



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

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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 case law, discuss the doctrine of substance over form and whether recent case law has changed the jurisprudence that has been developed over more than a century.

QUESTION 2 (20 marks)

Landlord Company ("LCo") is a South African resident company that owns multiple properties consisting of vacant land, farms, and other immovable property. In 2016 LCo entered into an agreement with Tenant Company ("TCo") a South African tax resident company for the rental of a plot owned by LCo. The lease agreement entitles TCo to occupy and use the plot for trading purposes for a period of 3 years (2016, 2017 and 2018). The lease agreement provided that in the first year of the lease, TCo would build a warehouse on the property, which would enable TCo to carry out its trading activities. In the second and third years TCo would pay LCo rent amounting to R2million per year. Due to excessive torrential rains resulting in flooding, LCo had to vacate the plot at the beginning of 2018 and has not used the plot for the 2018 tax year. LCo and TCo have not filed any tax returns since 2016 and approach you in 2019 to advise them on the tax implications of these transactions since 2016.

Advise LCo and TCo.

QUESTION 3 (15 marks)

Adu is a tax resident of the Uganda who visited South Africa in 2014 to make a capital investment in a South African company. He purchased a block of flats in Melville at the cost of R20 million in September 2017. He insured the block of flats under a comprehensive cover with InsureCo. In July 2018 the block of flats burned down, and in terms of the insurance cover with InsureCo, Adu was only entitled to part of the insured amount since the insured event (the destruction of the flats) occurred within one year after the insurance cover was effective. At the time the block of flats burned down, the value of the block of flats was R25 million. InsureCo paid Adu R12 million in 2018.

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