



# Examiners' report

## P6 Advanced Taxation (MLA)

### June 2008

The examination consisted of 5 questions (2 compulsory questions in section A and 3 questions (the candidates had to answer 2 of the 3 questions) in section B). The questions in section A and section B carried a maximum of 25 marks each (i.e. a maximum of 100 marks achievable per candidate).

Most candidates attempted to answer 4 questions. Of the 2 compulsory questions in section A, all candidates answered questions 1 and 2.

Questions 1 and 2 were very well answered overall, whilst questions 3, 4 and 5 were not well answered. From section B, questions 4 and 5 were very poorly answered.

Some candidates failed to read the questions properly and to understand the requirements of the question. As an example, question 2 actually stated that options applying the Flat Rate Foreign Tax Credit should not be considered, but some candidates did dwell on this even so.

Workings and calculations were sometimes left out, which then makes it difficult to follow how the candidate got to the answer.

Some candidates find it difficult to label their answers properly, and the hand writing in some cases is not legible. Marks cannot be awarded where the marker does not understand what the candidate writes!

Candidates are advised to give more thought to layout and presentation, and new questions should always be started on a fresh page.

#### **Question 1**

This 25-mark question tested the candidates' ability to analyse the tax implications of a number of transactions including a sale of shares in a Maltese company, either outright or through an exchange for shares in another company.

Common errors in part (a) included failure to recognise the availability or otherwise of an exemption under article 5 (9) of the ITA and very few picked up on the 18 month rule for a global transfer of a controlling interest.

The format of the answers was generally good, the goodwill calculations were done particularly well, but the stamp duty exemption considerations were not so good. Very few candidates mentioned the claw back provisions as a result of the group transfer

The majority of candidates obtained a pass or near pass mark.

#### **Question 2**

This question tested the candidates' ability to calculate the tax implication on various sources of income, including Double Taxation Relief. It also included identifying relevant changes made to the ITA and their effect in this case.

The overall achievements were good with the majority of candidates obtaining a pass or near pass mark.

There was some evidence of candidates not reading the question properly because the question stated that options applying the Flat Rate Foreign Tax Credit should not be considered, but some candidates did dwell on this.

Participating Holding considerations were only partly discussed, whilst the anti-abuse rules were generally very well described. Some candidates had problems with the application of the correct refund (ie 6/7 or 5/7) and the fact that a 2/3 refund applies in situations where relief for double taxation was claimed constituted a problem.

### **Question 3**

The question tested the candidates' knowledge of the tax treatment of various sources of income for a Maltese individual received from inside and outside Malta. It also tested the candidates knowledge of some relevant provisions of the Business Promotion Act and Regulations.

In part (a) most candidates left out the calculation of the Malta tax paid rate, whilst in part (b) candidates had problems calculating the relevant re-investment tax credit.

### **Question 4**

The question dealt with taxation issues related to a restructuring of operations, mainly with regard to interest and rents charged to and from group companies.

None of the candidates mentioned the possibility of issuing preference shares as an option for financing operations with equity, and very few mentioned the potential BPA benefit available to SHL.

### **Question 5**

This question dealt with VAT issues.

The question was poorly answered on the whole, with none of the candidates mentioning the adjustments under the Capital Goods Scheme.