

CPA

Certified Public Accountant Examination

Stage: Advanced 2.3

Subject Title: Advanced Taxation

Revision Guide



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STUDY TECHNIQUE

What is the best way to manage my time?

- **Identify all available free time between now and the examinations.**
- **Prepare a revision timetable with a list of “*must do*” activities.**
- **Remember to take a break (approx 10 minutes) after periods of intense study.**



What areas should I revise?

- **Rank your competence from Low to Medium to High for each topic.**
- **Allocate the least amount of time to topics ranked as high.**
- **Allocate between 25% - 50% of time for medium competence.**
- **Allocate up to 50% of time for low competence.**

How do I prevent myself veering off-track?

- **Introduce variety to your revision schedule.**
- **Change from one subject to another during the course of the day.**
- **Stick to your revision timetable to avoid spending too much time on one topic.**

Are study groups a good idea?

- **Yes, great learning happens in groups.**
- **Organise a study group with 4 – 6 people.**
- **Invite classmates of different strengths so that you can learn from one another.**
- **Share your notes to identify any gaps.**

EXAMINATION TECHNIQUES

INTRODUCTION

Solving and dealing with problems is an essential part of learning, thinking and intelligence. A career in accounting will require you to deal with many problems.

In order to prepare you for this important task, professional accounting bodies are placing greater emphasis on problem solving as part of their examination process.

In exams, some problems we face are relatively straightforward, and you will be able to deal with them directly and quickly. However, some issues are more complex and you will need to work around the problem before you can either solve it or deal with it in some other way.

The purpose of this article is to help students to deal with problems in an exam setting. To achieve this, the remaining parts of the article contain the following sections:

- Preliminary issues
- An approach to dealing with and solving problems
- Conclusion.

Preliminaries

The first problem that you must deal with is your reaction to exam questions.

When presented with an exam paper, most students will quickly read through the questions and then many will ... **PANIC!**

Assuming that you have done a reasonable amount of work beforehand, you shouldn't be overly concerned about this reaction. It is both natural and essential. It is natural to panic in stressful situations because that is how the brain is programmed.

Archaeologists have estimated that humans have inhabited earth for over 200,000 years. For most of this time, we have been hunters, gatherers and protectors.

In order to survive on this planet we had to be good at spotting unusual items, because any strange occurrence in our immediate vicinity probably meant the presence of danger. The brain's natural reaction to sensing any extraordinary item is to prepare the body for 'fight or flight'. Unfortunately, neither reaction is appropriate in an exam setting.

The good news is that if you have spotted something unusual in the exam question, you have completed the first step in dealing with the problem: its identification. Students may wish to use various relaxation techniques in order to control the effects of the brain's extreme reaction to the unforeseen items that will occur in all examination questions.

However, you should also be reassured that once you have identified the unusual item, you can now prepare yourself for dealing with this, and other problems, contained in the exam paper.

A Suggested Approach for Solving and Dealing with Problems in Exams.

The main stages in the suggested approach are:

1. Identify the Problem
2. Define the Problem
3. Find and Implement a Solution
4. Review

1. Identify the Problem

As discussed in the previous section, there is a natural tendency to panic when faced with unusual items. We suggest the following approach for the preliminary stage of solving and dealing with problems in exams:

Scan through the exam question

You should expect to find problem areas and that your body will react to these items.

PANIC!!

Remember that this is both natural and essential.

Pause

Take deep breaths or whatever it takes to help your mind and body to calm down.

Try not to exhale too loudly – you will only distract other students!

Do something practical

Look at the question requirements.

Note the items that are essential and are worth the most marks.

Start your solution by neatly putting in the question number and labelling each part of your answer in accordance with the stated requirements.

Actively reread the question

Underline (or highlight) important items that refer to the question requirements. Tick or otherwise indicate the issues that you are familiar with. Put a circle around unusual items that will require further consideration.

2. Define the Problem

Having dealt with the preliminary issues outlined above, you have already made a good start by identifying the problem areas. Before you attempt to solve the problem, you should make sure that the problem is properly defined. This may take only a few seconds, but will be time well spent. In order to make sure that the problem is properly defined you should refer back to the question requirements. This is worth repeating: Every year, Examiner Reports note that students fail to pass exams because they do not answer the question asked. Examiners have a marking scheme and they can only award marks for solutions that deal with the issues as stipulated in the question requirements. Anything else is a waste of time. After you have re-read the question requirements ask yourself these questions in relation to the problem areas that you have identified:

Is this item essential in order to answer the question?

Remember that occasionally, examiners will put 'red herrings' (irrelevant issues) into the question in order to test your knowledge of a topic.

What's it worth?

Figure out approximately how many marks the problem item is worth. This will help you to allocate the appropriate amount of time to this issue.

Can I break it down into smaller parts?

In many cases, significant problems can be broken down into its component parts. Some parts of the problem might be easy to solve.

Can I ignore this item (at least temporarily)?

Obviously, you don't want to do this very often, but it can be a useful strategy for problems that cannot be solved immediately.

Note that if you leave something out, you should leave space in the solution to put in the answer at a later stage. There are a number of possible advantages to be gained from this approach:

- 1) It will allow you to make progress and complete other parts of the question that you are familiar with. This means that you will gain marks rather than fretting over something that your mind is not ready to deal with yet.
- 2) As you are working on the tasks that you are familiar with, your mind will relax and you may remember how to deal with the problem area.
- 3) When you complete parts of the answer, it may become apparent how to fill in the missing pieces of information. Many accounting questions are like jigsaw puzzles: when

you put in some of the parts that fit together, it is easier to see where the missing pieces should go and what they look like.

3. Find and Implement a Solution

In many cases, after identifying and defining the problem, it will be easy to deal with the issue and to move on to the next part of the question. However, for complex problems that are worth significant marks, you will have to spend more time working on the issue in order to deal with the problem. When this happens, you should follow these steps:

Map out the problem

Depending on your preferred learning style, you can do this in a variety of ways including diagrams, tables, pictures, sentences, bullet points or any combination of methods. It is best to do this in a working on a separate page (not on the exam paper) because some of this work will earn marks. Neat and clearly referenced workings will illustrate to the examiner that you have a systematic approach to answering the question.

Summarise what you know about the problem

Make sure that this is brief and that it relates to the question requirements. Put this information into the working where you have mapped out the problem. Be succinct and relevant. The information can be based on data contained in the question and your own knowledge and experience. Don't spend too long at this stage, but complete your workings as neatly as possible because this will maximise the marks you will be awarded.

Consider alternative solutions

Review your workings and compare this information to the question requirements. Complete as much of the solution as you can. Make sure it is in the format as stipulated in the question requirements. Consider different ways of solving the problem and try to eliminate at least one alternative.

Implement a solution

Go with your instinct and write in your solution. Leave extra space on the page for a change of mind and/or supplementary information. Make sure the solution refers to your workings that have been numbered.

4. Review

After dealing with each problem and question, you should spend a short while reviewing your solution. The temptation is to rush onto the next question, but a few moments spent in

reviewing your solution can help you to gain many marks. There are three questions to ask yourself here:

Have I met the question requirements?

Yes, we have mentioned this already. Examiner Reports over the years advise that failure to follow the instructions provided in the question requirements is a significant factor in causing students to lose marks. For instance, easy marks can be gained by putting your answer in the correct format. This could be in the form of a report or memo or whatever is asked in the question. Likewise, look carefully at the time period requested. The standard accounting period is 12 months, but occasionally examiners will specify a different accounting period.

Is my solution reasonable?

Look at the figures in your solution. How do they compare relative to the size of the figures provided in the question?

For example, if Revenue were 750,000 and your Net Profit figure was more than 1 million, then clearly this is worth checking.

If there were some extraordinary events it is possible for this to be correct, but more than likely, you have misread a figure from your calculator. Likewise, the depreciation expense should be a fraction of the value of the fixed assets.

What have I learned?

Very often in exams, different parts of the solution are interlinked. An answer from one of your workings can frequently be used in another part of the solution. The method used to figure out an answer may also be applicable to other parts of your solution.

Conclusion

In order to pass your exams you will have to solve many problems. The first problem to overcome is your reaction to unusual items. You must expect problems to arise in exams and be prepared to deal with them in a systematic manner. John Foster Dulles, a former US Secretary of State noted that: *The measure of success is not whether you have a tough problem to deal with, but whether it is the same problem you had last year.* We hope that, by applying the principles outlined in this article, you will be successful in your examinations and that you can move on to solve and deal with new problems.

Stage: ADVANCED LEVEL 2

Subject Title: A2.3Advanced Taxation

CPA Syllabus 2012: Advanced n

Examination Duration: 3.5 hours (Open Book)

Assessment Strategy

Examination Approach

This subject should be approached on the basis that it is the final subject in taxation and is mandatory for those students wishing to satisfy the requirements to obtain a practising certificate, post qualification. The examination paper is equally balanced between tax planning and tax computation. Marks are awarded for structured and rationally based conclusions. Students are expected to select and integrate relevant syllabus material from Advanced Taxation and other subjects where this is appropriate to the analysis and solution of the case study.

Students are required to analyse complex tax issues and integrate their learning across different tax heads. They should apply that learning to provide the optimal tax planning guidance within the legal and ethical frameworks. Overall, students are expected to demonstrate a high level of intellectual, technical, personal and communications skills including analytical, numeracy, ethical sensitivity, and report writing competencies.

Examination Format

The examination is open book and 3.5 hours' duration. It consists of one compulsory 40 mark case study, and four questions of 20 marks each, three of which must be answered.

Marks Allocation	Marks
Question 1 case-study (Compulsory)	40
Questions 2 to 5 (Answer any three)	60
	Total 100

Learning Resources

Core Texts

Tax Guide / Bloomsbury / 2011 /

ISBN 9781847667304

Global Tax Revolution – Chris Edwards and Daniel J Mitchell

Sell Globally Tax Locally – Michael S Greve

Fundamentals of International Tax Planning – Chris J Finnerty, Paulus Merks, Mario Petriccione, Raffaele Russo.

Manuals

A2.3 Advanced Taxation – Institute of Certified Public Accountants of Rwanda

Useful Websites

(as at date of publication)

www.icparwanda.com

<http://www.rra.gov.rw/>

<http://www.rse.rw/>

<http://org.rdb.rw/>

<http://www.minicom.gov.rw/spip.php?article38>

http://www.amategeko.net/display_rubrique.php?ActDo=ShowArt&Information_ID=871&Parent_ID=3069954&type=public&Langue_ID=An&rubID=3069955

REVISION QUESTIONS AND SOLUTIONS

Stage: Advanced 2.3

Subject Title: Advanced Taxation

QUESTION 1

Case Study

You are the accountant for a small business Tables and Chairs Ltd which manufactures tables and chairs. The year-end SoCI and SoFP are complete to PBIT. The Finance Director has asked you to prepare the Tax declaration and to calculate the income tax due.

The firm employees 450 Rwandans. Of these 300 are full time and are paid more than Rwf450,000 each per year.

Also Tables and Chairs Ltd invested Rwf 45m in a new CNC lathe at the beginning of the year.

During the year, the business spent on entertainment Rwf1,500,000 and the directors were awarded bonuses of Rwf37,000,000

2 years ago the company won an order from the local authority which had been put out to public tender. The contract value was Rwf75,000,000. In the year just ended, the value invoiced was Rwf25 million. The contract is priced on an item basis – so much per table or chair delivered and accepted.

In the previous year PBIT was Rwf16,240,000 and the quarterly prepayments were based on this figure.

- 1) You are required to calculate the Corporate tax due for the year just ended.
- 2) If Tables and Chairs Limited had become a Registered Investor what effect could this have had on the corporation tax ?

A summary of the fixed assets at the start and end of the year – Rwf ‘000s

Assets	age	Open WDV	Acq	Disposal	Book Value to depreciate	Dep'n Charged	Rate %	Closing NBV
Land		100,000						100,000
Factory	5	40,000			50,000	2,500	5%	37,500
Offices	4	17,000			20,000	1,000	5%	16,000
Lathes and factory m/cy		61,000	45,000	100	105,900	26,475	25%	34,525
IT		56,500	7,500	250	63,750	31,875	50%	24,625
Office furniture etc		15,000	3,500	800	17,700	4,425	25%	10,575
		<u>289,500</u>				<u>66,275</u>		<u>223,225</u>

Tables and Chairs Ltd
Statement of Financial Position at 31 December

	Rwf '000s
Fixed assets	223,225
Investments	100,000
Debtors	370,000
cash at bank	40,320
Creditors	(225,350)
Loan at 10%	(150,000)
	<u>358,195</u>
Shares	300,000
Reserves	58,195
	<u>358,195</u>

Tables and Chairs Ltd
Statement of Comprehensive Income for year ended 31 December

	Rwf '000s	Rwf '000s
Sales	3,540,000	
VAT	540,000	
Turnover	<u>3,000,000</u>	
Cost of sales	(1,750,000)	
	<u>)</u>	1,250,000
Expenses - admin etc.	1,150,000	
Dep'n	66,275	
	<u>)</u>	(1,216,275)
Loan interest	<u>10,000</u>	
		(10,000)
Investment income net of 10% costs		9,000
PBIT		<u>32,725</u>

SUGGESTION SOLUTION 1

a)

The CIT Real Regime Calculator is used.

As per Article 41 of DTI, all vales are rounded to nearest thousand.

Business income	1	3,000,000	
Cost of goods sold		1,750,000	
Gross Profit		1,250,000	1,250,000
Expenses		1,150,000	
Depreciation		66,275	
Total expenses and depreciation		1,216,275	1,216,275
Net operating income			33,725
Investment income grossed up	2	10,000	
Non-operating & Extraordinary income			
Total income		43,725	43,725
Non-operating & extraordinary expenses			
Investment expenses	2	1,000	
Net income		42,725	42,725
Reintegration of non-deductible expenses	3		38,500
Depreciation adjustment			
Loss of carried forward from previous five tax periods			
Taxable income			81,225
Corporate income tax			24,368
Tax discounts			
Foreign tax credit			
Corporate income tax payable			24,368
Quarterly prepayments	4	12,180	
Withholding on imports			
Withholding on public tenders	5	750	
Withholding on other payments			
Total credits		12,930	12,930
Overpayment from previous periods			0
Net tax due/credit			11,438
Refund claimed			
Balance			

Notes

1. The Business turnover to use is the one excluding VAT
2. The Investment income must be grossed Rwf 9,000 / 90% and the costs (Rwf1,000) taken to Investment expenses.

3. In SICI all the expenses have been taken into consideration. But the non-deductible items have to be added back. They are Entertainment and Directors' fees and bonuses. The notes make no reference to fees and so they are assumed to be nil.
4. The quarterly prepayments are $\frac{1}{4}$ of the previous year's profits for each of the 3 quarters ending 30 June, 30 Sept and 31 Dec. This return must be submitted by 31 March of this year and be accompanied by the corporation tax due. $\frac{3}{4} \times \text{Rwf}16,240 = \text{Rwf}12,180$
5. Withholding on the invoiced value of public tender contracts with certain bodies, notably decentralised authorities, are subject to 3% withholding tax. 3% of $\text{Rwf}25,000,000$ is $\text{Rwf}750,000$

(30 Marks)

b)

If Tables and Chairs had become a Registered Investor, The investment in the new lathe could have been depreciated in year 1 at 40% as opposed to 25%.

The advantage would have been an increase in deductible expense of $\text{Rwf} 6,750$.

This sum would have been brought in at Line 75 and corporate income tax would have been reduced to $\text{Rwf}4,688,000$

Also being a large employer, the tax would have been discounted
by 2% for 100 to 200 employees
By 5% for 201 to 400 employees.

Tables and Chairs employs 300 full time staff and assuming they had all been employed for at least 6 months and they all were subject to PAYE deductions – that they were each earning more than $\text{Rwf}30,000$ per month – the corporate tax would have been reduced from $\text{Rwf}11,438,000$ by 5% ($\text{Rwf}571,500$) to $\text{Rwf}10,866,100$

It is noted that the public tender contract extends more than 12 months and initially might be considered to be a long term contract. However it is on a “by item” basis and the costs can easily be identified with the sales on each delivery/invoice. It does not meet the IAS11 criteria.

(10 Marks)

QUESTION 2

- a) Taxable profits are income less “deductible expenses”. Some items are defined as non-deductible. Describe these non-deductible expenses.
- b) Depreciation is a deductible expense. Detail how the appropriate acts and modifications require depreciation to be treated.

SUGGESTED SOLUTION 2

a) Deductible items

Firstly, expenditure which may be offset against taxable income or business profits is defined in Article 21 of Law 16/2005 Direct Taxes on Income

- Such expenditure must be committed for the direct need and the normal requirements of the company;
- They must be supported by appropriate documentation to confirm that they have been incurred;
- They must involve a reduction of the net assets of the company;
- They must be included for tax purposes in the expenditure of the period during which they are committed.

But some types of expense are not “tax-deductible”. These include in particular:

The following expenses are not deductible from taxable profits:

- cash bonuses, attendance fees and other similar payments made to the members of the Board of Directors;
- dividends declared and paid-out profit shares;
- interest paid on loans denominated in a currency other than the Rwandan Franc in excess of the London Inter-Bank Offered Rate (LIBOR) at the beginning of a tax period with an increment of one percent (1 %);
- reserve allowances, savings and other special purpose funds, unless otherwise provided for by this Law;
- fines and similar penalties;
- donations and gifts exceeding one per cent (1%) of turnover as well as donations given to profit making persons;
- income tax paid in accordance with this law or paid abroad on business profit and recoverable Value Added tax;
- personal consumption expenses;
- entertainment expenses.

In the case of a taxpayer other than an individual, interest paid on loans and advances from related entities is not deductible to the extent that the total amount of the loans and/or

advances in respect of which the interest is paid exceeds on average during the tax period four (4) times the amount of equity (excluding provisions and reserves) according to the balance sheet, which is drawn up in accordance with the National Accounting Plan.” This paragraph does not apply to commercial banks and insurance companies».

Tax paid abroad in respect of foreign business activities constitutes a foreign tax credit. Even where Rwanda does not have a double taxation agreement with a particular country, the tax paid abroad is taken into consideration. All income earned by businesses and persons who are resident in Rwanda is taxable in Rwanda; but where foreign earnings are taxed abroad, the tax paid is taken into account.

a) **Depreciation** is an important deductible expense.

It is an annual charge against the profits of a company to take account of the reduction in value resulting from the use of fixed assets belonging to the organisation. A business may in its own accounting records depreciate assets over a useful life span and use a straight-line basis.

However, the Rwandan Revenue Authority has through DTI Article 24 stipulated what types of assets may be subjected to depreciation and by how much each year. This is difference is also compounded by investment allowances available to registered businesses who invest certain sums.

Category 1 – Assets not allowable to deductible depreciation are land and works of art, jewellery, gold bullion etc. These items are not subject to wear and tear or obsolescence so are not depreciated.

Category 2 - The cost of acquisition or construction and the cost of refurbishing or reconstruction of buildings, equipment and heavy machinery fixed in walls are depreciated annually on the basis of the rate of depreciation which is equivalent to five per cent (5%) of the cost price. Each item is depreciated separately – see categories 4 and 5

Examples: of such assets include industrial buildings themselves plus equipment which forms part of the building such as elevators, light fittings, air-conditioning and conveyors where these are built into the fabric;

Category 3 - Development or costs of acquisition or improvement of the intangible assets, including goodwill acquired from a third party. Annual rate of depreciation is 10% of the cost price. The assets thus will be entirely depreciated in ten (10) years.

Examples are goodwill, concessions, patents, licences, etc.;

Category 4 – IT equipment including software. This comprises computers and their accessories, information systems.

Annual rate of depreciation: 50% of the written down value or the balance carried forward from the previous fiscal period.

For instance, an IT system costing Rwf 100,000,000 new will be written down to Rwf50,000,000 at the end of year 1. In year 2 the depreciation charged to business profits will be Rwf25,000,000 = 50% of Rwf50m at start year 2.

Category 5 - Other assets of the company: 25% of the carried forward balance of the asset net of depreciation. Examples: machine tools, work benches, seed cleaners, motor vehicles, furniture, etc. As for Cat. 4 these assets are depreciated on a reducing balance basis

Assets in categories 2 and 3 are treated individually, whereas assets in categories 4 and 5 are pooled.

For all categories, due allowance must be made where due to abnormal occurrences, assets are damaged or otherwise devalued.

However, for the four (4) categories of allowable assets, when a used and depreciated asset (either completely or partially depreciated) forms part of a business acquired by a taxpayer, then annual depreciation is calculated on the price at acquisition (if in categories 2 and 3) or on the depreciated value ('net book value') of the asset at the date of acquisition if in the last two categories.

It is important to categorise the assets correctly and ensure that the depreciation is correctly calculated.

It should be noted that if the depreciated value of the assets at the beginning of a year (the depreciation base) does not exceed 500,000 Rwf, the full amount constitutes a deductible running cost (art.25 of the DTI).

Finally, if the net book value is negative (as would be the case for example if the selling price of certain assets of the category are higher than the cost price of all the assets in the category of costs), this net amount is treated as a gain and is added to profits and the assets base valuation amount becomes nil (art 25 al.2 DTI).

QUESTION 3

Businesses employ and pay people to work for them.

The Act for Direct Taxes on Income together with subsequent laws and orders modifying this act detail a number of rules and regulations regarding employers' responsibilities and obligations towards their employees.

Describe these and also give the consequences of not obeying the act.

SUGGESTED SOLUTION 3

Employment Income. This is covered by Section 2, Article 13 and following.

Employment income includes all payments paid to an employee in cash or in kind such as:

- wages, salary, leave pay, sick pay and medical allowance, payment in lieu of leave, fees, commissions, bonuses including gratuity and incentives;
- allowances, including any cost of living, subsistence, rent, and entertainment or travel allowance;
- any discharge or reimbursement of expenses incurred by the employee;
- payments to the employee for his or her acceptance to work in any conditions of employment;
- payments for redundancy or termination of employment;
- pension payments ;
- other payments made in respect of current, previous or future employment.

The employer must operate PAYE – Article 48.

But where a person works for more than one employer, it is the responsibility of that person to inform the employers which one is “the first” or in other words, the one who pays the most.

The “first” employer will operate PAYE – see below – and the others will operate withholding tax procedures.

The following persons are obliged to withhold and pay tax on employment income:

- an individual or an entity that pays its employees in cash or benefits in kind;
- an entity that pays out pensions excluding pensions paid according to procedures of the State Social Security;

An employer that is subject to withholding tax in accordance with paragraph one of this Article must, within fifteen (15) days following the end of each month:

- file a tax declaration through procedures specified by the Commissioner General and transmit the tax withheld to the tax administration; and
- transmit to the employee a statement indicating his/her name, the amount and type of income and the amount of tax withheld and paid.

An employer who is not the first employer of a taxpayer is required to withhold tax at the top marginal rate in accordance with Article 50 of this law.

If the employee receives the same employment income from more than one employer, he or she may choose which employer shall be his or her first employer.

Article 50: Pay as you earn rate or PAYE

Monthly employment income which includes amounts paid to an employee on an extra ordinary basis and bonuses and the benefits he or she receives in kind is subject to tax in accordance with the rate as shown in the table below:

Monthly earnings	Band	Rate
1 – 30,000	30,000	0%
30,001 – 100,000	70,000	20%
More than 100,000	100,001 and up	30%

Income to a casual labourer is subject to tax at a special rate of fifteen percent (15%). However, in computing a casual labourer’s tax, an income not exceeding thirty thousand (30,000 Rwf) per month is rated at zero percent (0%).

As it is a duty for everybody who earns income, so it is the responsibility of the casual labourer to declare income to the RRA and the responsibility of the employer is deduct 15% and to declare the same to RRA

Benefits in kind Article 15

Benefits in kind are treated as income and are subject to PAYE as ordinary income.

These are:

- 1) For the availability and use of a motor vehicle to an employee during a tax period, valued at ten percent (10%) of the employment income excluding benefits in kind;
- 2) For use, or availability for use, of premises including or excluding any household equipment of other contents by an employer for residential occupation by an employee during a tax period, valued at twenty percent (20%) of the employment income excluding benefits in kind;
- 3) income on a loan including advance on a salary exceeding a three (3) months’ salary given to an employee is valued at a difference between:

- a) the interest on loan, which would have been paid by the employee during the month in which the loan was received, calculated at a rate of interest offered to commercial banks by the National Bank of Rwanda and
 - b) the actual interest paid by the employee in that month;
- 4) Benefits provided by an employer to a person related to an employee when there is no service rendered, are treated as if provided to the employee;

Fines and penalties

A person mentioned in paragraph one of this Article and paying employment income as mentioned in Article 13 of this law, bears responsibility for withholding tax and paying the tax to the Tax Administration. If he or she fails to do so, he or she is obliged to pay the tax in addition to fines and penalties thereof.

Tax-exempt income is exempt from withholding tax.

When:

An employer who has to operate withholding tax procedures must, within fifteen (15) days following the end of each month:

- file a tax declaration through procedures specified by the Commissioner General and
- transmit the tax withheld to the tax administration; and
- Give the employee a statement indicating his/her name, the amount and type of income and the amount of tax withheld and paid.

For taxpayers whose annual turnover is equal or less than Rwf200,000,000 the PAYE submission shall be quarterly and together with the tax and CSR due be paid within 15 days after the end of the quarter to which the Pay As You Earn is referred – Article 3 of Law 01/2012.

Such a business may opt for a monthly declaration.

An employer who is not the first employer (see above) of a taxpayer is required to withhold tax at the top marginal rate in accordance i.e. currently at 30%.

If the employee receives the same employment income from more than one employer, he or she may choose which employer shall be his or her first employer.

It is also beholden on the employer to deduct the 3% CSR/RSSF contribution from the employee's pay and to add the 5% employer's contribution and pay this together with the PAYE withholding tax.

Failure to pay by the due date attracts penalties and fines.

1) Fixed amount fines

A taxpayer or any person is subject to a fine in case of failure to:

- i) file a tax declaration on time;

- ii) file a withholding declaration on time;
- iii) withhold tax;
- iv) provide proofs required by the Tax Administration;
- v) cooperate with a tax audit;
- vi) comply with any requirements provided for in the tax laws governing:
 - A) personal income tax;
 - B) withholding taxes;
 - C) and other activities which are not of this question

The following table shows the fines that apply:

Fine	Taxpayer's annual turnover
100,000 Rwf	$\leq 20,000,000$ Rwf
300,000 Rwf	$> 20,000,000$ Rwf
500,000 Rwf	"large taxpayer"

If the same violation is committed twice within 5 years, the fine is double the original. If the same violation is committed again within this 5 year period, the fine is four times the original.

2) Late payment fine

If the amount of tax shown on a tax declaration or the amount of tax which is the result of an adjusted assessment by the Tax Administration is not paid on time, the taxpayer is subject to a fine that is 10% of the tax payable. The taxpayer is not subject to this fine if an extension for filing the tax declaration has been granted. The late payment penalty applies to the principal tax payment only (it does not apply to any administrative fines and interest payments).

3) Understatement fines

The following table summarizes understatement fines.

Fine	Understatement %
5% of the understated amount	Where understatement $\geq 5\%$ but $< 10\%$ of the tax liability
10% of the understated amount	understatement $\geq 10\%$ but $< 20\%$ of the tax liability
20% of the understated amount	understatement $\geq 20\%$ but $< 50\%$ of the tax liability
50% of the understated amount	understatement = 50% or more

A taxpayer who rectifies the tax declaration before being given notice of an imminent control procedure, is not subject to the understatement fines.

Interest will also be due to cover the lateness of the due payment:

The interest rate is fixed at the interbank offered rate of the National Bank of Rwanda.

Interest is calculated on a monthly basis. Every part-month involved will count as a complete month

There are certain types of payment to employees which are exempt deductions meaning they are not subject to income tax –they are described in Article of DTI

The following payments are excluded from taxable income resulting from employment:

- 1) the discharge or reimbursement of expenses incurred by the employee:
 - a) wholly and exclusively for business activities of the employer;
 - b) those that are deducted or would be deductible in calculating the employee's income from all his or her business activities;
- 2) retirement contributions made by the employer on behalf of the employee to the state social security fund;
- 3) pension payments made under the state social security system;
- 4) retirement contributions made by the employer on behalf of the employee and or contributions made by the employee to a qualified pension fund to a maximum of ten per cent (10%) of the employee's employment income or one million and two hundred thousand (1,200,000) Rwandan francs per year, whichever is the lowest;
- 5) employment income received by an employee who is not a citizen of Rwanda from a foreign government or a non-governmental organization under an agreement signed by the Government of Rwanda and when the income is received for the performance of aid services in Rwanda;
- 6) employment income received from an employer who is not a resident in Rwanda by a non-resident individual for the performance of services in Rwanda, unless such services are related to a permanent establishment of the employer in Rwanda.

Persons that are exempted from employment income in Rwanda as provided for by International Agreements due to services rendered in the exercise of their official duties are the following:

- 1) any foreigner who represents his or her country in Rwanda;
- 2) any other individual employed in any Embassy, Legation, Consulate or Mission of a foreign state performing state affairs, who is a national of that state and who owns a diplomatic passport;
- 3) any non-citizen individual employed by an international organization that has signed an agreement with the Government of Rwanda in accordance with Rwandan law.

QUESTION 4

Calculating a tax liability entails offsetting deductible expenses against the revenue earned. What are these deductible expenses and detail 3 examples.

SUGGESTED SOLUTION 4

Select 3 of the following:

a. General

Any expenditure which complies with Art 21 of the DTI may be offset against taxable income or business profits:

- Such expenditure must be committed for the direct need and the normal requirements of the company;
- They must be supported by appropriate documentation to confirm that they have been incurred;
- They must involve a reduction of the net assets of the company;
- They must be included for tax purposes in the expenditure of the period during which they are committed.

b. Depreciation

Depreciation is an annual charge against the profits of a company to take account of the reduction in value resulting from the use of fixed assets belonging to the organisation. It therefore forms deductible expenditure for the fiscal year under consideration. However, some assets that are not subject to physical deterioration and associated depreciation in the same way are not allowable. These include in particular land, the works of art and heritage assets (art 24 paragraph 2 DTI).

The law outlines four (4) categories of acceptable charges relating to depreciation (article 24 para. 3, 4 and 5 DTI) which have their own specific allowable rates as follows:

1. Construction of, or the costs of acquisition of, costs of improvement, restoration or rebuilding of tangible assets. The annual allowable rate of depreciation is 5% of the cost price. Examples: of such assets include industrial buildings themselves plus equipment which forms part of the building such as elevators, light fittings, air-conditioning and conveyors where these are built into the fabric;
2. Development or costs of acquisition, costs of improvement, restoration or rebuilding of the intangible assets, which includes goodwill acquired from a third party. Annual rate of depreciation is 10% of the cost price. The assets thus will be entirely depreciated in ten (10) years. Example: Goodwill, concessions, patents, licences, etc.;
3. Computers and their accessories, information systems and communication. Annual rate of depreciation: 50% of the carried forward balance of the asset net of depreciation
4. Other assets of the company: 25% of the carried forward balance of the asset net of depreciation. Examples: machine tools, work benches, seed cleaners etc motor vehicles, furniture, etc. That is the assets are depreciated on a reducing balance basis

However, depreciation is calculated in two different ways according to whether the asset falls into the first two, or the last two, categories described above:

- For the first two categories (depreciation of 5% and 10% of the cost price), depreciation is calculated individually, asset by asset, and is based on the original cost i.e. straight-line basis. Additions are simply treated at cost and sales are set against the relevant individual asset.
- For the second two categories (50% and 25% rates of depreciation), depreciation is not calculated by individual asset, but by total pool category (*article 24 of DTI*); And the depreciation is calculated on the depreciated value at the beginning of the year (NBV – *net book value* or WDV – *written down value*) brought forward i.e. on a Reducing Balance basis.
- For the “pooled” assets, additions are added to or sales are subtracted from the pool value at the beginning of the year – Art 25 DTI).
- For all categories, due allowance must be made where due to abnormal occurrences, assets are damaged or devalued.

However, for the four (4) categories of allowable assets, when a used and depreciated asset (either completely or partially depreciated) forms part of a business acquired by a taxpayer, then annual instalments of depreciation are calculated on the price at acquisition (if in the first two categories) or on the depreciated value (‘net book value’) of the asset at the date of acquisition if in the last two categories.

It is important to categorise the assets correctly and ensure that the depreciation is correctly calculated.

It should be noted that if the depreciated value of the assets at the beginning of a year (the depreciation base) does not exceed 500,000 Rwf, the full amount constitutes a deductible running cost (art.25 of the DTI).

Finally, if the net book value is negative (as would be the case for example if the selling price of certain assets of the category are higher than the cost price of all the assets in the category of costs), this net amount is treated as a gain and is added to profits and the assets base valuation amount becomes nil (art 25 al.2 DTI).

c. Expenses for training and research

Art. 27 DTI prescribes that expenses of training and research during a fiscal year are deductible expenses.

All Training and Research expenses incurred which promote business activities during a tax period are considered as deductible from taxable profits in accordance with provisions of Article 21 of this law.

These expenses in relation to the purchase of land, of houses, of buildings and other immovable properties including refurbishment and reconstruction as well as exploration expenses and other assets. – these costs are generally considered as part of the capital cost

and will be added to the cost of the asset. Such costs will be “deductible” through depreciation.

d. Bad debts

The deduction of bad debts is allowed for tax purposes but a bad debt is regarded as irrecoverable only if the loss has acquired a final and irreversible nature during the taxable period. The loss of the debt should not be simply probable. Exactly when a bad debt becomes irrecoverable is an issue of fact and the final decision lies with the tax department.

To be considered irrecoverable the bad debt must meet certain conditions in order to be fiscally deductible (article 28DTI):

- This bad debt has been previously included before in the income of the taxpayer;
- The bad debt has then been cancelled for accountancy purposes;
- The taxpayer has taken all reasonable steps to recover the debt and has conclusive evidence confirming the insolvency of their debtor.

e. Recoverable losses

As its name indicates, income tax relates to profits earned by a taxpayer. However a taxpayer may not generate profits during a fiscal year. He/she can also incur losses. In this case, not only does the taxpayer avoid a tax liability during the fiscal year, he/she also has the right to carry forward this loss to the next year, so that profits in year 2 can be reduced by the loss incurred in the year before – up to five years before.

Article 29: Loss Carried Forward

If the determination of business profit results in a loss in a tax period, the loss may be deducted from the business profit in the next five (5) tax periods, earlier losses being deducted before later losses.

However: per Article 20 of Law 16/2005 (DTI) “A loss in tax period in which a long-term contract is completed may be carried back and offset against previously taxed business profit from that contract to the extent it cannot be absorbed by business profit in the tax period of completion

However, losses incurred overseas cannot be offset against any profits of Rwandan origin during the same fiscal year, or against any future or previous profits of Rwandan origin.

Article 29 Para 3 (DTI) If during a tax period, the direct and indirect ownership of the share capital or the voting rights of a company, whose shares are not traded on a recognized stock exchange changes more than twenty five per cent (25%) by value or by number, paragraph one of this Article ceases to apply to losses incurred by that company in the tax period and previous tax periods.

QUESTION 5

The costs associated with long term contracts are deductible, but are subject to slightly different accounting and tax rules.

Discuss

SUGGESTED SOLUTION 5

A long term contract is one which from the outset was considered to last more than one fiscal period.

The timing of inclusion in and deduction from business profit relating to a long-term contract is accounted for on the basis of the percentage of the contract completed during any tax period.

The percentage of completion is determined by comparing the total expenses allocated to the contract and incurred before the end of the tax period with the estimated total contract expenses including any variations of fluctuations.

Within the meaning of the law, a long-term contract is a contract for manufacture, installation or construction, or the provision of services relating to these activities, which is not completed during the fiscal year in which it begins. This excludes any contracts whose completion was at the outset envisaged to be within twelve (12) months of commencement (art.20 DTI).

For these contracts, the following rules apply:

- Business profit relating to a long-term contract is accounted for on the basis of the percentage of the contract completed during any tax period. As per ISA standard IAS 11, the percentage of profit is calculated from the percentage of completed and takes into account estimation future costs. Effectively, if the estimated final cost is expected to be greater than the sale value, then 100% of the loss to date is taken to the Statement of Comprehensive Income (SoCI).
- Para 3 allows that where a long term contract subsequently makes a loss where previously a profit was anticipated and duly assessed, the realised loss can be offset against the previously taxed profit of that contract. Where the overall business profit is insufficient to cover the loss, the loss can be set against the profits attributed to that contract in previous years.

A is performing a long-term contract which started in Jan 2010 and expected to last until 2012. At the end of 2010, completion so far was calculated as 25% and the final sale at Rwf1,000,000,000 and expected profit was 10%, Rwf100,000,000. 25% or Rwf25,000,000 would be assessed at 30% payable to RRA.

At the end of 2011 the valuations were 70% complete and profit was expected to be 7.5% of the sale value which was now 1,200,000,000.

Profit assessable for tax = $7.5\% \times 1,200,000,000 \times 70\% = 63,000,000$
at 30% = 18,900,000 less 30% x 25,000,000 charged in 2010.

If in 2012 the contract is completed as forecast in 2011, the tax charge for 2012 would be:
 $7.5\% \times 1,200\text{m} \times 30\% = \text{Rwf}27\text{m}$ less tax charged in 2010 and 2011

QUESTION 6

In the last few years certain government responsibilities have been decentralised to districts. To finance these activities, Decentralised taxes have been created.

- 1 Briefly describe these. **(5 marks)**
- 2 Of these Fixed Asset Tax is probably the most important. **(15 marks)**
Against what is it levied?
When is it paid?
What are the clauses in case of default.

SUGGESTED SOLUTION 6

1. The Rwandan Government has decentralised certain functions to District Authorities. These organs of government are funded by the collection of “decentralised” taxes.

They are

- Tax on immovables or Fixed Asset tax - c
- Trading Licence Tax – a
- Rental Income Tax – b

- a) Trading Licence tax is payable by VAT registered profit oriented activities and is calculated as a percentage of annual turnover.

Turnover	Tax due in Rwf
From Rwf 1 to Rwf 40,000,000	60,000
From Rwf 40,000,001 to Rwf 60,000,000	90,000
From 60,000,001 to Rwf 150,000,000	150,000
Above Rwf 150,000,000	250,000

For other registered businesses whose aim is to make a profit, pay tax according to location and type of business:

Type of Activity	Rural area Rwf	Towns Rwf	City of Kigali Rwf
A) Vendors without shops, small scale technicians who do not use machines	4,000	6,000	8,000
B) Transporters of people and goods on motorcycles	4,000	6,000	8,000
C) Traders and technicians who use machines	20,000	30,000	40,000
D) All other vehicles besides bicycles	40,000 on each vehicle	40,000 on each vehicle	40,000 on each vehicle
E) For transport activities by motor boat	20,000 on each boat	20,000 on each boat	20,000 on each boat
F) Others profit-oriented activities	20,000	30,000	40,000

The tax year starts on 1st January and ends on 31st December of the same year.

If taxable activities start in January, the trading licence tax must be paid for a whole year.

If however the activities start after January, the trading licence tax is the year times the number of months remaining.

For VAT registered business, the declaration must be made and paid before 31st March.

For self-assessed businesses, the tax must be declared and paid before 31 January. Trading without a trading Licence is illegal.

The basis for the calculation of trading licence tax for VAT registered businesses is the turnover of the previous year approved by Rwanda Revenue Authority (RRA). Every year, not later than 31st January, the Rwanda Revenue Authority shall submit the necessary data to the concerned decentralized entity.

The Trading Licence Certificate must be displayed at the entrance of the business' premises.

Where a business has several branches or locations, a trading licence must be applied at all locations.

- b) Rental Income tax: Like the Trading Licence tax, this is based on turnover or rental income per year. But an allowance of 50% is made for expenses. The tax is assessed on the balance and like the traders licence, it is progressive.

The income from	Rwf 1 – 180,000	is 0%
from	Rwf 180,001 to 1,000,000	is 20%
and above	Rwf1,000,000	is 30%.

The Rental Income tax is paid on or before 31st March of the following taxable year and is to be accompanied by a proper declaration.

c) Fixed Asset Tax.

Again this is a self-assessed tax and is also covered by Law 59/2011.

Fixed asset tax shall be levied on the following:

- i. the market value of parcels of land – developed or undeveloped;
- ii. the market value of buildings and all improvements thereto registered with the Land

Registration Centre and for which the owner has obtained a title deed from the time the building is inhabited or used for other activities;

- i. the value of land exploited for quarry purposes;
- ii. the market value of a usufruct with a title deed.

The date of valuation is January 1st of the first income taxable year in a four (4) -yearly assessment cycle and all fixed assets must be valued and, may be reassessed before the end of the duration of the relevant assessment cycle, with reference to that date.

Per Article 7: Obligations for taxpayers, the fixed asset tax shall be assessed and paid by the owner or deemed owner.

The following persons shall be deemed to be owners:

- 1) the holder of a fixed asset where the title deed has not yet been registered in the name of the owner;
- 2) a person who occupies or deals with an asset for a period of at least two (2) years as if he/she is the owner and as long as the identity of the legally recognized owner of such asset is not known;
- 3) a proxy who represents an owner who lives abroad;
- 4) a usufructuary.

The owner of a fixed asset who lives abroad may have a proxy in Rwanda. The proxy shall have to fulfil all obligations this Law requires from the owner. Misrepresentation by a proxy is deemed to be a misrepresentation by the owner.

Tax liability shall not be terminated or deferred by the disappearance of an owner of a fixed asset, where that owner has disappeared without leaving behind a proxy or other person to manage that asset on his or her behalf. If, after all reasonable steps have been taken to locate the owner, a competent court has ruled that the owner of that fixed asset cannot be found, the asset shall be forfeited to the decentralized entity where it is located in accordance with the law relating to management of abandoned property.

When a fixed asset is owned by more than one (1) co-owner, the co-owners shall appoint and authorize one of them or any other person as a proxy to represent them collectively as a group.

When co-owners have not appointed a co-owner or a proxy to represent them collectively as a group, the decentralized entity shall reserve the right to select any of them as a proxy for all the co-owners as a group.

Valuation

The valuation of the asset is subject to valuation at the expense of the tax payer. This valuation must be carried out professionally and every 4 years

Every taxpayer must, not later than March 31st in the first tax year, shall file a tax declaration to the decentralized entity where the asset is located by using the official form provided by that decentralized entity.

The declaration forms must be available by 31 January each year, but the non-receipt of a fixed asset tax declaration form shall not relieve the taxpayer of his/her obligation to pay the tax.

Article 12: Late submission, or incomplete or misleading tax declaration

Apart from collecting the actual amount of the tax due, the decentralized entity shall levy a fine not exceeding 40% of the tax due where:

- 1) the fixed asset tax declaration form is not submitted;
- 2) the fixed asset tax declaration form is submitted late;
- 3) the fixed asset tax declaration form is substantially incomplete;
- 4) the fixed asset tax declaration form contains incorrect or fraudulent information with an intent to evade tax.

The tax assessment notice (Article 14) shall contain at least the following details:

- 1) tax base calculation outline;
- 2) calculation of the market value of the concerned fixed asset;
- 3) calculation of the tax in Rwandan francs;
- 4) names of the owner or his/her proxy;
- 5) address of the owner, the proxy or the usufructuary;
- 6) the due date for the tax payment;
- 7) mode of payment;
- 8) consequences of late payment or non-payment;
- 9) a reference to the taxpayer's right to complain and appeal.

Certain assets are subject to Tax exemption (Article 18)

The following fixed assets shall be exempted from the fixed asset tax:

- 1) fixed assets used exclusively for medical purposes, or caring for vulnerable groups, and those meant for educational and sporting activities, where no profit-making activity takes place;
- 2) fixed assets exclusively intended for research activities which are not meant for profit-making;
- 3) fixed assets belonging to the Government, Provinces, decentralized entities, as well as public institutions except where they are used for profit-making activities;
- 4) fixed assets used primarily for religious activities in accordance with the laws with exception of those fixed assets used for profit-making activities;
- 5) fixed assets used primarily for charitable activities as determined by the Minister in charge Social Affairs;
- 6) fixed assets belonging to foreign diplomatic missions in Rwanda if their countries do not levy tax on fixed assets of Rwanda's Diplomatic Missions;
- 7) land in use for agriculture, livestock or forestry, if the taxpayer owns less than two (2) hectares. If he/she owns more than two (2) hectares, the first two (2) hectares shall be exempt and tax shall be levied only on the excess land;
- 8) fixed assets and usufructs used primarily for residential purposes, if the assessed value does not exceed three million (3,000,000) Rwandan francs. If the assessed value exceeds such an amount, only the excess value shall be taxed.

The tax rate is fixed at a thousandth (1/1000) of the taxable value per year.

The tax rate for lands exploited for quarry purposes is fixed at a thousandth (1/1000) of the taxable value per year.

The tax, as assessed by the taxpayer must be paid to the decentralized entity where the fixed asset is located not later than March 31st of the tax year. As long as there is no general revision or an assessment notice issued by the concerned decentralized entity, the same amount shall be paid annually by the taxpayer for four (4) consecutive tax years.

The self-assessed tax must be paid not later than March 31st, even if the revision of fixed asset tax or fixed asset tax declaration has not yet been concluded.

The tax, as assessed by the taxpayer must be paid to the decentralized entity where the fixed asset is located not later than March 31st of the tax year. As long as there is no general revision or an assessment notice issued by the concerned decentralized entity, the same amount shall be paid annually by the taxpayer for four (4) consecutive tax years.

The self-assessed tax must be paid not later than March 31st, even if the revision of fixed asset tax or fixed asset tax declaration has not yet been concluded.

Interest and surcharge for late tax payments

A tax not paid when it is due shall bear interest. The interest rate is fixed at one point five percent (1.5 %). Interest is calculated on a monthly basis, non-compounding, counting from the first day after the tax should have been paid until the day of payment, which is included. Every month started will count for a complete month.

Apart from the interest payable, a surcharge equivalent to ten percent (10 %) of the tax due must be paid. However, such a surcharge shall not exceed an amount of one hundred thousand (100,000) Rwandan francs.

Deferral or payment by instalments:

If, due to special circumstances the taxpayer is temporarily unable to pay the tax due, the Council of the concerned decentralized entity may, upon request by the taxpayer or his/her proxy, grant a deferral of payment for up to six (6) months without any fine. In this case, interest shall be paid as described in Article 25 of this Law.

The taxpayer must request a deferral of tax payment in writing at least one (1) month before the due date, after tax review or tax re-assessment. The Council of the decentralized entity must respond to the request of the taxpayer before the due date.

Or a taxpayer may request the concerned decentralized entity to authorize him/her to pay tax in instalments. The payment in instalments shall not exceed a period of twelve (12) months. The taxpayer must submit to the concerned decentralized entity a tax instalment payment plan which indicates an immediate payment of at least 25% of the tax due. The failure by the taxpayer to pay under the conditions of the tax instalment payment plan shall result in an immediate obligation to pay the total remaining amount of tax due.

Failure to comply with the law or a general failure to pay may lead to destraints by the decentralised authority. These may take the form of

- attachment of rent,
- seizure and sale of moveable fixed assets
- Access to money owed to or held by third parties on behalf of the taxpayer. Upon a written official request by the concerned decentralized entity, those who hold money on behalf of the taxpayer, such as employers, bailiffs, tenants, bankers, proxies and others may be required to pay on behalf of the taxpayer all taxes due with the money entrusted to or retained by them.

QUESTION 7

Some entities do not pay tax or if they do the tax is not calculated against business profits - discuss

SUGGESTED SOLUTION 7

Firstly, a person who earns Rwf30,000 per month or less, pays no income tax. This is in total. Where a person works for more than one employer, the “first” employer operates PAYE and the other(s) deduct withholding tax at 30% and pay this to the RRA each quarter or month.

Secondly, in recognition of the prevalence and importance to the Rwandan economy of subsistence farming, where the turnover of an agricultural and animal breeding activity does not exceed twelve million (12.000.000 Rwf) Rwandan francs during a fiscal year (Article 18 DTI), the entity

This measure is intended to take into account the significance of these activities in the Rwandan economy reality where more than 90% of the population relies on subsistence agriculture with the sale to local markets of any surplus from their harvests. However, when the value of such sales exceeds the amount indicated, the law takes the view that the related agricultural activity is no longer one of subsistence. Therefore, the income of these activities will be taxed.

If the business profits are less than 20,000,000 francs i.e. the business is “small” (Article 2 of DTI) then the tax assessed could be a lump sum of 4% of turnover.

In general where a business falls within the category described in Article 2 - 6 DTI and the annual turnover is less than 20,000,000 francs, business tax can be levied at 4% of turnover (Article 11 – 2 of DTI). It also applies to other taxpayers who may have elected to adopt this mode of taxation.

However, these small businesses can choose to be taxed on their actual profits according to a simplified accounting method (Article 17 DTI).

Suppose that your turnover is 19,000,000, and you elected not to prepare accounts or complete a tax return you would declare and pay tax at 4% of Rwf19 million. This would be Rwf760,000

If you were a farmer and you sold millet, tomatoes and milk in the local market, you would not pay tax if the value of the sales did not exceed Rwf12 million in any one fiscal year. If your sales were Rwf18 million in a year you would be assessed to tax at 4% of Rwf 6million.

However it is important to remember the decentralised taxes which must be paid by all traders and those in receipt of rental income. - see Solution 6

QUESTION 8

There are times when the RRA or Tax authorities can themselves assess a business for tax. When might these occasions occur?

SUGGESTED SOLUTION 8

The Tax authorities (RRA) can make an assessment if the circumstances meet the criteria as per Article 26 of Law 25/2005. This Law is a modification to laws concerning VAT, Personal Income tax and others.

When the Tax Administration discovers a miscalculation, an omission, a misrepresentation, an understatement of income or any other error in the tax declaration or an assessment, it has the right to issue an adjusted assessment.

In case the tax declaration form is rectified, the Tax Administration sends a rectification note to the taxpayer – Article 27.

The note should contain a draft of the adjusted assessment and all the elements leading to the adjusted assessment. The rectification note contains fines determined by the Tax administration in case of non-compliance with the tax laws.

The taxpayer has the right to give his or her written opinion on the rectification note within 30 days. The taxpayer may also send additional evidence or information to indicate that the adjusted assessment is incorrect. The taxpayer has the right to a hearing provided this was requested for it in his or her reply.

The rectification note may be issued in a period of three (3) years, starting from the day of the filing of the tax declaration. A rectification note has to be issued at least on the last day of the three year period. The prescription mentioned in this paragraph is interrupted if the taxpayer has been informed to be audited by the Tax Administration, when there has been an affidavit thereof or by other deeds of acknowledgement by the taxpayer concerning the tax liabilities and all other provisions provided in the other laws.

A rectification note is definitive after:

- a period of thirty (30) days, in case the taxpayer has not replied to the rectification note;
- the Tax Administration has sent a notification to the taxpayer declaring that none or a part of the observations or remarks of the taxpayer are upheld;
- the hearing of the taxpayer as mentioned under paragraph 2, followed by a written notification by the
- Tax Administration to the taxpayer declaring that none or just part of the observations or remarks of the taxpayer are upheld.

Any rectification note which does not respect the provisions of this article is void.

In addition to the foregoing, the tax authorities have the right of starting an assessment procedure without notice (Article 28) when:

- no tax declaration has been made;
- a tax declaration was filed after the day mentioned in the Law on Taxes and there was no proof given of “force majeure” justifying the delay in filing;
- the tax declaration was not signed by a competent person;
- the tax declaration was not accompanied by all necessary documents;
- the taxpayer was unwilling to cooperate with a tax audit officers or did not provide the information requested;
- books and records were not kept as provided by law; or
- there are serious indications of tax fraud.

In the event of the “assessment procedure without notice”, the Tax Administration sends a note to the taxpayer. The note contains all reasons why the assessment procedure without notice was conducted. It may also contain fines in case of non-compliance with the tax law.

The taxpayer has the right to give written observations and remarks to the note of an assessment without notice in a period of 30 days. He or she may also send additional evidence to the Tax administration to prove that the assessment procedure without notice was not effectively conducted. The taxpayer has the right to a hearing if he or she requested it in his or her reply.

The assessment procedure without notice may be conducted in a period of five (5) years, starting from 1st January, following the tax period. A notice of assessment procedure without notice has to be issued at least on the last day of five (5) year period.

If there are serious indications of tax fraud, the Tax Administration can issue an immediate assessment without notice, disregarding previous provisions of this article 29

An assessment without notice is definitive:

- after 30 days, if the taxpayer does not reply to the assessment procedure without notice;
- after the Tax Administration has sent a notification to the taxpayer declaring that none or part of the observations or remarks of the taxpayer is upheld;
- after written or verbal explanations of the taxpayer mentioned under paragraph two (2) of this article of which the tax administration notified the taxpayer that none or part of the observations or remarks of the taxpayer are upheld;
- after the conduct of an immediate assessment without notice as described in paragraph four of this article.

An assessment procedure without notice which does not respect provisions of this article (29) is void.

QUESTION 9

The Tax Administration is authorised to carry out audits from time to time. What are the legal constraints?

What other means are available to the RRA where tax irregularities are suspected?

SUGGESTED SOLUTION 9

The Law 25/2005 on Tax Procedures. covers audits and investigations.

This law modifies laws concerning VAT, Income tax and other tax matters.

Audit and investigation is to be found in Articles 20 ff

Conditions in auditing and investigation

In case of audit, the Tax Administration is required to inform in writing, the taxpayer the following:

- that he or she will be audited at least seven (7) days before the audit is conducted;
- the place where the audit is to be conducted and the possible duration of the audit;
- any specific document the tax administration wants to see or any specific information it requires.

In case of audit, the taxpayer is required to work effectively with the tax audit team and to do the following:

- to provide the team with suitable premises;
- to give the team books and records which show:
- tax liability;
- the obligation to withhold tax;
- the obligation to file a declaration of a tax withheld.

With exceptions of provisions of paragraph one of this article, any person who has an annual turnover exceeding twenty million Rwandan Francs (20,000,000 RWF) is obliged to keep the following additional documents:

- a record showing business assets and liabilities;
- records showing daily income and expenses related to the business activity he or she operates;
- records showing purchases and sales of goods and services related to the business he or she operates;
- records showing trading stock at the end of the tax period.

Books and records of account are kept and made available to the Tax Administration for a period of 10 years commencing 1 January of the year following the date of the transaction.

Thus a transaction dated 30 June 2011 must be held on file until 31 December 2022. In other words it is advisable to keep records for at least 10 years plus current.

It is important to note that a VAT invoice must show at least the following:

1. names of the taxpayer,
2. the client,
3. the taxpayer's trade name, if different from the personal name;
4. taxpayer's identification number and the purchaser's if necessary;
5. number and date of the value added tax registration certificate;
6. description of goods sold or services rendered;
7. value of taxable goods or services;
8. sum of Value Added Tax due on the given taxable transaction;
9. date on which the Value Added Tax invoice was issued;
10. the serial number of the Value Added Tax invoice.

In addition, any business which has an annual turnover exceeding Rwf 20,000,00 is obliged to keep the following additional documents:

- record showing business assets and liabilities;
- records showing daily income and expenses related to the business activity he or she operates;
- records showing purchases and sales of goods and services related to the business he or she operates;
- records showing trading stock at the end of the tax period.

And the accounting records must employ double entry system.

Other aspects of the law of which the taxpayer should be aware:

Article 43 Law 25/2005 – tax procedures.

When the Tax Administration establishes that a taxpayer shows signs and indications of prosperity in a certain fiscal year, and the taxpayer cannot give an explanation for this apparent prosperity, the Tax Administration may add the value of these signs and indications to the taxable income of the taxpayer and use this as a method of proof.

The burden of proof lies with the Tax Administration

Article 46 et se concern the non- or late payment of tax.

If tax is not paid by the 15th day of the relevant month, the authority can issue a warning letter and if within 15 days of its delivery (see the first part of the law) the RRA can distrain movable assets or attach them and sell them to pay the tax due (article 48)

The RRA can also require debtors of the taxpayer to pay the RRA the debt owed to the taxpayer.

In addition to these actions, Fines, penalties and interest will be levied.

QUESTION 10

You are a subsistence farmer who joins a group of farms and one business entity is formed. The new group now has sufficient equipment and is starting an agricultural and general contracting business. It is also planned that the new business will move into processing some of the agricultural output.

You are the administrative officer or company secretary. What are your next steps after the agreement is signed making special reference to the tax laws and what must you be aware of.

SUGGESTED SOLUTION 10

The first step must be to register the business with the Office of Registrar General – ORG. If the new entity is a company limited by shares, a memorandum of association must be lodged with ORG.

It is important that the Rwandan Revenue Authority (RRA) is informed and that the business entity registers. Article 10 of Law 25/2005 says that the entity must register within 7 days.

On registration, the tax administration assigns a taxpayer identification number to be used for all correspondence. The procedure for issuance of a taxpayer identification number is determined by the instructions of the Commissioner General.

The new business must ask itself certain questions. The answers are important as to which tax route should be followed:

Does or will the annual turnover exceed Rwf 20 million, or the quarterly turnover exceed Rwf 5 million?

The law states: Any person who carries out taxable activities exceeding twenty million Rwanda Francs (20,000,000 RWF) in the previous fiscal year, or five million Rwanda Francs (5,000,000 RWF) in the preceding calendar quarter is required to register for VAT with the tax administration within a period of seven (7) days from the end of the year or from the end of the quarter mentioned above.

Are there any employees? – if so how many and for how many and for whom is the new business the “first” employer – PAYE must be operated for these employees, not just withhold tax deductions at 30%

All companies and business entities who’s annual turnover exceeds Rwf1.2 million must keep proper books of account.

Article 13 of Law 25/2005 tax procedures details the books and records to be kept

Any person who is required to keep books and records under the provisions of article 12 of this law is obliged to prepare, establish and keep all books and records of transactions which show:

- tax liability;
- the obligation to withhold tax;
- the obligation to file a declaration of a tax withheld.

Additionally any person who has an annual turnover exceeding Rwf20 million is obliged to keep the following additional documents:

- a record showing business assets and liabilities;
- records showing daily income and expenses related to the business activity he or she operates;
- records showing purchases and sales of goods and services related to the business he or she operates;
- records showing trading stock at the end of the tax period.

Books and records mentioned under paragraph one and two of this article, are preserved for any time they may be required by the tax administration at least in a period of ten (10) years starting from January 1st, following the tax year in which it was carried out.

VAT – but “All Agricultural and Livestock products, except for those processed, are exempted from VAT. However, the milk which is processed in local industries is exempted from this tax”.

ii) Agricultural inputs and equipments.

This implies that the services of an agricultural contractor are exempt.

And the law states that Taxable Entities must register. The business whose supplies are exempt does not charge VAT (output VAT) nor can it recover input VAT.

The new business (from the question) is going to process the output of the new farming group. Processed output is taxable.

As soon as the threshold turnover is reached, the business will have to register for VAT.

Where the inputs can be clearly linked to output and so to sales invoices, this input vat can be reclaimed. Where no clear link or allocation can be made, agreement must be sought with the RRA as how apportionment is to be made, so that taxable supplies can be properly accounted for both in the company records and on the monthly VAT declaration.

This must be submitted to the RRA by the 15th day of the month following. If the annual turnover is less than Rwf 200million, the declaration may be made quarterly.

Per Article 154 of Law 25/2005 a Value Added Tax invoice must be prepared in the form prescribed by the Tax Administration and show the following information:

1. names of the taxpayer and the client, and the taxpayer's trade name, if different from the personal name;
2. taxpayer identification number and the purchaser's if necessary;
3. number and date of the value added tax registration certificate;
4. description of goods sold or services rendered;
5. value of taxable goods or services;
6. sum of Value Added Tax due on the given taxable transaction;
7. date on which the Value Added Tax invoice was issued;

8. serial number of the Value Added Tax invoice.

If the new business were to retail direct to the final consumer as might happen in a “farm-shop”, then the final sales invoice could simply be a receipt determined by the Tax Administration may be issued instead of a value added tax invoice. This receipt should show the TIN, name of supplier and the total value and it should also show the VAT amount and VAT %

PAYE : By the 15th day following each month, a PAYE and withholding tax declaration must be made to RRA with tax deducted from each employee’s salary/wage and with the employer’s and employee’s CSR contribution (5% and 3% of an employee’s wage/salary respectively)