INSTRUCTIONS

1. Students are requested, in their own interests, to write legibly.

2. 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.

3. This paper consists of THREE (3) pages. Please ensure that you have all the pages.

4. Answer any two (2) questions.

5. When answering questions, refer where appropriate to relevant decided cases.

6. Do not deal with any capital gains tax issues arising out of the questions.

7. 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.
QUESTION 1

Jana owns and operates a shop in Pietermaritzburg. She is aware that a criminal gang is operating in town, extorting money from shop-owners by threats of violence, and she is very afraid of becoming a victim. She is also aware that the South African police has offered a reward (which is stated to be “in the discretion of the Commissioner of Police”) for information leading to the arrest of these criminals. When the gang enters her shop one day and demands money, she manages to surreptitiously take a photo of them with her cellphone and puts in her pocket an item on the counter that one of the gang has touched. She gives the photo to the police, together with that item, and with the photo and the fingerprints on the item, the criminals are arrested and convicted. The police pay Jana a reward of R100 000. The local newspaper, the Pmb Herald, also spontaneously gives her a gift of R10 000 “for your civic-mindedness in helping to bring criminals to justice.”

Jana has now received an assessment to income tax from the South African Revenue Service in which the amounts of R100 000 and R10 000 are both included in her “gross income”, with the result that she is taxed on these amounts.

Jana now seeks your advice as to whether she should object to the assessment in relation to the sum of R100 000 and/or the amount of R10 000. "Surely, these were just gifts", she says "Or were given to me for doing my duty as a good citizen. And I had no legal right to the reward offered by the police because the reward stated that it was within the discretion of the police”.

Give full advice in relation to both the R100 000 and the R10 000, explaining the principles laid down by the cases and the relevant provisions of the Income Tax Act.

[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 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 where he has sold shares in these circumstances, and explain (with reference to decided cases involving the acquisition and disposal of shares, such as *African Life Investment Co (Pty) Ltd v SIR* 1969 (4) SA 259 (A) and *SIR v Trust Bank of Africa Ltd* 1975 (3) SA 652 (A)) 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**