

QUESTION ONE

(a) Employer for PAYE purposes includes:

- Any person having contract of payment of remuneration.
- Any agent or manager or other representative in Kenya of any employer who is outside Kenya.
- Any paying officer of the government or public authority
- Any institution or insurance company or other body of pension paying pensions.
- A manager of a branch or firm as well as the main employer.

(b) **J SELINA**

(i) **2005 TAX COMPUTATIONS**

	Sh.
Salary (250,000 x 12)	3,000,000
Housing benefit (50,000 x 12) } Lower of 15% of 3,000,000 } _____	600,000
	3,600,000
Less:	
Contributions to pension scheme } Actual contributions } (5% x 3,000,000) = 150,000 < _____	(150,000)
210,000	<u>3,450,000</u>
Taxable income	

(ii) Tax liability on Ksh.3,450,000

	Sh.
1 st Ksh.121,968 @ 10%	12,196.8
Ksh.114,912 @ (15% + 20% + 25%)	68,947.2
(Ksh.3,450,000 – 466,704) @ 30%	<u>894,989.0</u>
	976,133.0
Less:	
Personal relief	(13,944.0)
PAYE	<u>(1,015,200.0)</u>
Tax Refund	<u>(53,011.0)</u>

(iii) Tax liability and taxable income

- This would remain as above
- J Selina would be assessed on the 50,000 per month as house allowance since there is no housing benefit in this case. Housing benefit is equal to house allowance.

QUESTION TWO

- (a) - Payment of Income tax due for the year within the accounting period in full or instalments.
- Four equal instalments are made during the year of income based on 110% of last years tax liability. Instalment tax is not payable where:
- emoluments have been subjected to PAYE deductions
 - tax due for any corporate taxpayer is not more than Sh.40,000 p.a.

Instalment tax is payable on the following dates:

- 20th of the 4th month
- 20th day of the 6th month
- 20th day of the 9th month
- 20th day of the 12th month

Agricultural income:

- 20th day of the 9th month
- 20th day of the 12th month..

Balance of tax due is payable at end of the 4th month of the year following the accounting date of the year of income.

- (b) WTSD – a director of a company who is required to devote substantially the whole of his time to the service of that company in a managed or technical capacity and does not control directly or indirectly more than 5% of the company's share capital.
- (c) Net profit

Net Profit	218,600
Add:	
Interest – investment shares	72,000

Audit – Appeal	32,000	
Business line	68,000	
General provision of bad debt	120,000	
Directors Christmas party	24,000	
Depreciation	344,760	
Miscellaneous expenses		
100 year lease	28,000	
Donations	<u>41,600</u>	<u>730,360</u>
Grossed-up		948,960
Deduct:		
Dividends	72,000	
Interest FD	58,760	
Interest TD	93,876	
Dividends – SC	60,000	
Profit on sale of shares	<u>216,324</u>	(500,960)
Business Income		<u>448,000</u>

Summary of chargeable income

	Sh.
Business	448,000
Gross interest – FD 58,760 ÷	69,129
0.89	<u>93,876</u>
- Treasury bills	<u>611,005</u>

QUESTION THREE

- (a) (i) Trading receipt in confirming business where the disposal value trading receipt class of WTA more than/exceeds the written down value in that class. The excess of the disposal value over WDV is taxable.
- (ii) Balancing Charge – arises where in closing down business the disposal value of a class is more than/the WDV in that class, it is chargeable to tax as taxable income.
- (iii) Trading Loss: This arises in a confirming business where the disposal in a particular class of WTA is less than the WDV. Trading loss is deductible.

- (iv) **Balancing Deduction:** In a class of down business where the disposal value of a particular class less than the WDV of that class for taxing deduction is deductible.

(b) **Investment Deductions**

			Sh '000'
Milling machine	5,550,000 x 100%		5,550
Building (milling)	=		<u>13,600</u>
	13,600,000	x	<u>19,150</u>
	100% =		

No residual for IBD and WTA.

Wear & Tear Schedule

Class	I	II	III	IV
WDV 1.1.2005	-	-	-	3,440,000
Milling machine	-	-	-	
Fork lifts	1,720,000	-	-	
Tractors	7,800,000	-	-	
Lorries	2,400,000	-	-	
Packaging	-	-	-	3,500,000
Machine	-	-	-	3,680,000
Crushing machine	-	-	-	6,240,000
C & Sorter	-	-	1,800,000	
Pick-ups	2,400,000	-	-	
Lorry	-	-	780,000	
Saloons		-		<u>544,000</u>
Furniture	& =		=	17,404,000
Fixtures	14,320,000		2,580,000	

Additional:

Toyota	-	-	1,000,000 ^R	-
Lorry	5,200,000	-	-	-
Tractor	3,540,000	-	-	-
Furniture	-	-	-	280,000
Pick-up	-	-	4,000,000	-

Computers	-	50,000	-	-
Computer scanners	-	400,000	-	-
Printers	-	<u>200,000</u>	-	-
	23,060,000	650,000	7,580,000	19,300,000
Disposals				
Forklift	(480,000)	-	-	-
Saloon car	-	-	(920,000)	-
Printer	-	(50,000)	-	-
Packaging machine	-	-	-	(4,500,000)
Tractor	<u>(3,200,000)</u>	<u>-</u>	<u>-</u>	<u>-</u>
	19,380,000	600,000	6,660,000	-
Wear and tear allowance		<u>(180,000)</u>	<u>(1,665,000)</u>	13,184,000
WDV @ 31/12/2005	<u>(7,267,500)</u>	<u>420,000</u>	<u>4,995</u>	<u>(1,648,000)</u>
	<u>12,112,500</u>			<u>11,536,000</u>

Summary

Investment allowance	19,150,000
Wear and tear allowance:	
Class I (37½%)	
Class II (30%)	7,267,500
Class III (25%)	180,000
Class IV (12½%)	1,665,000
	<u>1,648,000</u>
	<u>29,910,500</u>

QUESTION FOUR

(a) VAT Tribunal

- Appointed by the Minister of Finance to arbitrate disputes between commissioner of VAT and registered pensions for VAT
- Composed of a chairman and two other members from the general public
- The Minister prescribes the manner in which an appeal may be made
- The tribunal may confirm, reduce, increase or nullify the tax assessed as it thinks fit.
- Any person aggrieved by the decision made by the VAT tribunal may make an appeal to the high court.

Requirements for Appeal

- Within 30 days
- Submit all outstanding returns
- Pay all tax not in dispute
- Deposit 50% of tax in dispute if dispute in assessment relates to:

- * failure to
 - * failure to submit returns
 - * non-registration
 - * late registration

(b) All partners are jointly and severally liable for all the payment of VAT i.e

* Submitting the VAT return by the 20th of the month after the supply and remit only VAT due.

- (c) May - Output tax – 300,000
 June - Sales for June – $1.05 \times 300,000 = 315,000$

	June	July	August	Sept.	Oct.	Total
Sales	315,000	346,500	381,150	419,265	461,191	
VAT	–					
Output tax @ 16%	50,400	55,440	60,984	67,082	73,791	<u>307,691</u>

VAT payable in July

For period of July to November	307,691
VAT actually paid	<u>(145,000)</u>
Underpayment	<u>162,691</u>

* Input tax is not deductible.

(ii) Recommendations

- Use of the right VAT rate
- Incorrect claim of input tax should be discouraged.
- Maintain accurate VAT records.

QUESTION FIVE

Gatwiri, Kiende & Kanyiri Partnership 2005 Tax Computations

Reported Loss		(4,425,000)	
<u>Add back</u>			
Interest on capital			
Gatwiri	232,500		
Kiende	232,000		
Kanyiri	<u>348,000</u>		
Salaries to partners			
Gatwiri	400,000		
Kiende	420,000		
Kanyiri	<u>576,000</u>		
Office expenses – cabinet	110,000		
Travelling expenses (12,000 x 12)	144,000		
Increase in general provision for bad debts	60,000		
Drawings – Kiende	70,000		
Office partitions	80,000		
Goodwill	400,000		
Loss on investment	600,000		
Donations	300,000		
Depreciations	1,760,000		
Purchase of lorry	1,331,000	<u>7,063,000</u>	
		<u>2,638,000</u>	
<u>Deduct:</u>			
Wear & Tear allowance	(706,000)		
Dividends received	(264,000)		
Insurance recovery on Motor vehicle	<u>(520,000)</u>	(1,490,000)	
Taxable partnership profit/(loss)		<u>1,148,000</u>	

Allocation to Partners

	Gatwiri	Kiende	Kanyiri	Total
Interest on capitals	232,000	232,000	348,000	812,000
Salaries to partners	400,000	420,000	576,000	1,396,000
Share of loss	<u>(424,000)</u>	<u>(424,000)</u>	<u>(212,000)</u>	<u>(1,060,000)</u>
	<u>208,000</u>	<u>228,000</u>	<u>712,000</u>	<u>1,148,000</u>