



PROGRAM : LLB
MODULE : TAX LAW
CODE : BRE0011
DATE : 2018 SPECIAL EXAMINATION
DURATION : 2 HOURS
TOTAL MARKS : 70

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MODERATOR : PROF SF DU TOIT
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.

Question 1

The definition of “gross income” in the Income Tax Act 58 of 1962 requires that for an amount to be included in gross income, such amount should be received by or accrued to a resident or to person that is not a resident from a source within the Republic. With reference to case law, discuss critically discuss the requirement of “received by or accrued to”.

[20]

Question 2

SaCo is a company incorporated in South Africa with its place of effective management also in South Africa. SaCo started trading in South Africa in 2017. SaCo’s gross income for 2017 was R9 million comprising of the following amounts:

- a total amount of R4 million from its customers for goods and services provided by SaCo; and
- an amount of R5 million as a dividend from its subsidiary, Subco which is also incorporated in South Africa with its place of effective management in South Africa.

In the same year, 2017, SaCo incurred liability and paid cash for the following amounts:

- expenses amounting to R4 million in acquiring its trading stock as well as salaries for its employees, rent of the premises from which it carries on business, telephone costs and similar costs; and
- legal fees (costs) amounting to R3 million defending an action against a demand for higher wages by SaCo’s employees, which legal action SaCo lost.

Advise SaCo on the tax implications of the above facts as well as its tax liabilities based on the above facts for 2017.

[30]

QUESTION 3

Adu is a Zambian tax resident. Unable to buy property in South African company, he bought shares in a property company (PropCo) in 2010. The assets of PropCo consists 90% of blocks of flats which are rented out to university students. Adu acquired 30% of the shares in PropCo for R10 million. In 2015 when the value of the shares was R14 million, he moved to South Africa, took up employment in a South African bank, married a South African lady and took up South African citizenship. In 2017 he sold all of his shares for R 20 million.

He approaches you for advice on the tax implications of the above facts. Advise Adu. [15]