Answers

Section A

1 The correct answer is: 1, 2 and 4 only

Explanation: wilful understatement of tax constitutes tax evasion, not tax avoidance.

2 The correct answer is: €25,000

Explanation: only Malta source income is taxable; interest and royalty income derived by non-residents is exempt from Malta tax.

3 The correct answer is: €0

Explanation: George qualifies as a small undertaking during 2020, and should therefore be registered as such under article 11 of the VAT Act, hence not charging output VAT to his business customers, the majority of which are also registered under article 11 hence unable to recover input VAT.

4 The correct answer is: A chargeable gain of €15,000

Explanation: the intra-group relief applies on the transfer by B Limited, and the base cost in the hands of B Limited has to be taken into account by C Limited upon its transfer.

5 The correct answer is: €18,000 x 18% = €3,240

Explanation: both the cost of the asset as well as related transport and import duties are to be included in the taxable value of the importation.

6 The correct answer is: (€78,000 x 15%) + (€6,000 x 35%) = €13,800

Explanation: overseas income qualifying for the 15% tax rate is deemed to be the first part of the individual's total income.

7 The correct answer is: €69·79 x 52 weeks = €3,629

8 The correct answer is: €58,000 – €12,000 – (50% of €2,300) = €44,850

Explanation: personal income tax deductions are taken for the alimony payment and the proportionate share of the capped school fee deduction.

9 The correct answer is: €32,940

Notional interest rate (2% + 5%)	7%
Risk capital	€620,000
Notional interest deduction (NID) = 7% of €620,000 =	€43,400
Chargeable income before NID	€36,600
NID (capped at 90% of chargeable income)	€32,940

10 The correct answer is: Option 2 – Standard rate; €2,500 x 18% = €450

Explanation: the letting of immovable property for not more than 30 days by a taxable person in the course of an economic activity, with certain exclusions, is an exception to the VAT exemption applicable to property letting.

Marks

11 The correct answer is: €33,166

	€
Consideration	720,000
Less:	
Cost of acquisition adjusted for inflation	(620,400)
Maintenance allowance (0·4% x 2 years x €605,000)	(4,840)
Chargeable capital gain	94,760
Income tax charge on capital gain at 35%	33,166

12 The correct answer is: 1, 2 and 4 only

Explanation: all of the sources listed, except for Advance Revenue Rulings (which are issued to applicant taxpayers by the Commissioner for Revenue), constitute a source of Maltese revenue law.

13 The correct answer is: 1 and 3

Explanation: shares having a fixed rate of return do not qualify as securities falling within the scope of the charge to income tax on capital gains.

14 The correct answer is: 1, 2, 3 and 4

Explanation: all of the items listed are required to be included in a dividend certificate (warrant), to the extent applicable.

15 The correct answer is: €8,608

	€
Foreign income received	64,200
FRFTC at 25%	16,050
	80,250
Less: Deductible expenses	(9,800)
Chargeable income	70,450
Tax charge at 35%	24,658
Less: FRFTC	(16,050)
Tax payable	8,608

2 marks each **30**

Section B *Marks*

1 Tony

(a) Tony is required to submit the following value added tax (VAT) filings to the VAT Department for the quarter ended 31 March 2020:

Article 10 quarterly VAT return (due for filing by 15 May 2020 or extended by seven days in the case of electronic filing). 1

Recapitulative statement to declare the value of supplies to other EU business clients (due for filing by 15 April 2020). 1

2

(b) VAT for the quarter ended 31 March 2020

	Value (exclusive of VAT) €	VAT rate/ exemption	VAT €	Marks
Output tax chargeable:				
Consultancy income from Malta business clients	21,000	18%	3,780	0·5
Consultancy income from other EU business clients (place of supply outside Malta – B2B)	9,000	N/A	0	0·5
Consultancy income from non-EU business clients (place of supply outside Malta – B2B)	4,000	N/A	0	0·5
Intra-EU acquisition (Ireland) of computers/equipment (reverse charge)	8,900	18%	1,602	0·5
Software licence costs purchased from Spain (reverse charge)	1,200	18%	216	0·5
	44,100			
Total output tax for the period			5,598	
Input tax creditable:				
Intra-EU acquisition of computers/equipment (reverse charge)	8,900	18%	1,602	0·5
Professional fees	4,000	18%	720	0·5
Software licence purchased from Spain (reverse charge)	1,200	18%	216	0·5
Bank loan interest (exempt without credit)	600	N/A	0	0·5
Bank charges (exempt without credit)	250	N/A	0	0·5
Customer entertainment (blocked)	400	N/A	0	0·5
Motor vehicle lease charges (blocked)	1,800	N/A	0	0·5
Fuel costs (blocked)	400	N/A	0	0·5
Stationery	500	18%	90	0·5
Local postage costs (exempt without credit)	300	N/A	0	0·5
	18,350			
Total input tax for the period			2,628	
VAT payable for the period (output tax – input tax)			2,970	0·5
				8
				10

Marks

2 Nathan

(a) Nathan – computation of chargeable income for the year of assessment 2020

	€	Marks
Pension income	12,000	0·5
Local interest income (taxed by way of final withholding tax)	0	1
Foreign bank interest income	9,200	0·5
Dividends:		
From Company X	9,000	0·5
From Company Y	12,000	0·5
From Company Z (not subject to further tax)	0	1
Total income chargeable to tax on assessment	42,200	
Tax computation using single rates		
Tax chargeable on assessment:		
Chargeable income at 25% less €2,725	7,825	1
Less: Credit for tax at source on dividends		
From Company X	(3,150)	0·5
From Company Y	(4,200)	0·5
Tax due by Nathan on assessment	475	
		6

(b) Residence status

Maltese personal tax residence status does not depend on nationality or any other civil status, but is a question of fact. Presence in Malta for more than 183 days in any calendar year usually means that an individual is tax resident in Malta for that year, regardless of the purpose and the nature of the individual's stay in Malta. 1

An individual who comes to Malta with the intention of establishing residence in Malta becomes resident from the date of arrival, regardless of the duration of the stay in Malta in any particular year. 1

A person who lives in Malta on a permanent or indefinite basis is ordinarily resident in Malta. A person who is in Malta for a temporary purpose may become ordinarily resident in certain circumstances. This would apply, for example, to individuals who are in Malta for more than 183 days in each year over a long period – say, for three consecutive years. It can also apply to individuals who do not stay in Malta for more than 183 days in any year but who come to Malta regularly over a long period – say, over a period of three years – and establish personal and economic ties with Malta. 2

4

10

3 **(a)** Bronto Limited (Bronto) and Tyro Limited (Tyro) form part of a loss relief group, and hence are eligible to surrender/claim qualifying losses, since they satisfy the group relief criteria, including in particular the fact that they are exclusively resident in Malta, have co-terminous financial periods and are wholly-owned subsidiaries of the same company which, under Maltese domestic tax law, qualifies as resident in Malta. 2

Mega Limited (Mega) does not form part of the loss relief group since it is dual resident (i.e. resident in Malta under Maltese domestic tax law, as well as tax resident in another country outside the EU) rather than exclusively tax resident in Malta. 1

3

Marks

(b) Chargeable trading income for the year ended 30 September 2019

(i) No group relief claims

	Mega €	Bronto €	Tyro €	
Chargeable trading income	20,000	65,000	0	0·5
Capital loss: not offset v trade income	0			0·5
Chargeable capital gain for the year			2,000	
(absorbed by trading tax loss in Tyro)	0	0	(2,000)	1
			0	
Chargeable capital gain for the year		27,000		
(partially absorbed by prior year capital loss b/f in Bronto)	0	(7,000)	0	1
Total chargeable income for the year	20,000	85,000	0	
				3

(ii) Tyro's unutilised trading tax losses for the current year can be surrendered to Bronto (€36,000 – €2,000 = €34,000). 1

Bronto's current year trading income is allocated to the Maltese taxed account and Tyro's current year trading tax loss would have been allocated to its immovable property account (had it been a profit), so the loss surrendered by Tyro can be used against against the chargeable income of Bronto. 2

3

(iii) Unused losses carried forwards to 2021

	Mega €	Bronto €	Tyro €	
Unabsorbed trading tax loss carried forward to next year of assessment	0	0	(14,000)	0·5
Unabsorbed capital loss carried forward to next year of assessment	(4,000)	0	0	0·5
				1
				10

4 James and Petra

(a) Market valuation of Marsa Limited (Marsa) ordinary shares

	€	€	
Net asset value as at 30 September 2019		267,000	0·5
Add: Goodwill (W1)		73,000	W1
Market value of immovable property	690,000		
Less: Book value of immovable property	(375,000)		
Immovable property adjustment		315,000	1
Market value of Marsa ordinary shares		655,000	

(W1) Goodwill calculation

	€	
Profit before tax:		
Year ended 30 September 2015	15,200	
Year ended 30 September 2016	22,400	
Year ended 30 September 2017	38,500	
Year ended 30 September 2018	57,100	
Year ended 30 September 2019	49,300	
	182,500	
Two years' average profits (2/5ths)	73,000	1·5
		3

			Marks
(b)	**Chargeable capital gain on the disposal of James' and Petra's shares in Marsa**		
	Transfer by James (not a transfer of a controlling interest: 20,000 x 15% = 3,000 shares)		
		€	
	Consideration: 3,000 shares at €30 per share	90,000	1
	Cost of acquisition	(3,000)	0·5
	Chargeable capital gain	87,000	
	Transfer by Petra (transfer of a controlling interest: 20,000 x 85% = 17,000 shares)		
		€	
	Transfer value: 17,000 shares at €32·75 each (market value of €32·75 per share (€655,000/20,000 shares) > consideration of €30 per share)	556,750	1·5
	Cost of acquisition	(17,000)	0·5
	Inflation deduction on immovable property (W2)	(8,114)	
	Adjusted cost	(25,114)	
	Chargeable capital gain	531,636	
	(W2) Inflation deduction re immovable property		
	$375{,}000 \times \dfrac{859{\cdot}63 - 838{\cdot}29}{838{\cdot}29}$ x 85% shareholding =	8,114	1·5
			5
(c)	**Provisional capital gains tax payable on transfer by James and Petra**		
		€	
	James: 7% of €90,000 (consideration)	6,300	1
	Petra: 7% of €556,750 (market value > consideration)	38,973	1
			2
			10

			Marks

5 Davinia and Steve

(a) Partnership income tax computation for the year of assessment 2020

	€	€	Marks
Partnership net profit before tax for the year ended 31 December 2019		130,000	
Add back:			
Depreciation	12,500		0·5
Partners' basic salaries	0		0·5
Disallowed salary (not duly reported for Final Settlement System)	9,250		1
Accountancy fees	0		0·5
Disallowed advisory fees (of a capital nature)	1,300		1
VAT administrative penalty	500		1
Pre-trading expenditure:			
– Advertising (allowed)	0		1
– Cost of feasibility study (disallowed)	1,050		1
Irrecoverable debt written off	0		0·5
Specific allowance in respect of a particular trade receivable	1,750		1
		26,350	
Deduct:			
Voluntary contribution by family and friends		(10,000)	1
Partnership chargeable income before wear and tear allowances		146,350	
Wear and tear allowances			
Shop computer equipment – €2,000 ÷ 4 years	(500)		0·5
Shop commercial truck – €30,000 ÷ 5 years	(6,000)		0·5
Non-commercial vehicle – €14,000 (capped) ÷ 5 years	(2,800)		1
		(9,300)	
Partnership chargeable income		137,050	
Allocation of chargeable income subject to normal rates between partners:			
Davinia (50%)		68,525	0·5
Steve (50%)		68,525	0·5
		137,050	
			12

(b) Computation of chargeable income for Davinia and Steve for the year of assessment 2020

	Davinia	**Steve**	
	€	€	
Share of partnership profits for the year	68,525	68,525	
Salary from partnership	18,000	18,000	1
Rental income not subject to final tax	12,000	0	1
Interest income subject to final tax	0	0	1
Chargeable income	98,525	86,525	
			3
			15

		€	Marks
6	**Honey Group**		
	Honey Trade Limited		
	Chargeable income before tax	214,000	
	– Malta tax payable at 35%	(74,900)	0·5
	– Distributable profits	139,100	0·5
	– Tax accounting allocation:		
	Primary allocation to MTA	139,100	
	Less: Secondary re-allocation to IPA (350 sqm x €250)	(87,500)	1
	Final allocation to MTA	51,600	1
	Malta taxed account	51,600	
	Immovable property account	87,500	
		139,100	
	– Tax refund:		
	Net dividend receivable by Honey Holdings Limited (H Holdings) (90% of distributable profits)	125,190	
	Total tax charge on share of MTA profits (90% x 35/65 x €51,600)	25,006	1
	Tax refund entitlement (6/7ths thereof)	21,434	0·5
	Honey Overseas Limited		
	Chargeable income before tax	160,000	
	– Malta tax charge at 35%	56,000	0·5
	Less: Double taxation relief (25% of €160,000)	(40,000)	0·5
	Malta tax payable	16,000	
	– Distributable profits	104,000	0·5
	– Tax accounting allocation:		
	Allocation to foreign income account (FIA)	104,000	1
	– Tax refund:		
	Net dividend receivable by H Holdings (50% of distributable profits)	52,000	
	Total tax charge on share of FIA profits (50% x 35/65 x €56,000)	28,000	1
	Tax refund entitlement (2/3rds thereof)	18,667	1
	Limited to tax actually payable in Malta (50% x €16,000)	8,000	1
	Honey Services Limited		
	– No Malta tax charge – company is resident and domiciled outside Malta and does not derive Malta source income	0	1·5
	– Distributable profits	98,000	0·5
	– Tax accounting allocation: not applicable		
	– Tax refunds: not applicable		
	Honey Ideas Limited		
	Chargeable income before tax	110,000	
	– Malta tax payable at 35%	38,500	0·5
	– Distributable profits	71,500	0·5
	– Tax accounting allocation:		
	Allocation to Malta taxed account	71,500	1
	– Tax refund:		
	Net dividend receivable by H Holdings (100% of distributable profits)		
	Tax refund entitlement (5/7ths of Malta tax of €38,500)	27,500	1
			15