

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:-

LL.B.

LL.B. Part II: Law of Taxation

COURSE CODE : LAWSII07

DATE : 09-MAY-03

TIME : 10.00

TIME ALLOWED : 3 Hours 15 Minutes

LAW OF TAXATION

Answer **FOUR** questions including at least **ONE** question from **PART A**.

In answering questions on this paper candidates

- (i) must, in the absence of clear indication to the contrary in the questions concerned, assume that all persons mentioned are domiciled, resident and ordinarily resident in the United Kingdom, that all assets are situated in the United Kingdom and that all events occur in the United Kingdom;
- (ii) should not attempt to compute the amount of tax payable; and
- (iii) should ignore all changes in legislation made or proposed after 1 March 2003.

PART A

1. What are the principles which the courts use to distinguish between capital and income receipts and expenditure for a trade?

Illustrate your answer with reference to cases which you have studied.

2. Whitehouse states of the income tax treatment of benefits in kind:

‘The present system is neither logical nor fair and presents a bewildering range of alternatives.’

Do you agree with this statement? What, if anything, could be done to improve the way in which benefits in kind are treated for income tax purposes?

3. In dealing with artificial tax avoidance schemes how does the UK tax system deal with the conflict between certainty and equity? Would a statutory general anti-avoidance rule improve the present position?
4. Discuss the policy reasons for having inheritance tax and discuss the policy reasons for having capital gains tax. Do these two taxes make a coherent system together?

TURN OVER

PART B

5. Ian is a generous, wealthy man of 65. He owns a pair of paintings which as a pair are worth £50,000 but individually only £15,000 each. In June 2002 Ian sold one for £15,000 to his nephew, Nick, who has an art gallery. Later in that year he sold the second painting also to Nick for £15,000.

He gave generous Christmas presents to his staff including £200 to his chauffeur and £300 to his housekeeper.

Ian decided to put a million pounds of his capital into a discretionary trust for a wide range of beneficiaries. A few months later he sold a flat which had doubled in value since he purchased it five years ago at a time when the market was low. He made a donation of £1,000 to his old boys' club.

Ian died in March this year.

Advise on the tax treatment of the above.

6. Donald owns and for many years has run a garden centre in the village of Shadwell. He employs two nurserymen. Some of his winter plants this year had not sold and were past their best so in the spring Donald sold them off cheaply. He had purchased them at 50p a box and would normally have sold them at £5 per box but he sold them at the special price of two boxes for 50p.

During the year Donald started to sell cider which he had made in the garden centre. The cider proved to be very popular and Donald made a large profit on this activity but Donald did not have a licence to sell alcohol. Donald did some repair work on machinery for a farmer and charged £300 for this. He generously donated six large hanging baskets from his stock to the village 'Shadwell in Bloom' committee.

There was a small piece of land also belonging to Donald which was on the edge of the garden centre. Donald obtained planning permission for this land and he sold it for £20,000.

Donald makes up his accounts to 31 December each year.

Advise Donald on the tax implications of the above and when he will have to pay tax.

CONTINUED

7. Carla is a successful businesswoman running a clothing import business.

She seeks your taxation advice on the following events all of which occurred in the tax year 2002-03.

- (i) She received a dividend from a United Kingdom company.
- (ii) She gave a gift of an antique which she had inherited from her father to her daughter.
- (iii) She sold her holiday flat in Florida.
- (iv) Under a discretionary trust set up by her father six years ago, Carla received shares to the value of £5,000. The trustees had power to make payments of capital.
- (v) This year Carla's mother died. She had been the life tenant of a trust set up by Carla's grandfather the terms of which gave Carla's mother a life interest and then the capital in equal shares to Carla and her brother.

8. Croft College is a private school set in extensive grounds which is run by a company. The directors are Harold and his wife Jane. Harold is the headteacher with a salary of £75,000 and Jane, who teaches physics part time at the school, earns £8,000.

They live in a house in the school grounds which is owned by the company. It was built many years ago and is currently valued at £1,000,000. The electricity bills are paid for by the company and the gardening is done by the school gardener with no payment by Harold and Jane.

The two sons of Harold and Jane are educated at Croft College without charge. Harold has a car provided by the College for his private and school use. The car is kept in a garage adjoining the house. He also receives an expense allowance of £10,000 to enable him to entertain on behalf of the school and to travel overseas to recruit pupils.

Jane has a clothes allowance of £500 from the company to enable her to maintain a smart appearance when entertaining on behalf of the school.

Advise on the tax treatment of the above facts.

END OF PAPER