Ltd has a valid investment certificate for two years and will be importing gas pipes from Kenya and getting customs duties exemption in Rwanda.

REQUIRED:

- a) Discuss the VAT obligation of:
 - i) **Ganza Ltd** in Rwanda (4 marks)
 - ii) The Kenyan subcontractor, once it incorporates locally in Rwanda (4 marks)
- b) **Rena Ltd** is a company registered under VAT in Rwanda. In the month of May 2019, the company raised an EBM (Electronic Billing Machine) invoice to its customer called **Black Ltd**. Unfortunately, **Rena Ltd** forgot to deliver the invoice to **Black Ltd** until July 2019.

REQUIRED:

- Discuss the conditions that the taxpayer should meet if he/she is to obtain a VAT refund and whether a refund for VAT will be given to **Black Ltd** (5 marks)
- c) Some traders are of the view that VAT leads to increase in prices of goods and services in Rwanda. Do you agree? (5 marks)
 - d) Discuss the penalties applicable to the taxpayer who charges VAT when he/she is not registered for VAT? (2 marks)
- (Total 20 marks)

QUESTION FIVE

Blue Bird Ltd is a mining company registered in Rwanda. It operates in Gisagara District of Rwanda. The company employs 1,000 people, out of these employees, 30 people are expatriates and are not included on the payroll of **Blue Bird Ltd**. These expatriates are neither registered with the Rwanda Social Security Board (RSSB). Each expatriate earns USD 10,000 per month, out of USD 10,000, USD 5,000 is paid by the home country of expatriate and the remaining USD 5,000 is paid to the expatriate in Rwanda for upkeep.

Blue Bird Ltd has rented one house where all expatriates stay, and the company pays USD 15,000 as rent for the house per month. On average expatriates stay in the country (Rwanda) for 8 months each year. Seventy (70) people are not expatriates but are employed on a permanent basis and have permanent contracts, these include Kenyans, Rwandans and Ugandans who have the knowledge of mining. Non-citizens have work permits, their functions and salary structure are as follows:

Accountants (7 people) and each accountant earns USD400 per month, Geologists (50 people) and each geologist earns USD 700 per month, Human Resources and Mines Supervisors (13 people and each of these earns USD 300 per month. The remaining people are employed as casual labourers, and each earns USD 1 per day. Use 1 USD=Rwf 920.

REQUIRED:

- a) Define a ‘casual labourer’ and distinguish him or her from a ‘consultant’, as per the income tax law of Rwanda (2 marks)
- b) Calculate the gross equalisation pay for Rwanda tax purposes and show the gross for each expatriate (4 marks)
- c) Discuss the treatment of foreigners in the above scenario for tax and social security contribution purposes (4 marks)
- d) Discuss the tax treatment of casual labours in the scenario above (1 mark)
- e) i) Discuss the penalties for understatement of maternity leave benefit (MLB) contributions (3 marks)
ii) What is the procedure for appealing against the maternity leave benefit (MLB) contributions if the taxpayer is assessed for MLB and is not happy with the assessment? (1 mark)
- f) **Blue Bird Ltd** has outsourced a supplier of food for casual labourers only. The company pays a lumpsum of Rwf 500,000 per month to the local supplier in Gisagara where mines are located. **Blue Bird Ltd** is not clear as how to treat this payment for tax purposes.

REQUIRED:

- i. Advise **Blue Bird Ltd** on the treatment of Rwf 500,000 payment in order to comply with the Rwandan tax law (1 mark)
 - ii. Name four countries where Rwanda has Double Taxation Treaty and state the tax rates for management and technical fees as contained in the treaty (4 marks)
- (Total 20 marks)