

Examiner's report

P6 Advanced Taxation (CYP)

December 2016

General Comments

The examination consisted of five questions in two sections. Candidates had to attempt two compulsory questions in Section A – question 1 for 35 marks and question 2 for 25 marks and any two out of three questions in Section B for 20 marks each.

The vast majority of candidates answered the required number of questions. Where questions were left unanswered by candidates, this appeared to be due to a lack of knowledge or poor exam technique, as opposed to time pressure.

Candidates performed particularly well on questions 2(a), 2(b), 5(a) and 5(c). The questions candidates found most challenging were questions 4(a) and 3(a). Candidates seemed to know the international aspects of the syllabus well but lacked basic knowledge of Cyprus taxation legislation as it applies to local businesses. It was surprising to see that candidates were unable to perform simple personal income tax and corporation tax calculations with accuracy.

A number of common issues arose in candidate's answers:

- Candidates did not mark clearly which part and sub-part of a question they were answering.
- Repeating the facts of the question in the answer and wasting valuable examination time. This should only be done if it is considered necessary for the markers to understand the answer.
- In a lot of cases candidates using the facts of the question addressed the taxation of transactions outside the scope of the requirements.
- Poor format of answers and handwriting
- Answering the question in point / bullet format was not used where possible.
- Vague or improper use of words to specifically explain the application of the legislation. Phrases like "eligible for taxation", "may be taxed" when a definitive answer is required do not help.
- Instead of applying the legislation to the facts of the questions and proving a simple answer candidates selected to repeat the legislation and ignore the facts.

Part A - Question 1

Part (a) of the question required candidates to calculate the taxes payable by the partners of a simple partnership for a specific tax year and the taxes that would be payable, other things remaining equal, by the partners as shareholders and salaried employees of their newly formed company in case the partnership was converted to a limited liability company. Part (a) also required a schedule comparing these taxes and asked candidates to include social insurance payments in their calculations.

Part (b) required candidates to address in a memorandum how the tax circumstances of the partners will change in such a case, when taxes will be payable and to address the VAT issue of transfer of a business as a going concern. This is a very common exercise that tax experts have to do before a meeting with such clients i.e. address the question of whether taxes are going to be more or less, how are they payable and what else they must know.

Candidates had one hour (not counting the 15 minutes allowed before the start of the exam session) to read, understand, plan and write the answer. The result was disappointing as candidates appeared incapable to even break down the requirements of part (a) into 3 simple tables and perform basic personal income tax computations. A lot of candidates prepared a memorandum for part (a) and part (b) with very little or no tax computations.

Candidates lacked basic social insurance knowledge even though most of what was required was given in the question and in the tax tables were given in front of the exam paper. Some candidates even ended up with figures for social insurance bigger than the actual salaries. Even in such cases only a few marks were lost.

Nearly all candidates knew that the profits of a partnership are taxable in the hands of the partners and the partnership is not a taxable person itself.

Part A - Question 2

Question 2 addressed the common case of two related individuals returning to Cyprus after working abroad and required basic knowledge of what makes a physical person tax resident and domiciled for tax purposes in Cyprus and what this means for tax purposes and any incentives available.

Part (a) of question 2 was answered exceptionally well and a lot of candidates scored full marks.

The only comments I have are the following:

- A lot of candidates wasted time by explaining in detail the new domiciliation provisions of the legislation. Answers could have been more concise and relevant to the facts saving time for other parts of the exam paper.
- A lot of candidates even though they have correctly concluded that Marios was not domiciled they went on to say that SDC was payable on his rental income, dividends and interest.

In part (b) of the question again candidates performed well. My comments are as follows:

- The requirements stated clearly "... the Cyprus tax implications (if any) for 2017..." – a lot of candidates wasted time addressing the gift of Supertrade shares in 2012 and dividends paid before 2017.
- Vague and incomplete answers stating "...gifts between relatives are not taxable...".
- The two main issues of no capital gains tax on the gift of Smallbuild shares even though the company owns immovable property in Cyprus and the problem of deemed dividend distribution in 2017 were missed completely or not addressed correctly.

Part (c) required candidates to state the VAT implications of the proposed transaction - lot of candidates however went on to explain the "badges of trade", payment of land transfer fees and stamp duty. Candidates who addressed the requirements correctly obtained quickly high marks.

Part B – Question 3

I was extremely disappointed with the answers to part (a) of question 3 and I want to repeat my observation that candidates seem to be well prepared for the international taxation aspects but fail to perform on basic tax computations. Only a handful of candidates showed an understanding of the difference between taxable profits, accounting profits and accounting profits after tax for deemed dividend distribution purposes on such a basic and clear scenario that they will face daily in the professional lives.

In part (c) of the question candidates provided unclear statements like "the price must be adjusted", "the taxation department will raise an assessment", "it is illegal and the company will have problems". The point of deemed dividend on the difference was missed in nearly all answers.

Part B – Question 4

Again, I was extremely disappointed with the answers in part (a) of question 4 having in mind that purchasing goods and services from abroad is part of the daily business life of any size of company. It was evident that candidates as a group had very little knowledge of these basic international aspects of VAT and concluded that the service should be bought from India. Also:

- A lot of answers suggested at the outset that Landco should register for VAT so that it could claim VAT back on the service showing little or no knowledge of VAT registration requirements.
- Even though the question clearly stated that it was a services contract candidates wasted time addressing the issue of whether it was a good or a service or went on to explain the distance sales provisions of the VAT legislation.
- Candidates used the phrase “apply reverse charge” even when buying from the Cyprus supplier without really knowing what it meant, contradicting themselves in most cases.

Part (b) of the answer showed that most candidates did not know what a partially exempt registration is.

Part B – Question 5

Answers to part (a) of question 5 were satisfactory. In some cases however, candidates showed that even though they could repeat the textbook on what makes a company tax resident of Cyprus they could not apply their knowledge to the facts and sometimes they contradicted themselves.

In part (b) answers were very satisfactory. Very few candidates however recognized the fact that profits from a permanent establishment abroad are exempt from tax in Cyprus irrespective of the existence of a double tax treaty.

Parts (c) and (d) were answered well.