



PROGRAM : LLB
MODULE : TAX LAW
CODE : BRE0011/TLW41A0
DATE : JUNE/JULY 2019
DURATION : 2 HOURS
TOTAL MARKS : 50

EXAMINER : PROF T LEGWAILA
MODERATOR : PROF J CALITZ
EXTERNAL EXAMINER : DR C FRITZ (UNIVERSITY OF PRETORIA)
NUMBER OF PAGES : 2 PAGES

INSTRUCTIONS:

1. Write legibly.
2. Answer in the answer sheet provided.
3. All examination rules of the University of Johannesburg are applicable.
4. Your answers should express a clear point of view in relation to each question.
5. Question papers must be handed in.

QUESTION 1 (15 marks)

With reference to applicable legislation and case law, discuss trade as a requirement for deductibility for income tax purposes in terms of the Income Tax Act 58 of 1962.

QUESTION 2 (15 marks)

Adu is a tax resident of the Uganda who visited South Africa in 2012 to make a capital investment in a South African company. Unable to buy a block of flats in Melville, he resorts to buying 50% of shares in a South African company, PropCo whose assets consists of a block of flats in Auckland Park. Adu purchased these shares from Kitso, a property dealer. Adu paid R25 million for the shares under protest that he in fact would prefer to own the block of flats directly. In consideration of Adu's discontent, Kitso refunded Adu R2 million in 2014. In March 2015, when the shares were valued at R30 million Adu needed to obtain a loan of R30 million from BankCo and he had to provide BankCo with collateral (security) for the debt and he transferred the ownership of the shares in PropCo to BankCo. In September 2015 Adu repaid the R30 million and regained full ownership of the PropCo shares.

Advise Adu on the capital gains tax implications, if any, of the above set of facts.

QUESTION 3 (20 marks)

SaCo is a company incorporated in South Africa with its place of effective management also in South Africa. In 2018 SaCo received the following amounts:

- R2 million as a dividend from its subsidiary, Subco which is also incorporated in South Africa with its place of effective management in South Africa; and
- R1 million as a dividend from its subsidiary ForCo, a company that is tax resident in Cameroon.

In the same year, 2018, SaCo incurred liability and paid cash for the following amounts:

- R1million in improvements to its warehouse from which it carries trading activities; and
- R3 million in a purchase of shares from minority shareholders in MaurCo a company that is tax resident in Mauritius.

Advise SaCo on the tax implications of these receipts and expenditures.