



Examiners' report

P6 Advanced Taxation (MLA)

December 2007

The examination paper consisted of five questions, with two compulsory questions in section A and three questions in section B. Candidates were required to choose two questions out of the three set in section B. The questions in section A each carried 27 marks, whilst the questions in section B each carried 23 marks (ie a maximum of 100 marks achievable per candidate).

Most candidates attempted to answer all four questions. Out of the two compulsory questions in section A, all but one candidate answered both questions 1 and 2. There was an uneven distribution as far as the choice in section B is concerned. Question 4 was the most popular, whilst fewest attempts were made to question 3. However, it was still attempted by almost half the candidates.

Questions 1 and 2 in section A were not well answered overall. However in section B questions 4 and 5 were very well answered.

Some candidates fail to understand what is required of them in the question. For example, question 1 actually spelt out that none of the shareholders involved in any of the transactions were registered with the IR authorities as persons who were eligible for refunds of tax, but some candidates still dwelled on this in their answer, wasting time that could have been more productively used focusing on other areas.

As with previous sessions:

- workings and calculations are sometimes left out, which makes it difficult sometimes to follow how the candidate got to the answer
- some candidates find it difficult to label their answers properly, and the hand writing in some cases is not clearly legible
- candidates are advised to give more thought to layout and presentation (this factor has specifically been accorded marks in the questions set out in section A). New questions should always be started on a fresh page.

Marks available in respect of professional skills

Marks were available for professional skills in questions 1 and 2. In order to earn these marks candidates first had to satisfy the requirement in relation to the format of the document requested. Further marks were then available for the clarity of the answer, including the ease with which it could be marked and the degree to which the conclusions reached followed logically from the explanations and calculations provided. These latter marks were more likely to be earned by those candidates who thought about the manner in which they intended to satisfy the requirement such that there was a sense of purpose and a coherency to their answers.

Question 1

This 27-mark question tested the candidates' ability to analyse the tax implications of certain transactions including the outright sale of shares in a Maltese company or the disposal through an exchange for shares in another company.

The key error in part (a) was the failure to recognise the proper cost of acquisition of the shares in D Limited as a result of the group acquisition of the shares originally.

In part (b) very few candidates recognised the transfer by B Limited as a global transfer, and therefore left out the consequences of such global transfer. Candidates also mixed up the exemptions available under 5(9) and 5(14) of the ITA.

Part (c) was not very well answered and in part (d) no candidates actually calculated the effect on distributable profits that the transactions would have, thereby losing valuable marks.

Less than half of the candidates obtained a pass or near pass mark, which is disappointing as this is a key syllabus area for testing.

Question 2

This question tested the candidates' ability to calculate the tax implications on various sources of income arising to a Maltese company, including the calculation of relief from double taxation and their consequence on refunds to shareholders. It also required identifying relevant changes in taxation of participating holdings.

Common errors in part (a) included ignoring the parent/subsidiary directive and failure to gross up the income correctly.

In part (b) candidates failed to identify the timing issues involved in paying tax and obtaining refunds.

In part (c) candidates had problems understanding that they were only asked for the changes relevant to participating holdings. A lot of the candidates included general remarks on all the changes to the system, for which no marks were available and consequently a lot of time was wasted on work which earned no reward.

The overall achievements were very poor with less than a third of the candidates obtaining a pass or near pass mark.

Question 3

Despite being the least popular question, approximately two thirds of the candidates who attempted the question gained a pass standard.

The question tested the candidates' knowledge of the tax treatment of dividend income for a Maltese company received from outside Malta. It also tested the candidates' knowledge of personal tax issues, including the regime available to holders of a Residence Scheme Certificate.

In part (a) most candidates did well, but left out the calculation of the Malta tax paid rate, whilst in part (b) some candidates had problems identifying the correct income to take into consideration when computing the tax.

Question 4

The majority of candidates attempted this question and it had the best pass rate for an individual question on the paper.

The question dealt with international taxation issues including permanent establishment and employee income.

In part (a) the discussion of the existence of a place of business and that this must be fixed was somewhat thin sometimes. A lot of the candidates wrote comments on a "project PE", which did not generate any marks.

Parts (b) and (c) were generally well answered.

Question 5

Part (a) dealt with VAT issues, whilst part (b) and (c) dealt with stamp duty issues.

69% of the candidates attempted the question, with 75% of them achieving a pass or near pass mark.

In part (a) most candidates left out the separate return issue in connection with the reverse-charge mechanism. In part (b) the discussions on the two different exemptions (merger or division) were sometimes not very extensive, and the differences between the two not highlighted enough. Part (c) seemed to be difficult with very few candidates getting it right.

This was the second most popular optional question and more than two thirds of the candidates achieved a pass mark for this question.