Fundamentals Level – Skills Module

Taxation (Malta)

Tuesday 3 December 2013

Paper F6 (MLA)

Time allowed
Reading and planning: 15 minutes
Writing: 3 hours

ALL FIVE questions are compulsory and MUST be attempted.
Tax rates and allowances are printed on pages 3–5.

Do NOT open this paper until instructed by the supervisor.

During reading and planning time only the question paper may be annotated. You must NOT write in your answer booklet until instructed by the supervisor.

This question paper must not be removed from the examination hall.

The Association of Chartered Certified Accountants

The Malta Institute of Accountants

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The question paper begins on page 3.

SUPPLEMENTARY INSTRUCTIONS

1. Calculations and workings need only be made to the nearest Euro
2. All apportionments should be made to the nearest month unless stated otherwise
3. All workings should be shown

TAX RATES AND ALLOWANCES

The following tax rates and allowances for the year of assessment 2013 are to be used in answering the questions.

Individual income tax rates

Resident individual tax rates

Married couples – joint computation

€	€	Rate
0	to 11,900	0%
11,901	to 21,200	15%
21,201	to 28,700	25%
28,701 and over		35%

Other individuals

€	€	Rate
0	to 8,500	0%
8,501	to 14,500	15%
14,501	to 19,500	25%
19,501 and over		35%

Parents maintaining a child/paying maintenance

Other individuals

€	€	Rate
0	to 9,300	0%
9,301	to 15,800	15%
15,801	to 21,200	25%
21,201 and over		35%

Non-resident individuals

€	€	Rate
0	to 700	0%
701	to 3,100	20%
3,101	to 7,800	30%
7,801		35%

Corporate income tax

Standard rate	35%

Value added tax (VAT)

Standard rate	18%
Reduced rate – general	5%
Reduced rate – accommodation in premises required to be licensed in virtue of the Malta Travel and Tourism Services Act	7%

Capital allowances

Industrial buildings and structures

Initial allowance	10%
Wear and tear allowance	2%

Plant and machinery

Wear and tear allowance as indicated in the question where applicable

Minimum number of years over which items of plant and machinery are to be depreciated:

Computers and electronic equipment	4
Computer software	4
Motor vehicles	5
Furniture, fixtures, fittings and soft furnishings	10
Equipment used for the construction of buildings and excavation	6
Catering equipment	6
Aircraft	12
Ships and vessels	10
Electrical and plumbing installations and sanitary fittings	15
Cable infrastructure	20
Pipeline infrastructure	20
Communication and broadcasting equipment	6
Medical equipment	6
Lifts and escalators	10
Air conditioners	6
Equipment mainly designed or used for the production of water or electricity	6
Other machinery	5
Other plant	10

Capital gains

Capital gains index of inflation

1983	428·06	1998	580·61
1984	426·18	1999	593·00
1985	425·17	2000	607·07
1986	433·67	2001	624·85
1987	435·47	2002	638·54
1988	439·62	2003	646·84
1989	443·39	2004	664·88
1990	456·61	2005	684·88
1991	468·21	2006	703·88
1992	475·89	2007	712·68
1993	495·60	2008	743·05
1994	516·06	2009	758·58
1995	536·61	2010	770·07
1996	549·95	2011	791·02
1997	567·95	2012	810·16

Fringe benefit rates on cars

Vehicle use	Percentage of vehicle value
Vehicle not more than six years old	17%
Vehicle more than six years old	10%
Fuel value	
Vehicle value not exceeding €28,000	3%
Vehicle value exceeding €28,000	5%
Maintenance value	
Vehicle value not exceeding €28,000	3%
Vehicle value exceeding €28,000	5%

Private use percentages

Car value

From €	To €	
0	16,310	30%
16,311	21,000	40%
21,001	32,620	50%
32,621	46,600	55%
46,601 and over		60%

ALL FIVE questions are compulsory and MUST be attempted

1 Nicholas and Janet are a young married couple who were both born and raised in Holland. During 2011, they moved to Malta to take up residence. Nicholas and Janet came to Malta with the intention of residing in Malta for at least five years, as they would wish to return to Holland at some point in the future.

In Holland, Janet worked as a social media consultant on a freelance basis. Since most of her work was performed online via the Internet, she has continued to provide these services in Malta. Since moving to Malta, she has also accepted a number of new Maltese business clients. Janet works from a small fully finished and serviced office in Valletta which she rents on a long-term basis for €6,000 per annum. Upon renting this office, she purchased office furniture for €2,500 and computer equipment for €2,000 to be able to conduct her business effectively. Janet does not incur any other expenses in connection with her social media consultancy activities.

During 2012, Janet's total turnover from her provision of social media consultancy services amounted to €40,000. In addition, with effect from 1 January 2012 she was appointed director of a Maltese e-learning services company on a part-time basis, for which she receives an annual fee of €10,000.

Nicholas, a graduate in marketing, took some time to find his ideal job in Malta. With effect from 1 January 2012, he was offered the position of marketing director of Fashion Line Ltd (FLL), a leading operator of clothing retail outlets in Malta. Nicholas accepted the position with the following remuneration package and benefits:

1. A basic gross salary of €35,000 per annum.
2. Immediately upon the commencement of his employment, Nicholas was advanced an interest-free loan of €20,000 by FLL to help finance the rental down payment of a new seafront apartment which Nicholas and Janet had chosen to rent with effect from 1 January 2012. Without the loan, Nicholas and Janet would have had to continue paying their own accommodation expenses.
3. The use of a brand new company car purchased by FLL for €30,000. Fuel costs are not paid by FLL, but instead are all borne by Nicholas.
4. Comprehensive worldwide health insurance for which FLL pays a premium of €1,000 per annum. All other employees of FLL benefit from a domestic health insurance policy with a premium cost of €250 per annum per employee.
5. A business mobile phone contract costing FLL €75 per month.
6. A subscription to the professional marketing body to which Nicholas belongs costing FLL €300 per annum.
7. An allowance of €1,000 per annum to be used to purchase clothing from any of FLL's retail outlets in Malta. Nicholas fully utilised this allowance during 2012.
8. A business-specific training course in applied fashion and retail marketing costing FLL €1,500. Nicholas completed this course with distinction during 2012 and, in recognition of this achievement, FLL paid Nicholas an award of €500 on 31 December 2012.

In addition to the above, Nicholas and Janet received the following income during 2012:

(i) A gross dividend of €1,000 from shares in a Swiss company. The full dividend was remitted to Malta after deduction of foreign withholding tax at the rate of 10%.

(ii) Interest of €200 on maturity of a term deposit of €4,000 with a Dutch bank. No foreign tax was suffered on this interest income. The full amount of €4,200 representing the principal and interest was immediately transferred to Malta.

(iii) Interest of €600 on a savings deposit account with another Dutch bank. This interest was left to accumulate on the same account, and was not remitted to Malta.

(iv) In May 2012, Nicholas and Janet used the €4,200 from (ii) above to purchase shares in an insurance company listed on the Malta Stock Exchange (MSE).

Although they had purchased the MSE-listed shares for long-term investment purposes, before the end of 2012 Nicholas and Janet needed to sell half of the shares in order to release cash to pay for new domestic appliances. On this share sale transaction, the couple recorded a capital gain of €400.

On the balance of the shares, they received a net dividend of €130. This dividend was paid out of profits which had been taxed at 35% at the level of the listed insurance company, and allocated to its immovable property account (IPA).

(v) On 30 June 2012, Nicholas and Janet sold their apartment in Holland, which they had put up for sale before moving to Malta. They had purchased the apartment just before getting married in 2009 for €250,000 and sold it for €300,000, realising a capital gain of €50,000.

Of the proceeds from the sale of the apartment, €200,000 were used to pay off the outstanding balance of the mortgage they had taken out in Holland, and the remaining €100,000 was transferred to a Maltese bank account in the joint names of Nicholas and Janet. Eventually, Nicholas and Janet plan to use this bank account to part-finance the purchase of their dream home.

On 31 December 2012, Nicholas and Janet received gross interest of €1,000 in respect of this deposit, on which the bank withheld tax at source in terms of the investment income provisions.

Required:

(a) State, giving reasons, whether Nicholas and Janet will be considered ordinarily resident and/or domiciled in Malta for tax purposes and the basis of taxation which will apply to them for the year of assessment 2013. (5 marks)

(b) Calculate the total chargeable income of Nicholas and Janet for the year of assessment 2013.

Note: You should list all of the items of income and gains referred to in the question, clearly identifying any items which are exempt from tax or not taxable in Malta. (17 marks)

(c) Calculate the total tax payable by Nicholas and Janet for the year of assessment 2013 using the most beneficial method of tax computation. (5 marks)

(d) Assuming that Nicholas and Janet had moved to Malta on a permanent basis with the firm intention of never leaving Malta, state, giving reasons, the basis of taxation which would apply to them and explain the effect on their tax liability for the year of assessment 2013. (3 marks)

(30 marks)

2 Medina Limited is a trading company incorporated in Malta. The shares in Medina Limited are held in equal proportions by two brothers, Julian and Joseph Borg, who are both ordinarily resident and domiciled in Malta. The income statement of Medina Limited for the year ended 31 December 2012 is as follows:

	€	€
Turnover		2,900,500
Cost of sales		(1,700,200)
Gross profit		1,200,300
Administrative expenses	(290,150)	
Distribution expenses	(85,250)	
Other operating expenses	(25,200)	
		(400,600)
Operating profit before finance costs		799,700
Finance income	12,000	
Finance expenses	(260,500)	
Net finance costs		(248,500)
Operating profit		551,200
Other income:		
Gross dividends received	50,000	
Rental income received	4,000	
		54,000
Profit before tax		605,200

The following additional information is provided:

1. Administrative expenses include the following:
   - (i) Depreciation amounting to €30,200.
   - (ii) A payment of €1,000 made voluntarily to a local social club frequented by a number of Medina's employees, to support the organisation of the club's activities during the year.
   - (iii) Charitable donations amounting to €700 paid by the company throughout the year.
   - (iv) A penalty amounting to €250 levied against the company by the VAT Department in respect of late filing of its value added tax (VAT) returns.
   - (v) Repairs and maintenance of €2,000 incurred on the residential property which is rented out (see (7) below).
   - (vi) A loss amounting to €600 on the sale of a laptop. The laptop had cost €2,500 when purchased during 2011. The laptop was sold on 30 November 2012 and the sale proceeds on disposal amounted to €1,400.
   - (vii) Unrealised foreign exchange losses amounting to €2,500.
   - (viii) A specific provision in respect of a doubtful debt of €10,000, a general provision for doubtful debts (calculated at 2% of the other debtors) of €2,500, and bad debts written off amounting to €1,500.
   - (ix) Lease charges amounting to €8,000 paid in respect of a non-commercial motor vehicle with an official list price of €28,000.

2. For the purposes of calculating the claim for wear and tear allowances for the year 2012, the fixed assets of Medina Limited are as follows:

	Historic cost as at 31 December 2011	Net book value as at 31 December 2011	Tax written down value as at 31 December 2011
Furniture and fittings	€100,000	€25,000	€30,000
Computer equipment (including the laptop sold in the year)	€50,000	€30,000	€37,500
Air conditioners	€12,000	€9,000	€10,000

3. ‘Other operating expenses’ within the income statement includes ground rent of €250 and a licence fee amounting to €400 in relation to the letting of the residential property (see (7) below).

4. Finance income consists of bank interest received on which tax is withheld at source in terms of the investment income provisions.

5. Finance expenses include an amount of €1,500 representing interest paid on a bank loan taken out to finance the purchase of the residential property being rented out (see (7) below). The remaining finance expenses represent interest charges in respect of the company’s bank overdraft facilities.

6. Gross dividends received consist of the following dividends received from other companies registered in Malta:

   (i) Dividends received out of profits taxed at 35% which were allocated to the immovable property account of the distributing company: €10,000;
   (ii) Dividends received out of tax exempt profits which remain exempt in the hands of the shareholder: €36,000;
   (iii) Dividends received out of the untaxed account of Medina Ltd’s wholly owned subsidiary, Dingli Limited: €4,000.

7. Rental income of €4,000 was received during the year on a residential property which Medina Limited has owned and, for a period of two years, has rented out to an expatriate working in Malta as his residence. Medina Limited does not own any other immovable property.

8. Rabat Limited, a company also owned in equal proportions by the brothers Julian and Joseph Borg, incurred losses during the financial year ended 31 December 2012. Its tax computation showed that the trading tax loss for the year amounted to €5,000, while its unabsorbed capital allowances for the year amounted to €6,000.

   Dingli Limited, the wholly owned subsidiary of Medina Limited, also recorded losses during the financial year ended 31 December 2012. Its tax computation showed a trading tax loss of €12,000, while its unabsorbed capital allowances for the year 2012 amounted to €3,500. Dingli Limited also recorded a capital loss of €6,000.

   The directors of Medina Limited would like to avail themselves of any tax benefits which the company may derive from possible transfers of the losses suffered by Rabat Limited and Dingli Limited. Medina Limited would not pay any consideration in relation to transfers of tax losses.

9. The distributable profits of Medina Limited as at 31 December 2011 amounted to €1,240,500, made up as follows:

	€
Final tax account	125,500
Immovable property account	200,000
Maltese taxed account	800,000
Untaxed account	115,000
	1,240,500

Required:

(a) Prepare Medina Limited’s income tax computation for the year of assessment 2013. (17 marks)

(b) Calculate Medina Limited’s tax charge for the year of assessment 2013. (2 marks)

(c) Calculate the distributable profits of Medina Limited for the year 2012 and allocate these distributable profits to the respective tax accounts.

Note: You should assume that no deferred tax is accounted for. (4 marks)

(d) Explain briefly the income tax consequences if Medina Limited distributes the profits allocated to its untaxed account to its shareholders (Julian and Joseph Borg). (2 marks)

(25 marks)

3 (a) List any SIX types of asset or interest, other than immovable property, which are subject to income tax on capital gains in terms of the Income Tax Act. (3 marks)

(b) Mediterranean Limited is an investment company incorporated in Malta. During the year ended 31 December 2012, it undertook the following capital transactions:

1. Disposed of its 12% equity shareholding in Waffles Limited, an investment company domiciled and tax resident in Singapore, for a consideration of €625,000. The investment in Waffles Limited was made on 1 January 2011 at a cost of €450,000. Waffles Limited is not a property company.
2. Disposed of its 5% ordinary shareholding in Roma Limited, a trading company domiciled and tax resident in Italy, which operates within the retail market. The ordinary shares confer a full right to profits available for distribution and to assets available for distribution on a winding up, but carry very limited voting rights. The selling price of the 5% shareholding was €1,250,000. The investment in Roma Limited was made on 1 January 2010 at a cost of €1,200,000. Roma Limited is not a property company.
3. Disposed of its 7% cumulative preference shareholding of €100,000 in Cirkewwa Limited, a company domiciled in Malta, for a consideration of €107,000. The preference shares had been acquired at their nominal value of €100,000 on 31 December 2009.
4. Disposed of an investment property in Sicily for €190,000 on 30 June 2012. This property had been acquired on 1 January 2009 for €150,000. On 1 January 2012, improvements costing €15,000 had been incurred in respect of this property.
5. Disposed of an investment property in Malta for €350,000. The property had been purchased on 1 July 2009 at a price of €285,000, and duty on documents and transfers of €14,250 had also been paid to acquire the property. Brokerage fees of €16,000 were incurred in connection with the disposal of this property. The brokerage fees were duly receipted and recorded by the notary in the deed of transfer.
6. Disposed of a trademark for €25,000. The trademark had been acquired as an investment on 1 January 2006 for a consideration of €10,000. Legal and other fees amounting to €8,500 had been incurred in connection with the acquisition and protection of this trademark.

Required:

In relation to each of the transactions (1) to (6), state, giving reasons, whether or not any chargeable income will arise in terms of the Income Tax Act and, if so, calculate the tax payable by Mediterranean Limited.

(17 marks)

(20 marks)

4 International Holdings (Malta) Limited (IHML) is a company which was incorporated in Malta on 2 January 2012. IHML is managed and controlled in Malta but is owned by individuals who are not ordinarily resident and not domiciled in Malta. IHML owns International Trading (Malta) Limited (ITML), which was also incorporated in Malta on 2 January 2012 and is managed and controlled in Malta.

During its first financial year ended 31 December 2012, ITML derived the following streams of income:

1. Income from local trading operations within the Maltese market. The total income chargeable to tax (computed in accordance with the Income Tax Act) amounted to €150,000.
2. Income from trading operations within the Libyan market which is attributable to a permanent establishment in Libya, and which suffered tax in Libya at the rate of 22%. The total income chargeable to tax (computed in accordance with the Income Tax Act) amounted to €200,000. Double taxation relief is claimed in relation to this income.
3. Income from foreign market trading operations which is not attributable to a permanent establishment situated outside Malta. The total income chargeable to tax (computed in accordance with the Income Tax Act) amounted to €75,000. Foreign taxes of €1,000 were suffered in relation to this income, for which double taxation relief (treaty relief) is available and will be claimed.
4. Foreign source investment income received in Malta, which does not constitute passive interest or royalties, amounting to €50,000. No evidence of any foreign tax paid is available although the company's directors have indicated that they wish to avail themselves of the flat rate foreign tax credit (FRFTC) in relation to this income.
5. Foreign source gross dividends amounting to €70,000 which suffered foreign tax at the rate of 3·5%. Credit for the foreign tax suffered will be claimed by way of unilateral relief on this income.
6. Foreign source passive royalties amounting to €35,000, in relation to which no relief for double taxation will be claimed.

ITML will distribute all of its after tax profits for the year ended 31 December 2012 by way of dividend to IHML.

Required:

In respect of each of International Trading (Malta) Limited's streams of income (1) to (6):

- **state the tax account to which the chargeable income after tax will be allocated;**
- **calculate the tax payable in Malta; and**
- **calculate the income tax refund claimable by International Holdings (Malta) Limited.**

Note: You should deal with each stream of income separately.

(15 marks)

5 **(a) State how a supply of goods is defined in the Value Added Tax Act (VATA).** (1 mark)

(b) State how a supply of services is defined in the VATA. (1 mark)

(c) State the place of supply of goods which are transported in terms of the VATA. (1 mark)

(d) State the place of supply of goods which are not transported in terms of the VATA. (1 mark)

(e) State the place of supply of goods which are installed or assembled by or on behalf of the supplier in terms of the VATA (1 mark)

(f) State the general rule governing the place of supply of services when services are provided to a taxable person. (2 marks)

(g) State the general rule governing the place of supply of services when services are provided to a non-taxable person. (2 marks)

(h) State whether VAT is chargeable in Malta when a Maltese accountancy firm provides accounting services to a non-taxable person who is established outside the EU. (1 mark)

(10 marks)

End of Question Paper