CHARTERED ACCOUNTANTS ACADEMY
NATIONAL LEADER IN TRAINING CHARTERED ACCOUNTANTS
Study School 1 – Session 1

1. Administrative Framework
2. Gross Income
The Administrative Framework
The overall function and purpose of taxation?

- Taxation is a government policy targeted at collecting revenue for the financing of public expenditure.
- Tax is also levied as means of discouraging demand of demerit goods i.e. tobacco, alcohol etc. and promoting or protecting local industries.
- The main collecting agent of tax for the state is the Zimbabwe Revenue Authority – ZIMRA
- ZIMRA came into being with effect from 19 January 2001 and the commissioner general of taxes is vested with the power and responsibility of administering the tax statutes.
Overall Structure of the tax system

- ZIMRA is responsible for administering the following taxes:
  - Customs Duty – levied on imported goods in terms the Customs and Excise Act [Chapter 23:02]
  - Value Added Tax (VAT) - levied on consumption of goods and services
  - Excise Duty - levied on specified locally manufactured goods
  - Income Tax - levied on income earned from trade
  - Pay As You Earn (PAYE)- levied on income earned from employment
  - Presumptive Taxes- it’s a concept of taxation according to which Income Tax is based on average income instead of actual income
  - Road Tolls - fees levied for the use of the roads
  - Capital Gains Tax (CGT) – levied on sale of immovable properties and marketable securities
  - Surtax – levied on imported vehicles older than five years
Types of Taxes

- There are two broad categories of taxes namely, direct and indirect taxes.
- Direct taxes:
  - These are taxes levied on income and wealth of individuals and companies. The burden of these taxes is borne by the person or organisation responsible for paying taxes i.e.
    - Corporate tax – tax on business income (profits)
    - Pay as you earn – tax earned by individuals from employment.
    - Investment income – tax on dividends and interest
    - Capital gains tax – tax on sale of immovable property and shares
    - Estate duty tax – on the property of a deceased person etc.
Types of Taxes (continued)

- **Indirect taxes**
  - Are levied on one set of individuals or organisations, but may be partly or wholly passed onto others and are largely related to consumption.
  - For example, sales tax, value added tax, custom & excise duty etc.

- **Key difference between direct and indirect taxes**
  - Indirect taxes tend to be regressive. In other words they have a relatively greater impact on the poor. Yet direct taxes are progressive in nature. The more you earn the more tax you pay.
Tax planning - Tax avoidance and tax evasion

- Tax planning – this involves the organizing of a tax payer’s affairs in a way that legally minimizes the impact of taxation imposed by statutes.

- Therefore in light of the need for tax planning the following issues become pertinent:
  - Tax avoidance: this is the arrangement of one’s affairs in a legal manner which results in minimization of tax liabilities. (Sect 98 of the income tax act)
  - Tax evasion: this is minimization of tax liability by means which are outside the law e.g. falsification of records, misrepresentation etc.
Gross Income: Income Tax Act
Gross Income – sect 8, 10 and 12

• Gross Income is defined as:-
  – the total amount..
  – received by or accrued to or in favour of a person..
  – or deemed received or accrued..
  – in any year of assessment...
  – from a source within or deemed to be within Zimbabwe...
  – excluding amounts proved by the taxpayer to be of a capital nature.
Section 2 of the Act defines —amount as money or any other property corporeal or incorporeal having an ascertainable money value.

Case Law:
1. CSARS v Brummeria 2007
2. CIR v Butcher Bros (Pty) Ltd 1945
3. CIR v Lategan 1926
Received by

The words —received by means —received by the taxpayer on his own behalf for his own benefit.

Case Law:
1. Geldenhuys v CIR 1947
2. Pyott Ltd v CIR 1945
Accrued to

- Income accrues when a taxpayer becomes entitled to it or when it is due and payable to the taxpayer.
- The meaning of the word “accrued” is not settled law. In Lategan v C.I.R., 2 S.A.T.C. 16, the judge concluded that income accrues to a person when one becomes “entitled to” the income. Section 10(7) of the Act affirms the decision in the Lategan case.

Case Law:
1. CIR v People’s Stores (Walvis Bay) (Pty) Ltd 1990
2. CIR v Witwatersrand Association of Racing Clubs 1960
Deemed received or accrued – sec 10

The Commissioner will invoke receipt or accrual under the circumstances outlined in section 10, although the income might not have been physically received.

1. An amount will be deemed to have accrued to a person if it has been invested on behalf of the person.

2. Section 10(3) deems income accruing to a minor child as a result of a donation, settlement or other disposition, to be income accruing to the parent.
From a source in Zimbabwe

- Income is not taxable in Zimbabwe unless it is from a Zimbabwean source or has been deemed to be from a Zimbabwean source (section 12).
- This rule is the backbone of our income tax act. Therefore it is important to determine the source of the income for it to be taxable under the income tax act.

Case law:
1. Watermayer CJ in CIR v Lever Bros and Unilever Ltd 1946
2. ITC 235 (1932) 6 SATC 262 (director’s fees)
3. CIR v Lever Bros and Unilever Ltd 1946, 14 SATC1 – (interest)
4. Transvaal Association Hide & Skin Merchants v COT Botswana Court of Appeal (May 1962 SATC 97) – (international trade)
5. (COT V Shein 1958 14 SATC 12 – (rendering of services)
6. Millin v CIR 1928 SATC 170 – (royalties)
7. COT v British United Shoe Machinery (SA) (Pty) Ltd 1964 26 SATC 163 - (rental income)
Deemed source – sect 12

In terms of section 12 of the income tax act income may be deemed to be from a source within Zimbabwe even if the true source is not Zimbabwe.

Key sections:
1. Section 12(1)(a) – goods sold in respect of contracts signed in Zimbabwe
2. Section 12(1)(b) – income from services rendered in Zimbabwe
3. Section 12(1) (c) - income earned by an employee during temporary absence from Zimbabwe
4. Section 12(1)(e) - pension and annuity receipts
5. Section 12(2) - foreign interest and foreign dividends
# Source of Income - Quiz

<table>
<thead>
<tr>
<th>Nature of Income</th>
<th>True Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dividends</td>
<td></td>
</tr>
<tr>
<td>Income from business operations</td>
<td></td>
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<tr>
<td>Rent from Immovable property</td>
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<tr>
<td>Rent on movable property</td>
<td></td>
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<tr>
<td>Income from services rendered – e.g. income earned by an</td>
<td></td>
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<tr>
<td>articled clerk whilst on secondment in the UK</td>
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<tr>
<td>Directors fees</td>
<td></td>
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<tr>
<td>Royalties</td>
<td></td>
</tr>
<tr>
<td>Interest Income</td>
<td></td>
</tr>
<tr>
<td>Pension receipts</td>
<td></td>
</tr>
</tbody>
</table>
Capital and Revenue

- The definition of gross income specifically excludes amounts proved by the taxpayer to be capital in nature.
- The onus of proving that an amount is of a capital nature and thus not part of gross income and, ultimately, not liable to tax rests fairly and squarely on the taxpayer.
- Apply the rule of floating vs fixed capital or the tree and the fruit approach.

Case Law:
1. CIR v Richmond Estates 1956 – intention
2. COT Southern Rhodesia v Levy 1952 - intention
## Quiz – Capital or revenue receipts

<table>
<thead>
<tr>
<th>Type of Income</th>
<th>Revenue/Capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceeds from disposal of a house by an individual</td>
<td></td>
</tr>
<tr>
<td>Proceeds from sale of properties by a property development company</td>
<td></td>
</tr>
<tr>
<td>Proceeds from disposal of shares held for trading – IFRS 9</td>
<td></td>
</tr>
<tr>
<td>Insurance proceeds</td>
<td></td>
</tr>
<tr>
<td>Receipt in lieu of a restraint of trade agreement</td>
<td></td>
</tr>
<tr>
<td>Receipts in respect of cancellation of a contract</td>
<td></td>
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</tbody>
</table>
Residence Status Individuals

Place of abode and presence

Physical Presence – 183 Days

Government Official

22/2/2016
ELIOT T WONENTIKA CA(Z)
Temporarily Resident

- Not a citizen
- Not authorised by immigration to reside in Zimbabwe indefinitely
- No intention to reside in excess of 4 years
- Has not been present in Zimbabwe for more than 4 years
Residence Status - Trusts

Trust

- Establishment in Zimbabwe
- A trustee is a resident
- Management and control in Zimbabwe
Residence Status - Companies

- Incorporated
- Place of Effective Management
- Majority of operations

→ Resident
Application of Knowledge

1. Study Unit B practice question
2. Question 1 page 149
Session 2: Taxation of Employment Income
Key concepts

- Define employment Income (Sect 8 (1) (b)) and 13th Schedule – The identification and taxation of employment income
- Understand the concept of PAYE – The calculation and the responsibility for remitting PAYE
- Employment benefits (Sect 8 (1) (f)) – inclusion of employment benefits into gross income
- Tax implications of contributions and proceeds from Pension and Retirement Annuity Funds (RAF) (Sect 8(1) (n) & Sect 8(1) (r))
- Tax concessions for the elderly (Tax payer of the age of 55 years)
- Exempt Income (Sect 14 & 3rd Schedule)
- Tax credits (Sect 7c)
- Allowable deductions on employment income – Sect 15
- Prepare a tax computation for employment income
Individual: General

Features in relation to individual are that:

i) The tax on their taxable income from employment is imposed by reference to a scale, shown below,

ii) The tax on their taxable income from trade or investments is at a fixed rate;

iii) A husband and wife are assessed separately on their respective taxable incomes.

The term “taxable income from employment” is defined (s14 (1) of the FA) as any part of an individual’s taxable income which consists of remuneration as defined in the Thirteenth (i.e PAYE)Schedule (to the Income Tax Act).
Therefore from the above definition employment income includes among others:

- Salaries
- Leave pay
- Bonus
- Gratuity on cessation of employment
- Retrenchment packages
- Commission earned as a result of employment
- Pension
- Superannuation allowance
- Commutation of a pension

“Employee” includes a person who is a director of a company, agent or servant or is otherwise gainfully occupied and “employer”, in relation to such person shall be construed accordingly.
## Framework for the taxation of Employment Income

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total employment Income (Sect 8 (1) (b))</td>
<td>xxxx</td>
</tr>
<tr>
<td>Less Exempt income (Sect 14 &amp; 3rd schedule Income)</td>
<td>(xxxxx)</td>
</tr>
<tr>
<td>Less Allowable deduction (sect 15)</td>
<td>xxxx</td>
</tr>
<tr>
<td>Taxable Income</td>
<td>xxxx</td>
</tr>
<tr>
<td>Calculate tax using the tax tables’</td>
<td>xxxx</td>
</tr>
<tr>
<td>Less Credits (Sect 7 (c))</td>
<td>(xxxxx)</td>
</tr>
<tr>
<td>Add 3% aids levy</td>
<td>xxxx</td>
</tr>
<tr>
<td>Less PAYE (Remitted over the course of the year)</td>
<td>(xxxxx)</td>
</tr>
<tr>
<td>Tax liability</td>
<td>xxxx</td>
</tr>
</tbody>
</table>
Special points to note on employment income

- Bonus – 3rd schedule par 4 (0)
- Cash In Lieu of Leave – sect 8 (1) (b) (iii).
- Retrenchment payments (3rd schedule par 4 (p))
  - A retrenchment package paid under a plan approved by the Minister of Labour & Social Welfare is subject to an exemption.
  - The exemption is the greater of the person’s first $10,000 of the retrenchment package and a third of his package (up to a maximum of a third of $60,000).

- Gratuities
Special points to note on employment income – cont.

Awards, benefits and compensation (Sect 8 (1) (b) and 3rd Schedule par 6 e – g).

Any amounts that is payable as award, compensation or benefit for services rendered is taxable, unless the amount is paid to the employee, his family or his estate under the following circumstances:

- a) Under any law for sickness, injury disablement or death suffered in employment.
- b) Under War Victims Compensation Act for personal injury, disablement or death.
- c) In respect of injury, sickness or death which is paid by a trade union, benefit fund, medical society or an insurance company on a policy covering accident, sickness or death.
- d) In terms of Wankie Disaster Relief Fund to you or to your dependants.
- e) In terms of any law for employee’s personal injury, even if paid as compensation for loss of a taxpayer’s ability to earn income in the future.
Also taxable under employment income are benefits accruing from employment. Some of the benefits are as follows,

- Motoring benefits
- School fees benefit a.r.w 3rd schedule par 8 (3).
- Loan benefit
- Housing benefit
- Passage benefit – 8(1) (f) (i)
- Entertainment allowance
- Shares awarded to an employee
- Educational assistance
- Free or subsidized lunches
- Clothing benefit
Shares acquired pursuant to an employee share option – Sec 8(1) (t)

- A share option scheme is a plan which gives the holder of the option a right, but not obligation to buy shares in a company for a certain price called the exercise prices, subject to meeting certain specification conditions, e.g. completion of a certain period in service.

- It is a scheme which is meant to provide an incentive of motivating and retaining managerial staff. A share option is therefore an advantage or benefiting respect of employment service, office or other gainful occupation (Barclays Bank of Zimbabwe v ZIMRA 68SATC 301, 2006(25)).
Shares acquired pursuant to an employee share option – Sec 8(1) (t)

The option must be valued at the date of accrual. There is no accrual unless the option is exercisable by the employee.

Where the option cannot be exercised until employee has completed services for a stipulated period of time, the date of accrual is the date on which the condition is fulfilled. The taxable benefit is computed as follows:

\[ A - (B + C) \]

A = market value of shares at the time of exercise
B = exercise price or strike price
C = the inflation allowance on strike price

\[ C = \frac{D - E \times B}{E} \]

D = Consumer price index (inflation rate) on date of share option exercise
E = Consumer price index (inflation rate) on date of share option offers

Where there is no inflation, the benefits is \( A - B \)
Pensions

Key Definitions

• Pension fund
• Retirement annuity fund
• NSSA
• Benefit fund
Pension deductions

- Own contributions to pension fund, NSSA and RAF.
- Pension fund – max allowable $5 400
- RAF – max allowable $2 700
- NSSA – 3.5% of basic salary (max on the 1st $700)
- Aggregate (all of the above) – max allowable $5 400.
Pension Receipts -

- These can accrue in two ways i.e.
  - Annuity
  - Lump sum
- Pension annuity – sect 8(1) (a)
  - Taxable to the extend of contributions allowed as a deduction.
Lump sums

Pension Lump sum – sect 8(1) (r)
RAF Lump sum – sect 8(1) (n)
Pension Commutation - Example

Mike retired on 30 September 2013, and will be receiving a lump sum payment $250,000 from a retirement annuity fund as pension. His pension entitlement is $570,000. How much is taxable in his hands?

Solution
Lump sum payment 250,000
Less 1/3 of pension entitlement \[\frac{570,000 \times 1/3}{1/3}\] 190,000
Taxable income 60,000
Exempt Income – 3rd Schedule

- Medical expenses and contributions – par 8 (1) & (2).
- Allowances of civil servants – par 4 (t)
- Pension accruals
- Compensation of injury, sickness or death
- Individual exempt from Income tax
  - President
  - Chiefs or headman
  - Allowances granted my senior gvt officials
- Subscriptions to professional bodies paid by employers
- Contributions to pension paid by employers on behalf of employees
- Alimony receipts
- Dividend receipts (these are levied withholding taxes)
Allowable deductions

- Professional subscriptions e.g. ICAZ subs
## Tax Credits

<table>
<thead>
<tr>
<th></th>
<th>Elderly Person</th>
<th>Blind Person</th>
<th>Medical Expenses</th>
<th>Mentally or Physically Disabled Person</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Credit</strong></td>
<td>$900</td>
<td>$900</td>
<td>$1 for every $2 paid</td>
<td>$900</td>
</tr>
<tr>
<td><strong>Time Apportionment of credit</strong></td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td><strong>Transfer between spouses</strong></td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Physically disabled child</strong></td>
<td></td>
<td></td>
<td></td>
<td>Grant Credit</td>
</tr>
<tr>
<td><strong>T/P not ordinarily resident in Zim during any part of the assessment</strong></td>
<td>Yes</td>
<td>Yes</td>
<td>Grant credit only in respect of medical aid contributions</td>
<td></td>
</tr>
</tbody>
</table>
Tax Concessions for the Elderly – T/P over 55 years

Income Taxes

• Exemption from Income Tax of the first US$3 000.00 per annum on rental income
• Exemption from Income Tax of the first US$3 000.00 per annum on income earned from bankers acceptances
• Exemption from Income Tax of the first US$3 000.00 per annum on income earned from interest on deposits to financial institutions.
• Entitled to an elderly persons’ credit of US$900.00 per annum.
• Pension received from a pension fund or the Consolidated Revenue Fund is exempt from Income Tax.
• Where an employer disposes of a motor vehicle to an employee whether on termination of employment or otherwise, the benefit is exempt from tax.
Administration of PAYE

- Any resident or non-resident employer, who employs one or more members of staff whose gross pay, including benefits and allowances, exceeds USD250 per month or the daily, weekly or annual equivalent, is required to register with the relevant Regional Manager of the Zimbabwe Revenue Authority (ZIMRA), withhold PAYE from employees and remit PAYE to the Commissioner General by the 10th of the month following the deduction.
- Employers are responsible for under deductions as well as late payment of PAYE.
- Interest is charged and penalties of up to 100% of the unpaid tax can be imposed on the employer.
- Personnel employed by a single employer for the full fiscal period are taxed on the Final Deduction System.
- PAYE will be a final tax on employment income for the employee who will then not be required to complete tax returns.
- Personnel employed by more than one employer or employed for part of a fiscal period and all individuals who receive pensions or annuities or taxable income from trade and investment are required to complete and submit annual tax returns.
Questions