INSTRUCTIONS

1. This paper contains three questions. All references to the Act or to sections of the Act are to the Income Tax Act 58 of 1962.
2. Answer any two questions.
3. When answering questions, refer where appropriate, to relevant decided cases.
4. Do not deal with any capital gains tax issues arising out of the questions.
5. This is a closed book examination, and you are not permitted to take any study materials into the examination room or to consult any such materials when writing the examination.
6. Students are requested, in their own interests, to write legibly.

Continued/...
Question 1

In *Natal Estates Ltd v SIR* 1975 (4) SA 177 (A) a taxpayer who subdivided farm land and sold the erven was held to be liable for income tax on the proceeds. In *Berea West Estates (Pty) Ltd v CIR* 1976 (2) SA 614 (A) a company that subdivided land and sold it was held not to be liable for income tax on the proceeds. In *Elandsheuwel Farming Edms Bpk v SBI* 1978 (1) SA 101 (A) a company that sold a farm without sub-dividing it was held to be liable to income tax on the proceeds. Explain the ratio of each of these three decisions and discuss the extent (if any) to which these decisions are in conflict with each other.

[Total Q1: 30 marks]

Question 2

A school-teacher had, over his working lifetime, built up a valuable portfolio of shares listed on the Johannesburg Stock Exchange using money that he had saved from his salary to purchase the shares. In recent correspondence with SARS, he explained that his investment strategy was to keep a constant watch on his share portfolio, to sell those that were yielding low dividends and to reinvest the proceeds in acquiring shares with a higher dividend yield; he said his decisions to sell shares were not motivated by the profit he would receive on resale. After his retirement he had also sold shares in order to have cash reserves from which to pay medical expenses, as his health was declining.

Discuss the legal principles that determine whether he will be liable to income tax on the proceeds when he has sold shares in these circumstances, and explain also whether different principles apply in this regard where the taxpayer is a company, rather than an individual.

[Total Q2: 30 marks]
Question 3

_In Port Elizabeth Electric Tramway Co Ltd v CIR 1936 CPD 241_ the taxpayer company was held to be entitled to deduct damages payable by it as the result of a motor accident involving one of its buses. In _Joffe and Co (Pty) Ltd v CIR 1946 AD 157_ it was held that the taxpayer company was not entitled to deduct damages which became payable as the result of an accident which occurred in the course of the construction of a building. Explain the principles which underlie the decisions in these two cases and discuss whether they are in conflict with one another._

[Total Q3: 30 marks]

TOTAL FOR PAPER: 60 MARKS