INSTRUCTIONS

1. This paper contains four questions.
2. Answer any three questions. All questions carry equal marks. Where a question is divided into parts, marks have not been allocated to the various parts, and your answer to the question will be marked as a whole.
3. Where appropriate, refer in your answers to relevant decided cases.
4. This is a closed book examination; no materials of any kind may be brought into the examination venue or consulted during the examination.
5. All references to the Income Tax Act are to the Income Tax Act 58 of 1962, as amended.
Question 1

The South African Police Service advertised a reward which was payable (in the discretion of the police) to anyone supplying information leading to the arrest of a gang of armed robbers. Jana supplied such information and was paid the advertised reward. She also received a cash amount from a daily newspaper, “for your civic-mindedness in bringing criminals to justice.” She has now been assessed to income tax on both these amounts, and she seeks your advice as to whether she is in fact liable to tax. “I was just doing the responsible thing,” she says, “and besides, the reward paid by the police was advertised as being in the discretion of the police, so it was really just a gift, and the newspaper, too, was under no legal obligation to pay me anything.” Give full advice in regard to income tax, explaining the relevant legal principles as laid down in the Income Tax Act and in decisions of the courts.

[20 marks]

Question 2

What criteria do the courts apply in determining, for the purposes of section 11(a) of the Income Tax Act 58 of 1962, whether expenditure was incurred “in the production of income”? Illustrate your answer with reference, inter alia, to the decisions in *Port Elizabeth Electric Tramway Co v CIR* 1936 CPD 41 and *Joffe and Co (Pty) Ltd v CIR* 1946 AD 157.

[20 marks]

Question 3

In the context of income tax, what is a realization company and are the proceeds (ie the price received on a sale) of property that has been “realized “(ie sold) by such a company revenue or capital? Discuss fully, and illustrate your answer by referring to decided cases.

[20 marks]
Question 4

In *Natal Estates Ltd v SIR* 1975 (4) SA177 (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 decidendi* of each of these three decisions and discuss the extent (if any) to which these decisions are in conflict with each other.

[20 marks]

[TOTAL FOR PAPER: 60 MARKS]