Examiners' report

P6 Advanced Taxation (CYP)
June 2009

General Comments
The examination consisted of two sections, section A with two compulsory questions (Question 1 for 34 marks and Question 2 for 36 marks) and section B with three elective questions of 15 marks each of which candidates were required to attempt two.

There was a fair attempt at all questions, although question 3 was answered by the least number of candidates.

The value added tax (VAT) part of Question 2, produced very poor answers making it evident that candidates are not adequately prepared to tackle VAT questions. This part of the question tested a specific point on VAT on land and buildings, which is well detailed and explained in the student manual. Most answers revolved around general VAT principles for which there were very few marks available.

The poor performance of some candidates was once again exacerbated by a clear failure to carefully read the content and requirements of questions. This contributed to the continuing poor performance on narrative questions.

Specific Comments

Question One
The scenario of this question evolved around a Cyprus company having operations in both EU member countries and third countries. It examined candidates' ability to give correct advice on tax efficient structuring of operations overseas through subsidiaries or branches and as to whether in a specific scenario a partnership would have been more beneficial than a limited liability company used as the operating vehicle. It also examined the capital gains tax position of a Cypriot resident individual in the context of an anticipated future exit from his investments and included a VAT part focusing on possible obligations of Cyprus companies and their branches to register for VAT in other EU member States.

On balance, candidates produced solid answers to this question, although performance could have been even better.

One common error was to ignore the fact that the production line in Romania would be considered a permanent establishment in Romania and thus taxed there. (requirement (a)(iii))
Only a small number of candidates acknowledged the 2 year delay of special defence contribution on dividends resulting from the use of a holding company ((a)(v)). For the same part of the requirements, candidates also failed to understand the capital gains tax advantage of a using a holding company to hold shares in another company that owns Cyprus property.

Part (b) was not answered satisfactorily. Many answers came to the correct conclusion but through the wrong arguments. On balance, candidates have shown poor grips of how the intra-community VAT system operates.

Question Two
The scenario of this question evolved around two brothers who inherited building land of a high value, spelling out the options which the two brothers were considering.

Part (a) of this question examined candidates' ability to evaluate and assess the direct tax implications of each of the four possible options mentioned in the scenario whereas part (b) examined candidates' ability to identify the VAT position of 'the attempt' to separate the development and sale of villas into two contracts, one with and the other without VAT obligations, a specific VAT point adequately explained in the students' manual.

Part (a) of this question produced some good answers, with candidates finding difficulties in their answers to parts (v) and (vi) relating to identifying the timing of the transactions for tax purposes and the taxable base for immovable property tax, as answers did not mirror the scenario of the question. Another small observation is that some candidates missed out one or two of the seven requirements of part (a) indicating that possibly they did not review that they had answered all subparts of part (a).

Part (b) of this question carrying 12 marks, produced very poor answers, although the question tested a specific point on VAT on land and buildings, which is detailed in the students' manual. Candidates seemed unprepared to discuss this point, providing general VAT principles for which very few marks were available

Question Three
This question examined candidates' ability to identify the tax implications of a retired person's investment options taking into account his other income from overseas pensions, rental income from property and his capital gains tax position in relation to a future disposal of immovable property situated overseas.

Although this was a straight-forward question, it was the least popular one from the elective questions. Overall, with the exception of a few weak candidates, all answers were complete, addressed the right issues and correct.

The only comment with regards to this question related to part (c) where some candidates, instead of discussing the obvious election to tax overseas pension income at the flat rate of 5%, they entered into a discussion involving Cyprus holding companies.

Question Four
This question referred to a person with capital, wishing to invest in different operations and examined candidates' ability to deal with group loss relief, group VAT registration, capital gains tax planning through holding companies and a comparison of the group structure with a divisional structure.

This was a popular question amongst candidates and most responses were satisfactory. However, a significant number of candidates responded to parts (d) and (e) by only discussing VAT issues resulting in the loss of marks. This is evidence that candidates do not adequately read the requirements of the question.

Question Five
This question examined candidate's ability to advise two taxpayers having salaried income, starting up a new business, as to the most tax efficient type of business formation and the specific VAT implications of their intended type of business.

This was a popular question amongst candidates and most responses were satisfactory. However most candidates did not consider the possibility of the two partners operating through a partnership in the first two to three years of operation, during which period the losses expected to be incurred could have been relieved against their other taxable which was taxed at 30%, and afterwards incorporate the business in subsequent years when profits were expected.

Also, there seemed to be some confusion as to how rental income from preserved buildings is taxed and some failed to identify that such income is not liable to income tax. Instead candidates wrongly identified that gains on disposal of such buildings are exempt from capital gains tax.