Answers

	Marks
1 Honey Limited (HL)	
(a) Availability of tax refunds	
As a Malta resident company, HL can only claim a refund of tax in respect of a dividend received from another Malta company which has been paid out of profits allocated to that company's Maltese taxed account or foreign income account.	1·5
Therefore HL is eligible to claim a refund of tax on the dividend received from Buzzard Limited (BL).	0·5
HL is not eligible to claim a refund of tax either on the dividend received from Falcon Limited (FL) (paid out of the immovable property account)	0·5
or in respect of any of its other sources of income (either received from a non-resident company or a non-dividend source).	0·5
The dividend received from BL is made up as follows:	

	€	Marks
Gross dividend	70,000	
Tax at source (35%)	(24,500)	1·0
Net dividend	45,500	

	Marks
The tax refund is calculated as 6/7ths of the tax at source, i.e. 6/7ths of €24,500 = €21,000.	1·0
	5
(b) Application of the participation exemption	
The participation exemption applies to the dividend received from Stonehenge Limited (SL) because:	0·5
The shareholding in SL constitutes an equity holding since it confers two out of the three equity holding rights.	1·0
The shareholding is ≥ a 10% equity shareholding, so it constitutes a participating holding.	0·5
The anti-abuse provisions are fulfilled (since, amongst others, SL is an EU resident company).	0·5
The participation exemption applies to the dividend received from Rhine Limited (RL) because:	0·5
The investment cost ≥ €1,164,000 and it has been held for an uninterrupted period of ≥ 183 days, so it constitutes a participating holding.	1·0
The anti-abuse provisions are fulfilled (as above).	0·5
The participation exemption also applies to the capital gain realised on the disposal of the shareholding.	0·5
The participation exemption does not apply to the dividend received from Alps Limited (AL), although the shareholding is ≥ a 10% equity shareholding and so constitutes a participating holding, because none of the anti-abuse provisions are fulfilled.	1·0
However, the participation exemption will apply to the capital gain realised on the disposal of the shareholding because the anti-abuse provisions associated with the participation exemption only apply to dividends not to capital gains.	1·0
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Marks

(c) Tax computation for the year of assessment 2014

		Maltese taxed account (MTA)	Foreign income account (FIA)	Immovable property account (IPA)	Final taxed account (FTA)	Untaxed account	Total	
		€	€	€	€	€	€	
(1)	Dividend from Stonehenge Limited (SL)				240,000		240,000	0·5
(2)	Rhine Limited (RL)							
	Dividend				110,000		110,000	0·5
	Capital gain on disposal				440,000		440,000	0·5
(3)	Alps Limited (AL)							
	Dividend		25,000				25,000	1·0
	Add: Flat rate foreign tax account (FRFTC) at 25%		6,250				6,250	1·0
	Capital gain on disposal				124,000		124,000	0·5
(4)	Dividend from Buzzard Limited (BL)	70,000					70,000	0·5
	Tax refund claimed					21,000	21,000	1·0
(5)	Dividend from Falcon Limited (FL) (25,675/0·65)			39,500			39,500	0·5
(6)	Bank interest income				5,000		5,000	1·0
(7)	Royalty income		45,000				45,000	1·0
	Disallowed expenses					(22,000)	(22,000)	1·0
	Chargeable income	70,000	76,250	39,500	919,000	(1,000)	1,103,750	
	Tax charge at 35%	(24,500)	(26,688)	(13,825)	0	0	(65,013)	1·5
	Tax at source	24,500		13,825			38,325	1·0
	FRFTC		6,250				6,250	0·5
	Double taxation relief on royalty (45,000 at 25%)		11,250				11,250	1·0
	Tax payable	0	9,188	0	0	0	9,188	
								13

(d) For the purposes of the group relief provisions, two companies resident in Malta, neither of which is resident for tax purposes in any other country, shall be deemed to be members of a group of companies if one is the 51% subsidiary of the other or both are 51% subsidiaries of a third company resident in Malta. 0·5 0.5 0.5 0·5

A company is deemed to be a 51% subsidiary of its parent if the following three conditions are satisfied:

(1) More than 50% of its ordinary share capital and more than 50% of its voting rights are owned directly or indirectly by the parent company; and 1·0

(2) The parent company is beneficially entitled either directly or indirectly to more than 50% of any profits available for distribution to the ordinary shareholders of the subsidiary company; and 0·5

(3) The parent company would be beneficially entitled either directly or indirectly to more than 50% of any assets of the subsidiary company available for distribution to its ordinary shareholders on a winding up. 0·5

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(e) **(i)** No 0·5

(ii) Yes 0·5

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Marks

2 Graham and Paula

(a) Income tax computation of the partnership for the year of assessment 2014

	€	€	
Profit before tax as per financial statements		143,670	
Add back:			
Depreciation	6,700		0·5
Legal fees (not incurred in the production of the income)	2,000		0·5
Loss on disposal of computer equipment	1,500		0·5
Disallowed portion of motor vehicle lease expenses			
(34,000 – 14,000)/34,000 x 12,000	7,059		1·0
Administrative penalty	470		0·5
Other fines	650		0·5
Unrealised exchange differences	1,200		0·5
Partners' salaries	0		0·5
Partners' drawings	12,000		0·5
Employer's share of Class one social security contributions	0		0·5
Partners' Class two social security contributions	5,700		0·5
Customer entertainment	0		0·5
Interest paid to the VAT Department	0		0·5
Interest payable to partners	0		0·5
		37,279	
Deduct:			
Decrease in provision for doubtful debts	(4,400)		0·5
Profit on sale of fixtures and fittings	(500)		0·5
Bank interest income subject to final withholding tax	(800)		0·5
Interest received from the VAT Department	0		0·5
		(5,700)	
Balancing charge (W2)		500	W
Capital allowances (W1)		(7,300)	W
Balancing allowance (W2)		(1,000)	W
		167,449	
Allocation of chargeable income subject to normal rates between the partners:			
Graham (3/8ths)		62,793	
Paula (5/8ths)		104,656	
		167,449	0·5
Allocation of net interest income subject to final withholding tax between the partners:			
Graham (3/8ths)		300	
Paula (5/8ths)		500	
		800	0·5

Workings:

(W1) Capital allowances:

	€	
Fixtures and fittings		
(10% x €12,000)	1,200	0·5
Computer equipment		
(25% x €18,400)	4,600	0·5
Other plant (lift)		
(10% x €15,000)	1,500	0·5
	7,300	

					Marks
(W2) Balancing statements					
	Fixtures and fittings		**Computer equipment**		
	€	€	€	€	
Sales proceeds					
((€2,000 – €800) + €500)		1,700			0·5
				1,000	0·5
Original cost	2,000		4,000		
Accumulated wear and tear allowances					
(10% x €2,000) x 4 years	(800)				0·5
(25% x €4,000) x 2 years			(2,000)		0·5
Tax written down value		1,200		2,000	
Balancing charge/(allowance)		500		(1,000)	1·0
					15

(b) Individual chargeable income for the year of assessment 2014

	Graham	Paula	
	€	€	
Share of partnership profits for the year (from (a))	62,793	104,656	0·5
Salary from partnership	20,000	20,000	0·5
Interest from partnership	2,500	5,400	0·5
Emoluments from local school	7,000	–	1·0
Director's fee	–	10,000	1·0
Vehicle fringe benefit (working)	–	4,114	W
Bank interest income	–	–	0·5
School fees deduction (capped)	(1,300)	–	1·0
Chargeable income	90,993	144,170	

Working: Vehicle fringe benefit:

	€	€	
Vehicle use value (17% of €34,000)	5,780		0·5
Fuel value (all borne by Paula)	0		0·5
Maintenance value (5% of €34,000)	1,700		0·5
	7,480		
At private use percentage (55%)		4,114	0·5
			7

Tutorial notes:

1. *The part-time rules do not apply to remuneration received from Government or local authorities/bodies, or to director's fees.*
2. *The bank interest income is subject to final withholding tax, so does not form part of chargeable income.*

Marks

(c) Individual tax charge for the year of assessment 2014 (excluding final withholding tax paid on local bank interest income)

		Graham	Paula	
		€	€	
Using single rates:				
€0 to €8,500	at 0%	0	0	
€8,501 to €14,500	at 15%	900	900	
€14,501 to €19,500	at 25%	1,250	1,250	
€19,501 to €60,000	at 32%	12,960	12,960	
€60,001 to €90,993	at 35%	10,848		
€60,001 to €144,170	at 35%		29,460	
Tax chargeable		25,958	44,570	1·0
Using parent rates (Graham):				
€0 to €9,300	at 0%	0		
€9,301 to €15,800	at 15%	975		
€15,801 to €21,200	at 25%	1,350		
€21,201 to €60,000	at 32%	12,416		
€60,001 to €90,993	at 35%	10,848		
Tax chargeable		25,589		1·0
It is more beneficial for Graham to opt to use parent rates.				0·5
Therefore, the tax charge calculated on the most beneficial basis is:		25,589	44,570	0·5
				3
				25

3 John and Mary Bonello

(a) A shareholding constitutes a controlling interest if:

– its aggregate nominal value represents 25% of the nominal value of the issued share capital of the company; or 1·0

– the aggregate voting rights attached to it represent at least 25% of the voting rights of the company; or 1·0

– the aggregate rights attached to them entitle the holder to be appointed, or to nominate or appoint or withhold the nomination or appointment of, a director of the company. 1·0

The transfer by John Bonello is not a transfer of a controlling interest, as he only holds 15% of the issued shares (and voting rights) of Valluta Limited (VL). 1·5

The transfer by Mary Bonello is a transfer of a controlling interest as the transfer is considered to be a global transfer of 30% of the shares in VL because:

– John and Mary are considered to be related persons for the purposes of the capital gains rules; and
– the two share transfers which they have respectively made occurred within a period of no more than 18 months. 2·5

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(b) (i) Capital gain on transfer by John Bonello (not a transfer of a controlling interest)

	€	Marks
Consideration	20,000	1·0
Less: Cost of acquisition	(1,500)	1·0
Chargeable capital gain	18,500	
		2

			Marks

(ii) Capital gain on transfer by Mary Bonello (transfer of a controlling interest)

The capital gain is calculated taking the higher of the consideration and the market value.

	€	
Market value of global transfer (30% of €527,370 (W1))	158,211	1·0
Less: Value taken into account in preceding relevant transfer by John Bonello (consideration for transfer of shares)	(20,000)	1·0
Market value of shares transferred by Mary Bonello	138,211	
Transfer value (market value > consideration)	138,211	1·0
Cost of acquisition	(1,500)	1·0
Inflation deduction in respect of immovable property (W4)	(6,861)	1·5
Chargeable capital gain	129,850	

Workings:

(W1) Valuation of VL

	€	€	
Net asset value as at 30 June 2013		175,500	0·5
Add: Goodwill adjustment (W2)		73,200	1·0
Market value of immovable property	420,000		0·5
Book value of immovable property	(150,000)		0·5
Immovable property adjustment		270,000	
Market value of shareholding in NL (25% of €44,680 (W3))	11,170		1·0
Book value of shareholding in NL	(2,500)		0·5
Adjustment in respect of ≥10% shareholding		8,670	
Market value of VL		527,370	

(W2) Goodwill adjustment

	BL €	NL €
Profit before tax for:		
Year ended 30 June 2009	35,000	1,200
Year ended 30 June 2010	55,000	2,100
Year ended 30 June 2011	(10,000)	2,450
Year ended 30 June 2012	44,000	2,850
Year ended 30 June 2013	59,000	3,100
Total profits for the five preceding financial years	183,000	11,700
Two years' average profits (2/5ths)	73,200	4,680

(W3) Valuation of BL's investment in NL

	€	
Valuation of NL		
Net asset value as at 30 June 2013	40,000	0·5
Add: Goodwill adjustment (W2)	4,680	1·0
Market value	44,680	

(W4) Inflation deduction re immovable property

$$150{,}000 \times \frac{821{\cdot}34 - 712{\cdot}68}{712{\cdot}68} \times 30\% = 6{,}861$$

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Marks

4 EMC Limited

(a) Value added tax (VAT) for the period 1 July 2014 to 30 September 2014

Output tax:	Value €	Tax €	
Domestic supplies (retail and business)	39,000	7,020	1·0
Exports (exempt with credit)	5,400	0	0·5
Intra-EU supplies (exempt with credit)	9,000	0	0·5
Intra-EU acquisitions (reverse charge)	12,600	2,268	1·0
Intra-EU services received (reverse charge)	2,400	432	1·0
	68,400		
Total output tax for the period		9,720	

Input tax:	Value €	Tax €	
Taxable purchases for resale (domestic and imports)	30,700	5,526	1·0
Intra-EU acquisitions (reverse charge)	12,600	2,268	1·0
Overheads at standard rate ((900 – 150) + (1,600 – 580 – 160))	1,610	290	0·5
Overheads at reduced rate	750	38	0·5
Intra-EU services received (reverse charge)	2,400	432	1·0
	48,060		
Total input tax for the period		8,554	
VAT payable for the period		1,166	0·5
No VAT applies on the following expense:			
Bank overdraft interest (exempt without credit)	250		0·5
Input VAT is blocked on the following expenses:			
Capital goods expenditure (general manager's company car)	25,000		0·5
Alcoholic beverages	150		0·5
Entertainment	580		0·5
Servicing of company car	160		0·5
			11

(b) The VAT return for the period ended 30 September 2014 is due for submission by 15 November 2014. 1

(c) An excess credit is carried forward to the next VAT period and set off against tax payable (if any) for that VAT period. 1·0

To the extent that an excess credit cannot be set off against any amount due in the next VAT period, it becomes a refund payable by the VAT Department to the VAT registered person. 0·5

Such a refund must be paid by the **later** of the following:

(1) five months from the expiration of the time allowed for the furnishing of the VAT return for that (next) VAT period, or

(2) the day on which the VAT return for the next period has actually been furnished to the VAT Department. 1·5

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5 David Galea

(a) David accepted employment with Zejt Limited (ZL) on a two-year contract from 1 January 2013 but he regularly returns to his family home in Malta – as such he should continue to be considered ordinarily resident in Malta during year of assessment 2014. 1·0

He is also domiciled in Malta since he was born in Malta. 1·0

Therefore, David will be taxed in Malta on a worldwide basis for the year of assessment 2014. 1·0

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			Marks
(b) Chargeable income for the year of assessment 2014			
	€	€	
Basic salary		120,000	
Company accommodation adjacent to the plant while working in Libya (not taxable)	0		0·5
Cost of business travel between Malta and Libya	0		0·5
Paid family vacation	3,000		0·5
Health insurance benefit	1,800		0·5
Use of business mobile phone (not taxable)	0		0·5
Use of computer equipment – laptop and tablet (not taxable)	0		0·5
Interest-free loan of €20,000 at 8% benchmark rate	1,600		1·0
		6,400	
Total chargeable income		126,400	
			4

(c) Individual tax charge for the year of assessment 2014

	Marks
David's contract of employment requires him to work overseas in Libya. Therefore, he can choose to apply a taxation rate of 15% to his income from his overseas employment *(Article 56(17) of the Income Tax Act)*.	1·0
As a married man, he would be subject to a tax rate in excess of 15% on any income in excess of €21,200. So it will be beneficial for him to choose the 15% flat rate option applicable to overseas employments.	1·0
Therefore, David's tax charge for year of assessment 2014 is €126,400 at 15% = €18,960.	1·0
	3
	10