Answers

		Marks
1 Simon and Joan		
(a) (i) Case I income – tax years 2010, 2011 and 2012		
Simon and Thomas		
Assessed on the current year basis for all three years, 2010, 2011 and 2012.		
2010	Based on the year ended 31 August 2010	
	The partnership Case I adjusted income is €180,000	
	From 1 September 2009 to 30 April 2010 €180,000 x 8/12 = €120,000	0·5
	Shared equally by Simon and Thomas, €60,000 each.	0·5
	From 1 May to 31 August 2010 €180,000 x 4/12 = €60,000	0·5
	Shared 50:10:40, so Simon will get €30,000 and Thomas €6,000	0·5
	Simon will be assessable on €90,000 and Thomas on €66,000 for this year.	0·5
2011	Based on the year ended 31 August 2011	
	The partnership Case I adjusted income will be €160,000.	0·5
	Shared 50:10:40, so Simon will be assessed on €80,000 and Thomas on €16,000.	0·5
2012	Based on the year ended 31 August 2012	
	The partnership Case I adjusted income will be €170,000	
	Shared 50:10:40, so Simon will be assessed on €85,000 and Thomas on €17,000.	1·0
Ultan		
Assessed on the commencement rules for the first three years.		
2010	Based on actual income.	
	The partnership Case I adjusted income for year ended 31 August 2010 is €180,000.	
	Income from 1 May to 31 August 2010 is €180,000 x 4/12 = €60,000.	
	Shared 50:10:40, so Ultan will get €24,000	0·5
	plus	
	Year ended 31 August 2011: €160,000 x 4/12 x 40% = €21,333	0·5
	Total assessable for the year will be €45,333.	
2011	Based on an accounting period of 12 months ending in this tax year.	
	Year ended 31 August 2011: €160,000 x 40% = €64,000	1·0
2012	Based on the current year basis, year ended 31 August 2012	
	€170,000 x 40% = €68,000.	1·0
	But need to check if there is a revision to year three caused by year two actual income being less than that originally assessed.	
2011	Actual	
	Year ended 31 August 2011 €160,000 x 8/12 x 40% = €42,667	0·5
	plus	
	Year ended 31 August 2012 €170,000 x 4/12 x 40% = €22,667	0·5
	Total assessable on an actual basis would be €65,334.	
	As this is greater than the original assessment there will be no revision.	0·5
		9·0

Marks

(ii) Capital allowances – tax year 2010

	€	
Plant and equipment,		
Cost at 1 January 2010	42,000	
Less plant scrapped at cost	(10,000)	
Cost at 31 December 2010	32,000	0·5
Wear and tear at 12·5%	4,000	0·5
Scrapping of plant:		
Sales proceeds	1,000	0·5
Tax written down value (€10,000 – (€10,000 x 12·5% x 2))	7,500	1·0
Balancing allowance	6,500	0·5
Total capital allowances	10,500	

Simon's share of capital allowances for 2010 will be 50% for the full year:

€10,500 x 50% = €5,250. 1·0

4·0

(b) Income tax computation for Simon and Joan for 2010

	Simon single assessment €	Joan single assessment €	Joint assessment Simon and Joan €	
Simon				
Schedule D Case I (ex part (a)(i))	90,000		90,000	0·5
Less capital allowances (ex part (a)(ii))	(5,250)		(5,250)	0·5
Schedule D Case IV,				
Irish deposit interest (€2,500/0·75)	3,333		3,333	1·0
German deposit interest – gross	4,250		4,250	0·5
Joan				
Schedule E Salary		20,700	20,700	0·5
Gross income	92,333	20,700	113,033	
Less charges and reliefs	0	0	0	
Taxable income	92,333	20,700	113,033	
Tax at 20%	(W1) 7,280	4,140	(W2) 13,220	1·5
Tax at 25% €7,583 at 25%	1,896		1,896	0·5
Tax at 41%	(W1) 19,824		(W2) 16,134	1·0
Gross tax liability before credits	29,000	4,140	31,250	
Less non refundable tax credits				
Single/Married persons	1,830	1,830	3,660	1·0
PAYE		1,830	1,830	0·5
Rent credit	400	0	800	1·0
Medical expenses €700 at 20%	140	0	140	0·5
Deposit interest retention tax	833	0	833	0·5
Net tax before refundable tax credits	25,797	480	23,987	
Refundable tax credits				
Year of marriage relief (W3)	(1,124)	(21)		W
PAYE deducted	0	(1,400)		0·5
Net tax due/(refundable)	24,673	(941)		

Workings:

W1. Simon under single assessment will have €36,400 taxed at 20%, €7,583 at 25% and the remainder €48,350 at 41%.

W2. As a married couple €45,400 will be taxed at 20%, plus an additional €20,700 at 20%, €7,583 at 25% and the remainder €39,350 at 41%.

		Marks
W3. Year of marriage relief:		
Combined tax due as two single people, €25,797 plus €480, total €26,277		
Tax as a married couple for the year 2010, €23,987		
Annual saving due to joint assessment €2,290.		0·5
They were married on 20 July 2010, therefore six month saving due, €2,290 x 6/12 = €1,145.		0·5
Apportionment of saving:		
Simon €1,145 x €25,797/€26,277 = €1,124		0·5
Joan €1,145 x €480/€26,277 = €21		0·5
		12·0
		25·0

2 Earth Ltd

(a) (i) Case I adjusted income – year ended 31 December 2010

	€	€	
Profit before tax		606,000	0·5
Addbacks:			
Depreciation	430,000		0·5
Donations to political party	5,000		0·5
Pension contributions	33,000		1·0
Legal and professional fees	60,000		0·5
Profit on disposal of building	(121,000)		0·5
Bank interest	30,000		1·0
Branch profits – gross	228,571	665,571	0·5
		1,271,571	
Deductions:			
Other income	280,000		1·0
Capital allowances (see working)	26,000	(306,000)	W
Case I adjusted income		965,571	

Working: Capital allowances.

	€	
Balancing allowance/charge sale of industrial building		
Sales proceeds	410,000	
Less legal costs	(10,000)	
Net proceeds	400,000	0·5
Tax written down value of building (see below)	216,000	
Balancing charge	184,000	0·5
Restricted to allowances given	54,000	1·0
Summary:		
Other capital allowances (per question)	80,000	
Balancing charge	(54,000)	
Net capital allowances	26,000	0·5

	€	
Qualifying cost of industrial building acquired on 1 July 2005		
Site cost (ignore)	0	0·5
Site development cost	20,000	0·5
Building cost	250,000	0·5
Qualifying cost	270,000	
Annual rate of industrial building allowance 4%		
Tax written down value at date of sale		
€270,000 – (€270,000 x 4% x 5)	216,000	1·0
		11·0

Tutorial note: *Earth Ltd, an Irish resident company, has Case I income of €253,163 that was generated at a UK branch. UK tax of €53,163 was paid, a corporation tax rate of 21% had been applied. Under the double taxation agreement (DTA) with the UK, the net income received by the Irish company will be grossed up using the lower of the foreign and the Irish rates, €200,000/·875 = €228,571.*

Marks

(ii) Corporation tax liability 2010

	€	Marks
Case I adjusted income (ex part (a)(i))	965,571	0·5
Case III deposit interest	50,000	1·0
Irish dividend income (non taxable)	0	0·5
Total income	1,015,571	
Capital gain (see working)	180,000	W
Total profits	1,195,571	
Less non-trade charges		
Bank interest on loan to buy shares	(30,000)	1·0
Profits liable to corporation tax	1,165,571	
Corporation tax		
€1,145,571 at 12·5%	143,196	0·5
€20,000 at 25%	5,000	1·0
Less tax deducted on income earned in Northern Ireland, restricted to 12·5% of €228,571	(28,571)	1·5
Total tax payable	119,625	

Working: Capital gain

	€	Marks
Sale proceeds on sale of building	410,000	
Less legal costs on disposal	(10,000)	
Net proceeds	400,000	0·5
Cost of building (includes site cost)	(310,000)	1·0
Capital gain	90,000	
Adjusted gain:		
€90,000 x 25%/12·5%	€180,000	0·5
		8·0

(b) (i) The four companies will constitute a group for group loss relief purposes as there is a holding company, Munster Ltd, which has three subsidiaries (Cork Ltd, Kerry Ltd and Waterford Ltd) and Munster Ltd owns at least 75% of each of the subsidiaries. 1·0

(ii) Corporation tax liabilities – year ended 31 December 2010

	€	€	Marks
Kerry Ltd			
Case I		Nil	
Case III		8,000	
Total profits		8,000	
Tax at 25%	2,000		1·0
Loss relief [S396B]	(2,000)		
Tax payable		Nil	
Cork Ltd			
Case I		10,000	
Chargeable gain – adjusted		14,000	
Total profits		24,000	
Tax – €10,000 at 12·5%	1,250		
Loss relief [S420A]	(1,250)		1·0
Tax on €14,000 at 12·5%	1,750		
Loss relief [S420B]	(1,750)		1·0
Tax payable		Nil	

	€	€	*Marks*
Waterford Ltd			
Case I		12,000	
Case III		14,000	
Total profits		26,000	
Tax – €12,000 at 12·5%	1,500		
Loss relief [S420A] – €8,000 at 12·5%	(1,000)		
	500		1·0
Tax on €14,000 at 25%	3,500		0·5
Total tax due		4,000	

Loss memorandum

	Actual €	**Value at 12·5%** €	
Case I loss of Kerry Ltd	48,000	6,000	
Utilised by Kerry [under S396B]	(16,000)	(2,000)	0·5
Available for group relief	32,000	4,000	0·5
Used by Cork Ltd [under S420A]	(10,000)	(1,250)	0·5
Used by Cork Ltd [under S420B]	(14,000)	(1,750)	
Available for Waterford Ltd	8,000	1,000	0·5
Utilised by Waterford Ltd [under S420A]	(8,000)	(1,000)	0·5

Case I loss remaining nil. 0·5

The capital loss of Kerry Ltd will be carried forward and can be used by Kerry Ltd against its own capital gains in future periods. 0·5

8·0

Tutorial note: *In this solution Kerry Ltd uses its Case I loss against its own other income, Kerry Ltd then gives the unused loss to Cork Ltd (as suggested in the note) and then the balance of any loss passes to Waterford Ltd. Students should be aware that alternative order of use of the loss is possible.*

(iii) Capital losses cannot be offset against other income of the company and neither can they be surrendered to other companies in the group. It is therefore more tax efficient if, before the sale of assets outside the group, they are transferred so that all losses and gains arise in the same group company, thus allowing for the automatic offset of capital losses against capital gains. 2·0

30·0

					Marks
3	**Mark and Sarah**				
	(a) Gains and losses on transactions				
	(1) Mark		**Current use value** €	**Development value** €	
	Sales proceeds		20,000	10,000	1·0
	Less cost/market value				
	Current use value	€11,000			0·5
	Index factor 2001	1·087	(11,957)		0·5
	Development value			(15,000)	0·5
	Gain/loss		8,043	(5,000)	
	Net gain on sale	€3,043			0·5
	(2) Sarah				
	Sales proceeds			170,000	0·5
	Less cost	€129,231			2·0
	Index factor 2000/01	1·144		(147,840)	0·5
	Gain			22,160	

Relevant cost of acres sold in 2004.
€400,000 x €220,000/€220,000 + €105,000 = €270,769
Cost of the remaining ten acres, €400,000 – €270,769 = €129,231

(3) Mark					
Market value			2,800		0·5
Less cost		€1,100			0·5
	Indexation 1995/1996	1·277	(1,405)		0·5
	Enhancement work	€800			0·5
	Indexation 1999/2000	1·193	(954)		0·5
Gain			441		
Tax on €441 at 25%, €110					0·5
Marginal relief computation					
Market value				2,800	0·5
Less: exemption limit				(2,540)	0·5
				260	
Tax on €260 at 50%, €130					0·5
Conclusion: Marginal relief will not apply.					0·5
(4) Not taxable – wasting asset, non-business use.					1·0
(5) Mark					
Sales proceeds				150,000	0·5
	Cost of house	€100,000			
	Legal costs on purchase	€4,000	€104,000		0·5
	Index factor 2001		1·087	(113,048)	0·5
Gain (all taxable regardless of sum remitted to Ireland)				36,952	1·0
Furnishings not taxable – wasting assets					0·5
					15·0

			Marks
(b) (i) Capital gains tax payable/refundable for 2010			
Period 1 January to 30 November 2010			0·5
	Mark	**Sarah**	
	€	€	
(1) Land	3,043		
(2) Land		22,160	
(3) Painting	441		
Total gains initial period	3,484	22,160	0·5
Less losses forward – Sarah		(10,000)	0·5
Less annual allowance	(1,270)	(1,270)	0·5
Taxable amount	2,214	10,890	
Tax at 25%	554	2,722	0·5
Period 1 December to 31 December 2010			0·5
	Mark		
	€		
(5) Holiday home	36,952		0·5
Tax at 25%	9,238		0·5
			4·0

(ii) The tax payable for the initial period of €3,276 is due on 15 December 2010. 0·5

The tax payable for the later period of €9,238 is due on 31 January 2011. 0·5

1·0

20·0

4 George White

(a) (i) Domicile

Unlike residence there is no statutory definition for domicile – it is a case-law based test that decides if someone is domiciled or not. 0·5

At any given time, a person must have a domicile, and a person may not be domiciled in two places at the same time. The only way to lose an existing domicile is to acquire a new one. 0·5 0·5

Everyone acquires a domicile at birth, referred to as a domicile of origin. This is usually the domicile of the father, although sometimes it can be the mother's (where the parents are not married). 0·5 Until a person reaches 18, their domicile changes with that of the parent from whom they acquired their domicile at birth. 0·5 Adults can change their domicile of origin at any given time by acquiring a new 'domicile of choice'. In order to acquire a domicile of choice you must have both a physical presence in the country and an intention to reside there permanently. 0·5

3·0

(ii) Residence

In order to be deemed to be Irish resident, an individual must spend 183 days or more in the State during the year. 0·5 A day is spent if the person is present in the state at any time during that day. 0·5

Alternatively a person may be resident if they spend a combined total of 280 days during one year and the preceding year, 0·5 but excluding any year where the total time spent is 30 days or less. 0·5

It is also possible for an individual to elect to be resident as long as he/she can satisfy the Revenue that they intend to continue to be resident in Ireland in the future. Such an option would only be taken by a taxpayer if it was advantageous to do so. 1·0

3·0

(iii) Ordinary residence

Where a person has been resident in Ireland for each of the preceding three years, then he/she will become ordinarily resident in the fourth year. 1·0 He/she will then continue to be ordinarily resident thereafter until he/she has been non-resident for three consecutive years. In which case in the fourth year he/she will no longer be considered to be ordinarily resident. 1·0

2·0

					Marks
(b) Year	**Resident**	**Explanation**	**Ordinary resident**	**Explanation**	
2007	Yes	Combined total of 280 days with 2006	Yes	Has been resident in Ireland for each of the three preceding years	2·0
2008	No	Present for less than 183 days.	Yes	Within three years of leaving Ireland having been ordinarily resident.	1·5
2009	No	Present for less than 183 days.	Yes	Within three years of leaving Ireland having been ordinarily resident.	1·5
2010	No*	Present for less than 183 days.	Yes	Within three years of leaving Ireland having been ordinarily resident.	1·5

*Subject to George electing to be treated as resident given that he intends to live in Ireland in 2011, if he decided it would be tax efficient to do so. 0·5

7·0

15·0

5 John

(a) The 'two-thirds rule' applies in this circumstance. In order that the supply be vatable at 13·5%, the supply must be for a supply of services rather than the supply of goods. 0·5 0·5

As the value added tax (VAT) exclusive cost of the goods is more than two-thirds of the entire invoice, the reduced rate of 13·5% cannot be applied and the standard 21% rate must be applied to both the value of the goods and the services. John will need to amend the invoice to reflect this. 1·0

2·0

Tutorial note: *As John accounts for VAT on a receipts basis there is no error in the September/October period.*

(b) VAT return for the period September/October 2010

	Working	€	
VAT on sales – Payments received	(1)	2,141	2·0
VAT on purchases	(2)	(1,215)	1·0
Diesel for van	(3)	(58)	1·0
Service for van	(4)	(17)	1·0
Computer	(5)	0	1·0
Entertainment	(6)	0	1·0
Net VAT due		851	7·0

Workings:

(1) Payments received €18,000 including VAT of 13·5%, €18,000/1·135 x 0·135 = €2,141.
(2) Parts and appliances purchased, €7,000/1·21 x 0·21 = €1,215.
(3) Allow business related element of VAT, (€420/1·21 x 0·21) x 80% = €58.
(4) Again, allow only the business related element of VAT, €180/1·135 x 0·135 x 80% = €17.
(5) Disallowed, private use.
(6) VAT cannot be recovered on any entertainment event.

(c) 19 November 2010. 1·0

10·0