
Answers

Section A

Marks

1 C A lease is the only item not included in the statutory definition of 'transfer'.

2 A €3,451

	€
Net foreign income	39,500
FRFTC at 25%	9,875
	<u>49,375</u>
Less: Deductible expenses	(11,300)
Chargeable income	<u>38,075</u>
Tax charge at 35%	13,326
Less: FRFTC (limited to 85% of tax charge)	(9,875)
Tax payable	<u>3,451</u>

3 D €4,350 ($€41.83 \times 2 \times 52$)

4 C €700 ($€10,000 \times 7\%$)

5 B €500

Louisa is taxable on the 'received' basis and hence foreign income received in Malta is taxable therein; nothing more or less.

6 D

7 A €0

8 C €5,040 ($14,000/40,000 \times €14,400$)

9 D €6,300 ($€35,000 \times 18\%$)

10 A €9,000 ($€15,000 - €6,000$)

11 B €50

12 A €7,000 ($€13,000 \times 0.35/0.65$)

13 B As a minimum, the source basis of taxation invariably applies.

14 B €11,250 ($€75,000 \times 15\%$)

15 D €0.90 ($€5 \times 18\%$)

2 marks each

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Section B

Marks

1 David Jones – Tax payable on sale of apartment

Property transfer tax:

	€	
Consideration	455,000	
Less:		
Brokerage fees	(26,845)	1
Other selling expenses (disallowed)	Nil	0.5
	<u>428,155</u>	
Tax at 12%	€51,379	0.5

David has owned the apartment for less than 12 years, so he can opt out of property transfer tax.

Alternative capital gains calculation:

	€	€	
Consideration		455,000	0.5
Less:			
Purchase price	(300,000)		0.5
Stamp duty	(10,400)		0.5
Notarial expenses	(3,300)		0.5
Agents' fees	<u>(2,400)</u>		0.5
Cost of acquisition		(316,100)	
Cost of improvements		(55,000)	0.5
Inflation allowance:			
– In respect of original cost			
€300,000 x (821.34 – 743.05/743.05)	(31,609)		1
– In respect of improvements			
€55,000 x (821.34 – 770.07/770.07)	<u>(3,662)</u>		1
		(35,271)	
Maintenance allowance:			
– In respect of original cost			
0.4% x €300,000 x (2014 – 2009)	(6,000)		0.5
– In respect of improvements			
0.4% x €55,000 x (2014 – 2011)	<u>(660)</u>		0.5
		(6,660)	
Selling expenses (capped at 5% of €455,000)		(22,750)	1
Chargeable capital gain		<u>19,219</u>	
Tax at 35%		6,727	0.5

Therefore, David should opt out of property transfer tax and pay tax of €6,727 on the sale of the apartment. 0.5

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Tutorial note: The inflation allowance should be limited so as not to create a capital loss; therefore, it cannot exceed $TP - CA - D$, where:

TP = the transfer price of the property,

CA = the cost of its acquisition,

D = the other allowable deductions, excluding the inflation allowance.

2 (a) Exiles Limited (EL)

(i) Dividend income from Otter Limited (OL)

EL's shareholding in OL constitutes an equity holding since it confers two out of the three equity holding rights, namely voting rights and rights to profits available for distribution, and furthermore OL is not property company.

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As the acquisition value of the investment is more than €1,164,000 and the investment has been held for an uninterrupted period of more than 183 days, it constitutes a participating holding.

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For dividends, one of the anti-abuse conditions also has to be satisfied. While OL is not resident or incorporated within the EU, and is not subject to foreign tax of at least 15%, it is engaged in active trading operations and as such it satisfies the anti-abuse condition that not more than 50% of its income is derived from passive interest or royalties.

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As such, the participation exemption will apply to dividends from OL and no tax will be payable by EL.

0.5

The distributable profits resulting from the dividend from OL will be allocated to EL's final taxed account (FTA).

0.5

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(ii) Foreign sourced interest income

	€	
Gross interest income	155,000	0.5
Less: Interest expense	(25,000)	0.5
Chargeable income	130,000	
Tax charge at 35%	45,500	0.5
Less: Foreign tax credit for 10% withholding tax (unilateral relief)	(15,500)	1
Tax payable by EL	30,000	

The distributable profits resulting from the foreign sourced interest income will be allocated to EL's foreign income account (FIA).

0.5

The tax refundable to Gillian Blake upon the dividend distribution is:

2/3rds of €45,500	€30,333	1
But limited to tax paid in Malta by EL	€30,000	1
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Tutorial note: The 2/3rds refund applies because double tax relief was claimed against the FIA income.

- (b) No, a partnership *en commandite*, the capital of which is not divided into shares, does not constitute a company for Maltese tax purposes.

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Tutorial note: A partnership *en commandite* only comes within the definition of a company if its capital is divided into shares.

3 Palma Hotel Limited

Value added tax (VAT) calculation for the return period ended 31 October 2014

	Value (exclusive of VAT) €	VAT rate/exemption	VAT €	
Output tax:				
Hotel accommodation (W)	116,290	7%	8,140	1
Additional restaurant turnover (€56,600 + €22,450 + €94,200 + €49,700)	222,950	18%	40,131	1
Intra-EU acquisition of capital goods (reverse charge)	125,000	18%	22,500	0.5
Services received from outside Malta (reverse charge)	15,000	18%	2,700	0.5
	<u>479,240</u>			
Total output tax for the period			<u>73,471</u>	
Input tax:				
Food	75,900	0%	0	0.5
Beverages (€19,100 + €27,400)	46,500	18%	8,370	1
Salaries and wages (outside scope of VAT)	195,000	N/A	–	0.5
Bank loan interest (exempt without credit)	2,400	N/A	–	1
Water (exempt without credit)	2,200	N/A	–	1
Electricity	5,100	5%	255	1
Intra-EU acquisition of capital goods (reverse charge)	125,000	18%	22,500	0.5
Services received from outside Malta (reverse charge)	15,000	18%	2,700	0.5
	<u>467,100</u>			
Total input tax for the period			<u>33,825</u>	

Working: Turnover from hotel accommodation:

	€	
RO €100 x 250	25,000	
B&B €125 x 424	53,000	
HB €160 x 189	30,240	
FB €175 x 46	8,050	
	<u>116,290</u>	1
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4 Mary, Pauline and Sarah

- (a) Neither the transfer made by Mary nor the transfer made by Pauline is a transfer of a controlling interest. 1
- The transfer made by Sarah is a transfer of a controlling interest because: 0.5
- the sisters are related parties; 0.5
 - the three transfers took place within a period of less than 18 months; and 0.5
 - the global transfer is from a holding of 25% or more (i.e. 30%) of the issued share capital of Salina Limited. 0.5
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Tutorial note: The transfer by Pauline is not a transfer of a controlling interest since although it constitutes a global transfer together with the transfer of shares by Mary, the shares held by Mary and Pauline jointly fall below the 25% threshold for a controlling interest.

(b) Chargeable capital gains

(1) Transfer by Mary (not of a controlling interest)

	€	
Consideration (€80 x 50 shares)	4,000	0.5
Cost of acquisition of shares transferred	(50)	0.5
Chargeable capital gain	<u>3,950</u>	

		Marks
(2) Transfer by Pauline (not of a controlling interest)		
	€	
Consideration (€84 x 50 shares)	4,200	0·5
Cost of acquisition of shares transferred	(50)	0·5
	<u>4,150</u>	
(3) Transfer by Sarah (controlling interest)		
	€	
Market value of Salina Limited:		
Net asset value	103,000	0·5
Goodwill adjustment (2 x €44,000)	88,000	1
	<u>191,000</u>	
Market value of global transfer (15%)	28,650	1
Less: Value taken into account in preceding relevant transfers (4,000 + 4,200)	(8,200)	1
	<u>20,450</u>	
Market value of shares transferred by Sarah	<u>20,450</u>	
Consideration (€89 x 50 shares)	4,450	
	<u>20,450</u>	1
Transfer value (market value > consideration)	(50)	0·5
Cost of acquisition of shares transferred	<u>20,400</u>	
Chargeable capital gain	<u>7</u>	
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5 Rubicon Limited

(a) Income tax computation for year of assessment 2015 (basis year ended 31 March 2014)

Business income

	€	€	€	
Profit before tax as per financial statements			501,820	
<i>Add back/(deduct):</i>				
(1) Dividend income (not subject to further tax)		(15,500)		0·5
(2) Local bank interest subject to final withholding tax		(2,771)		0·5
Interest from VAT Department (taxable – no adjustment)		0		0·5
(3) Rental income		(6,400)		0·5
(4) Payments of a voluntary nature		250		0·5
(5) Undeclared wages and salaries		1,200		0·5
(6) Bad debts written off		0		0·5
Decrease in provision for doubtful debts		(1,150)		0·5
(7) Depreciation		4,500		0·5
(8) Loss on disposal of fixed assets		650		0·5
(9) Exchange differences – realised		0		0·5
Exchange differences – unrealised		(850)		0·5
(10) Rental expense (allowed)		0		
(11) Maintenance of investment property		420		0·5
Customer entertainment (allowed)		0		0·5
		<u>(19,651)</u>		
<i>Deduct:</i>				
Balancing allowance (Working)		(825)		
Wear and tear allowances:				
Computer equipment over 4 years (25% of €8,700)	(2,175)			0·5
Lift over 10 years (10% of €9,200)	(920)			0·5
		<u>(3,095)</u>		
			(3,920)	
Chargeable business income for the year (MTA)			<u>478,249</u>	

			Marks
Working:			
Balancing statement			
		€	
Cost of computer		1,900	
Accumulated wear and tear allowances (25% of €1900)		(475)	0·5
Tax written down value		1,425	
Proceeds on disposal (€1,250 – €650)		(600)	0·5
Balancing allowance		825	
Tax charge for the year			
		€	
Chargeable income subject to corporate income tax rate			
Business income (as above)		478,249	
Dividend income (working (i))		15,500	
Rental income (working (ii))		5,120	
		498,869	
Tax at 35%		174,604	0·5
Local interest income subject to 15% FWT (in terms of the investment income provisions) (working (iii))	3,260		
Tax at 15%		489	
Total tax charged		175,093	
Total tax paid/payable for the year			
	€	€	
Final withholding tax paid (investment income provisions) (as above)		489	
Tax charge on income subject to corporate income tax rate (as above)	174,604		
Less: Tax at source on local dividend income (working (i))	(5,425)		0·5
		169,179	
Total tax payable		169,668	
Workings:			
(i) Dividend income			
		€	
Gross chargeable dividend income		15,500	
Tax at source at 35%		(5,425)	0·5
Net dividend income (IPA)		10,075	
(ii) Rental income			
		€	
Rental income		6,400	
Less: 20% further deduction (maintenance allowance)		(1,280)	0·5
Chargeable rental income		5,120	
Tax at 35%		(1,792)	0·5
Net rental income (IPA)		3,328	
(iii) Interest income			
		€	
Net local bank interest received (FTA)		2,771	
Grossed up by 15% final withholding tax		489	0·5
Gross interest income		3,260	
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			Marks
(b) Allocation of distributable profits to tax accounts			
	€	€	
Final tax account (FTA)			
Bank interest		2,771	0·5
Immovable property account (IPA)		13,403	
– IPA dividend (working (i))	10,075		0·5
– Rental income (working (ii))	3,328		0·5
Maltese taxed account (MTA)			
(478,249 – (478,249 x 35%))		310,862	0·5
Foreign income account (FIA)		–	
Untaxed account		180	0·5
Distributable profits (€501,820 – €174,604)		<u>327,216</u>	0·5
		<u>3</u>	
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Tutorial note: The amount allocated to the final tax account represents bank interest subject to a final withholding tax.

6 Marco and Anette

(a) Chargeable income for the year of assessment 2015

	€	€	€	
Anette				
Turnover from marketing services			95,000	0·5
Less: Allowable deductions:				
Telecommunications		(2,460)		0·5
Stationery		(240)		0·5
Wear and tear allowances:				
Furniture (€6,500/10 years)	(650)			0·5
Software (€3,000/4 years)	(750)			0·5
	<u></u>	(1,400)		
			(4,100)	
Chargeable income from marketing services			90,900	
Chairperson fees		20,000		0·5
Vehicle fringe benefit:				
Vehicle use value (17% of €45,000)	7,650			0·5
Fuel value (5% of €45,000)	2,250			0·5
Maintenance value (5% of €45,000)	2,250			0·5
	<u>12,150</u>			
At private use percentage (55%)		6,683		0·5
			26,683	
Total			<u>117,583</u>	
Marco				
Pension (grossed up: €2,040 x 12 x 100/85)			28,800	1
Joint – Other income				
Foreign source rental income (not remitted)			0	1
Foreign source capital gain on sale (not taxable)			0	1
Total other income			<u>nil</u>	
Total chargeable income (117,583 + 28,800 + 0)			146,383	

Tax payable for the year of assessment 2015

Separate computation

		€	
Anette			
€0 to €8,500	at 0%	0	
€8,501 to €14,500	at 15%	900	
€14,501 to €19,500	at 25%	1,250	
€19,501 to €60,000	at 29%	11,745	
€60,001 to €117,583	at 35%	20,154	
Tax payable		<u>34,049</u>	0·5

Marco			
€0 to €8,500	at 0%	0	
€8,501 to €14,500	at 15%	900	
€14,501 to €19,500	at 25%	1,250	
€19,501 to €28,800	at 29%	2,697	
Tax chargeable		<u>4,847</u>	0·5
Less: Credit for foreign tax paid on pension (€28,800 x 15%)		<u>(4,320)</u>	1
Tax payable		<u>527</u>	

Joint computation

€0 to €11,900	at 0%	0	
€11,901 to €21,200	at 15%	1,395	
€21,201 to €28,700	at 25%	1,875	
€28,701 to €60,000	at 29%	9,077	
€60,001 to €146,383	at 35%	30,234	
Tax chargeable		<u>42,581</u>	0·5
Less: Credit for foreign tax paid on pension (€28,800 x 15%)		<u>(4,320)</u>	0·5
Tax payable		<u>38,261</u>	

The most beneficial method of tax computation is therefore the separate computation resulting in total tax payable of €34,576 (€34,049 + €527).

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- (b) A married couple (husband and wife) where both spouses are living together is required to file a joint tax return even when they opt for separate computation of the tax payable. 1
- The couple are both jointly liable for the total tax payable. 1
- For administrative purposes, the tax will be charged on the spouse who has been designated as the 'responsible spouse'. 0·5
- If the couple do not make an election as to which of them is the responsible spouse, the tax authority will decide. 0·5

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