
Answers

1 Memorandum

To: Tax manager
From: Tax assistant
Date: 18 November 2020

Re: ABC Ltd – Taxes payable for year ended 31 December 2020

	Schedule	€	Due date
Corporation tax – 1st provisional additional payment	A	3,146	31 July 2020
Corporation tax – 2nd provisional payment	A	8,146	31 December 2020
Balance of corporation tax	A	5,431	1 August 2021
Outstanding corporation tax due for year	A	16,723	
SDC on Farland rental income – six months to June (€12,000 x 75% x 3%)		270	30 June 2020
SDC on Farland rental income – six months to December (€8,000 x 75% x 3%)		180	31 December 2020
Total SDC of Farland rental income	B	450	
SDC on deemed dividends	B	54,862	31 January 2023
GHS on deemed dividends	B	2,380	31 January 2023
Total outstanding taxes payable		74,415	

With reference to the corporation tax computation set out in schedule A, the following is noted:

- Tax deducted in Farland was added to arrive at the gross rental income of €20,000.
- The provision for diminution in value of the investment in Zeta Ltd, the associated company, is not allowed for corporation tax purposes and is added back.
- The profit from the sale of the overseas flat in Farland is exempt from corporation tax as it is a capital gain. It is also exempt from capital gains tax as capital gains tax applies only to immovable property situated in Cyprus.
- Even though there is no double tax treaty between Farland and Cyprus, Cyprus allows credit for foreign tax suffered unilaterally. The credit is limited to the maximum of tax suffered abroad and the gross amount of foreign tax multiplied by the average rate of Cyprus tax. As a result, all of the withholding tax suffered in Farland on rental income is allowed against corporation tax due; as it is 10% which is less than the 12.5% Cyprus corporation tax rate (which is the average rate applicable on the rental income). It has been assumed that no capital allowances are available, as the building is more than 33 years old.

It can be seen from Schedule A, that the total estimated outstanding corporation tax for the year is €21,723. In accordance with Cyprus legislation ABC Ltd should pay at least 75% of this tax during 2020 in two equal installments; one on or before 31 July 2020 and one on or before 31 December 2020 to avoid a penalty of 10%. The €5,000 paid in June falls short of the minimum that should have been paid of €8,146 (75% x 50% x €21,723). ABC Ltd can still avoid the penalty of 10% by revising the payment for December 2020 so that it covers at least 75% of the estimated tax to avoid the penalty. There will be no penalty in such a case but there will be a small amount of interest on the delayed payment of €3,146 (€8,146 – €5,000) for the first installment. Assuming the 75% of the estimated tax will be paid by provisional payments, the balance of corporation tax due for 2020 will be payable by 1 August 2021. The table above was prepared on this basis.

Special defence contribution (SDC) on the Farland rental income is payable in Cyprus on 75% of the gross rental income for the first six months of the year on or before 30 June, and for the next six months on or before 31 December. The SDC was not paid on time for the six months to 30 June 2020 and will therefore attract a penalty of 5% of the tax due and interest at 1.75% p.a.

The current shareholding structure of the company, which is wholly owned by Nicos, a Cyprus tax resident and domiciled individual, means that the company is caught by the deemed dividend provisions of SDC. The provisions of the legislation are such that if ABC Ltd does not distribute at least 70% of its after-tax accounting profits in the two years that follow the tax year in question, then they are deemed to have been distributed and the SDC that would have been payable on such distribution has to be paid. The deemed dividend is reduced by any actual dividend paid.

The SDC computations are shown in schedule B. It is noted that a significant SDC liability will arise. It is noted from schedule B that the provision for permanent diminution in value of the investment in the associated company, Zeta Ltd, is specifically not allowed.

Assuming that the shareholder structure of the company does not change in future years there is nothing that can be done in the current or future years that can reduce this liability. Even if future years are loss making this will have no effect on the amounts due.

Given that Nicos wishes to delay payment of SDC on deemed dividends as much as possible, it is advisable that no actual dividends should be paid out of 2020 profits until December 2022. During December 2022 an actual dividend may be declared to cover the minimum of 70% of after-tax accounting profits required. ABC Ltd would then have to deduct 17% of SDC at source on the dividend and pay it to the tax department by the end of the following month which is 31 January 2023 as shown in the table above. The same payment will apply even if no dividend is declared as it would be deemed to have been declared.

General health scheme (GHS) contributions are also payable on actual or deemed dividends at the same time as SDC. GHS contributions however, are payable for a maximum income of €180,000 per year, including salaries. It was assumed in the computation, shown on the bottom of schedule B, that Nicos will continue to draw a salary of €40,000 per year. As GHS is payable on the salary of Nicos through the company's payroll GHS will only be payable on the balance of €140,000.

Schedule A

ABC Ltd – Projected corporation tax computation for the year ending 31 December 2020

	€	€
Accounting profit as per projected statement of profit or loss		328,194
<i>Add:</i>		
Tax deducted at source in Farland (18,000 x 10/90)	2,000	
Provision for diminution in investment value	155,000	
Annual company levy	350	
Depreciation	<u>52,040</u>	209,390
<i>Less:</i>		
Net gain after tax on sale of flat in Farland	143,357	
Dividends from Cyprus associated company	167,000	
Interest on bank deposit account	1,247	
Capital allowances:		
– no allowances on the warehouse land		
– 3% on warehouse construction cost	22,860	
– 20% on warehouse equipment	7,000	
– 20% on office furniture	3,000	
– 20% on computer hardware	1,100	
– 33·3% on accounting software	<u>2,233</u>	(347,797)
Taxable profit		189,787
Corporation tax at 12·5%		23,723
<i>Less:</i> Farland withholding tax on rental income (All allowed as less than 12·5%)		<u>(2,000)</u>
Corporation tax due		21,723
<i>Less:</i> provisional paid in June 2020		<u>(5,000)</u>
Corporation tax due for year		<u>16,723</u>

Schedule B

ABC Ltd – Estimated SDC and GHS per deemed dividend provisions of legislation

	€	€
Accounting profit for the year ending 31 December 2020		328,194
<i>Add:</i> Withholding tax on rental income from Farland	2,000	
<i>Add:</i> SDC on interest income (€1,247 x 30/70)	534	
<i>Add:</i> Capital gains tax paid in Farland	<u>46,931</u>	49,465
Adjusted accounting profit before tax		377,659
<i>Add:</i> Provision for diminution in investment value not allowable		155,000
<i>Less:</i>		
Corporation tax per schedule A	21,723	
Tax deducted at source on rental from Farland	2,000	
Capital gains tax paid in Farland	46,931	
SDC on rental income – Farland (€20,000 x 75% x 3%)	450	
SDC on interest income	<u>534</u>	(71,638)
Profit after tax		461,021
Minimum dividend 70%		<u>322,715</u>
SDC at 17% due		<u>54,862</u>
GHS due 1·70% x (€180,000 – €40,000)		<u>2,380</u>

Tutorial note: No marks would be lost if the adjustments for SDC on interest income, Farland withholding tax and capital gains tax are ignored as the result of the computation would be the same provided that this is addressed in the explanations.

2 (a) Tax implications for John and Kafe Ltd of the €20,000 payment

Tax implications for John

Kafe Ltd will be making a payment of €20,000 to John, who is registered for VAT, for John to surrender a right he has over immovable property. This transaction is not exempt from VAT and there is no provision for a lower rate of VAT on such a transaction. John should therefore issue to Kafe Ltd, an invoice for the payment applying VAT at the current standard rate of 19%.

This amount payable to John is termed 'location goodwill' and should be differentiated from 'business goodwill' that is paid to acquire and continue all or part of the business itself. In this case Kafe Ltd is not purchasing the 'business goodwill' of the butcher shop as it will not be continuing the butcher business.

Location goodwill is not taxable under income tax and is not taxable under capital gains tax (unless it is a right registered at the Land Registry Department) so John will not have to pay any income tax or capital gains tax.

Tax implications for Kafe Ltd

The VAT charged by John will be recoverable by Kafe Ltd as input VAT for a service received, if Kafe Ltd is registered for VAT when the payment is made or is registered within six months. Otherwise it will not be recoverable and will be a cost to the Kafe Ltd business.

For Kafe Ltd, the location goodwill paid is not an allowable expense for corporation tax purposes and there are no capital allowances available.

As Kafe Ltd has taken out a loan of €50,000 to finance the business start-up, the interest expense relating to the loan will be restricted for seven years; such that the element of the interest relating to the payment of location goodwill will not be deductible (i.e. €20,000 x the average interest rate for the year).

(b) Rental payment

In accordance with Cyprus tax legislation Kafe Ltd must deduct both the special defense contribution (SDC) and general health scheme contributions (GHS) at source from the rental payments. The SDC and GHS deducted must be paid over to the tax department by the end of the following month. Kafe Ltd also must provide two six-monthly certificates to each recipient of the income for the taxes deducted – one for the 6 months to June and one for the 6 months to December, each year.

SDC applies to tax resident and domiciled individuals. In accordance with Cyprus legislation you cannot be domiciled if you are not resident. As Maria is away from Cyprus for more than 183 days in a tax year, she is not considered a tax resident of Cyprus and accordingly she is not considered Cyprus domiciled. She is therefore exempt from SDC. Kafe Ltd must obtain a declaration by Maria in the format prescribed by the tax department (Form TD624NP) for each tax year whereby she declares her exemption giving relevant details.

Anna, however, is resident and domiciled in Cyprus and therefore SDC must be deducted from the payments made to her.

In accordance with the GHS legislation, as the source of the income for Maria is from Cyprus, she is not exempt from GHS contributions. Therefore, GHS contributions must be deducted from the payments made to both Anna and Maria.

The actual rental payments will be as follows:

Rental payment calculation

	€ Anna	€ Maria
Rent	750·00	750·00
Add VAT at 19%	142·50	142·50
Total before deductions	892·50	892·50
Less: special defense contribution (SDC) (€750·00 x 75% x 3%)	(16·88)	—
Less: general health scheme contribution (GHS) (€750·00 x 1·70%)	(12·75)	(12·75)
Net monthly rental payment for standing order purposes	862·87	879·75

(c) VAT Registration

Requirement to register

Kafe Ltd will be making taxable supplies in the course of furtherance of a business. In accordance with the VAT legislation, Kafe Ltd will be liable to register where:

- at the end of any month the value of taxable supplies (excluding VAT) for the 12 months then ended exceeds €15,600, such calculation being applied at the end of every month (historic test); or
- at any time, when there are reasonable grounds to believe that the value of taxable supplies (excluding VAT) in the next 30 days from that point in time will exceed €15,600 (future prospects test).

In the case of Kafe Ltd it seems likely that the historic test will be relevant.

The advantages and disadvantages of not voluntarily registering at the start of business:

Postponing VAT registration until the threshold has been exceeded has the advantage of keeping administration of the finances of the business simple and avoids the need for de-registration if the business does not go well.

On the sales/output side, not registering until so required delays the need to charge VAT on sales. This is an advantage as Kafe Ltd customers will be end consumers who cannot recover VAT. Consequently, prices will be cheaper than if Kafe Ltd is registered for VAT and perhaps compared to other competitor cafeterias.

On the purchases/input side, there is a disadvantage in that Kafe Ltd will not be able to recover input VAT incurred.

However, when registered for VAT at a later stage some pre-registration VAT can be recovered, subject to the following restrictions:

- VAT on any services can be recovered provided the services were acquired six months before the date of registration.
- VAT on goods can be recovered provided the goods have been acquired in the three years before the date of registration and are still held at the time of registration.

It is important to clarify here that goods include any non-current assets purchased e.g. coffee machines, tables and chairs, refrigerators, etc.

If registration is delayed too long there is a chance of failing to register on time and thereby incur penalty and lose valuable pre-registration input VAT.

Payment to John and rental payments

Both the payment to John and payment for rent are payments for services. As stated above the six month limit will apply, so care needs to be taken to register on a voluntary basis if the compulsory registration limit is not exceeded, in order not to suffer the cost of input VAT ((€20,000 + (6 x 1,500)) x 19%).

Import of coffee beans from Colombia

Irrespective of whether Kafe Ltd will be VAT registered or not, at the time of import from Colombia, as this is an import from a non-EU country, Cyprus VAT at the rate of 5% will be paid at customs control in Cyprus before the goods are released. VAT will be applied on the total cost of purchase and all related transport expenses for the beans to arrive in Cyprus.

If Kafe Ltd is registered within three years of arrival of the Colombian beans in Cyprus, then the VAT relating to the beans still in stock at the time of registration can be recovered.

Import of coffee beans from Italy

In the case of Italy, an EU country, the Italian supplier will ask for Kafe Ltd's VAT registration number. If Kafe Ltd is registered, then the Italian supplier will not charge any VAT and Kafe Ltd will have to account for the purchase using the acquisition accounting method. Using the rules Kafe Ltd will be assumed to be supplying the beans to itself and will include them in both output and input VAT.

If the import is made before Kafe Ltd is registered for VAT, then the Italian supplier will have to charge VAT at the Italian rate which may not be significantly different from the Cyprus rate. The issue here, however, is that if Kafe Ltd registers for VAT at a later stage then the Italian VAT on the beans still in stock at the time of registration will not be recoverable and will be lost.

3 (a) Tax residency of Maro Designs company

For a company to be considered tax resident in Cyprus, the company must be 'managed and controlled' from Cyprus. There is no definition of management and control in the legislation, however in practice consideration is given to:

- where the majority of the company's directors reside; and
- where the directors' board meetings are held; and
- where the general policy of the company is formulated.

The co-existence of all three criteria is essential for the company to be tax resident in Cyprus.

Although essential, sometimes the place where the meetings of the directors are held may not be conclusive. It is the place where the real management and control of a company is exercised that is important and this may, in fact, be exercised by one person; when this is the case his/her place of residency will be the company's place of residence. There are no clear-cut rules – each case is decided on its own facts.

From a purely tax perspective there is nothing wrong or illegal with the appointment of a 'nominee' director. The 'nominee' director, however, will not be exercising real management control. Maro will be doing so and she will be resident in Newland. As a result, the company will not be considered tax resident in Cyprus. The company will therefore not be taxed in Cyprus, and it will not be able to use the wide network of Cyprus double tax treaties of which Maro wishes to take advantage. Cyprus double tax treaties can only be used by Cyprus tax resident companies.

The existence of a small office and some property in the form of office equipment does not change the above position. The fact that the bank account of the company will be with a local Cyprus bank, again, will not establish management and control in Cyprus.

Given the above, there is no advantage in appointing a 'nominee' director. Maro can be the sole director herself. When Maro moves permanently to Cyprus the position will change. The company will then become Cyprus tax resident and therefore will be taxable under corporation tax in Cyprus and will be able to benefit from the Cyprus double tax treaties.

(b) Trust

The term 'trust' refers to the legal relationship which is created, in life or on death, by one person, the settlor, when property (movable and/or immovable) is put under the control of a trustee of the trust for the benefit of another person, the beneficiary for a prescribed purpose, in such a way that the real benefit from the property does not belong to the settlor or trustee but to the beneficiary.

In this case the settlor will be Maro and the beneficiary will be her sister, Eleni. One person can act in any two of the three capacities (settlor, trustee and beneficiary). Maro can also be the trustee if she so wishes.

There is no provision in Cyprus tax legislation for the separate taxation of trusts. The income of a trust is taxed as if it were the income of the beneficiary entitled to benefit from it; after taking into account any exemptions or deductions provided for, in respect of that specific type of income. However, even though the beneficiary is the person liable for any income tax due, the assessment is raised in the name of the trustee, in his/her representative capacity.

As Eleni will be the sole beneficiary, any income received by the trust (from Cyprus and worldwide) will be taxed as if it were her income.

Rental income, which is taxable under income tax, after deducting the statutory deduction of 20% of gross rental income and capital allowances, if the properties are qualifying assets, will be added to her salary and it will therefore suffer tax at the highest band of income tax. This income will also be subject to special defence contribution (SDC) at 3% of 75% of gross rental income. Rental income will also be subject to general health scheme (GHS) contributions at 1.70% subject to a maximum income of €180,000.

Following the same principle, dividends and interest received by the trust will be exempt from income tax but, as Eleni is tax resident and domiciled in Cyprus, will be subject to SDC and GHS. The current SDC rates are 30% for interest income, 17% for dividends and 1.70% for GHS (on maximum income of €180,000).

(c) Taxation of salary, dividends and capital from the Newland company

Salary

When Maro returns permanently to Cyprus she will become Cyprus tax resident once she spends 183 days in a calendar year. Once she is considered Cyprus tax resident she will be taxed in Cyprus on her worldwide income. This means that her salary from Newland will be subject to income tax in Cyprus irrespective of the fact that it is from abroad.

If Maro wishes, she can extend her travel to Newland and take advantage of the 90-day rules. These rules provide that the remuneration from the rendering, outside the Republic, of salaried services for a total aggregate period in the year of assessment of more than 90 days to an employer not resident in the Republic, or to a permanent establishment outside the Republic of an employer resident in the Republic, is exempt from tax.

Dividends

Once Maro becomes Cyprus tax resident she will also automatically be considered domiciled in Cyprus for SDC purposes. This is because, even though she was abroad for a number of years, she was not non-resident for a consecutive period of 20 years. This means that, although her dividend income will be exempt from income tax, it will be subject to SDC.

Her dividend income will also be subject to GHS contributions but will be limited to a maximum income from all sources of €180,000.

Profit on disposal of shares in Newland company

The profit on disposal of the Newland shares will be exempt from income tax. Provided the Newland company does not have immovable property in Cyprus, the profit will also be exempt from capital gains tax. GHS at the rate of 1.70% will apply on the profit however up to a maximum of €180,000 from all sources of income.

4 (a) Computation of capital gain on disposal of the shop

	€
Capital gains tax computation	
Sale price	270,000
Less: Indexed purchase cost of shop (€230,000 x 224.0/212.01)	(243,007)
Less: transfer fees (no indexation)	(12,400)
Add: Capital allowances claimed	38,710
Capital gain	53,303
Less: lifetime exemption (no previous disposals)	(17,086)
Taxable capital gain	36,217
Capital gains tax at 20%	7,243

Capital allowances claimed computation	€
Total construction cost	155,000
Less: cost of land	<u>(55,000)</u>
Cost of building	100,000
Add: proportion of developer's profit for building €100,000/€155,000 x (€200,000 – €155,000)	<u>29,032</u>
Qualifying cost for capital allowances (lower than purchase cost to Anna of €230,000)	<u>129,032</u>
Balancing charge 10 years x 3% x €129,032	<u>38,710</u>

(b) New rental agreement

Income tax implications

Rental income of €1,500 will be chargeable to income tax. Anna will be allowed a deduction of 20% on the gross rental income and no other expenses. She will continue to be allowed capital allowances until the age of the shop reaches 33 years.

The tenant is a third-party tenant so there will be no reason to adjust the rental to the market rate of €1,800 per month.

In accordance with Cyprus tax legislation the benefit that a landlord receives at the end of the lease term from the erection on land or the modification or addition to a building at the expense of a tenant it is a taxable benefit for the landlord over the term of the rental agreement. In the specific proposal that Anna has, the tenant will carry out repairs and not modifications or additions. Furthermore, at the end of lease term Anna expects for the shop to be in the same state as it is today and therefore, she will not have any benefit from the repairs. Also, the difference in rent per month of €1,500 compared to the market rate of €1,800 equals the value of repairs for the term of the rental contract of €18,000 (60 months x (€1,800 – €1,500)).

VAT Implications

As from 13 November 2017 VAT is applicable on rents at the standard rate currently at 19% provided the tenant exercises a taxable activity. The new tenant is planning to use the shop as a kiosk making taxable supplies and therefore the rental will be taxable for VAT purposes as the annual income exceeds the registration threshold of €15,600. Anna will therefore have to register for VAT, issue a VAT invoice for the rent, prepare VAT returns quarterly and pay the VAT due. This will have an administration cost for Anna but if she registers, she will be able to recover VAT on any expenses she incurs relating to the shop.

Anna has the option to exempt the shop from VAT by filing a relevant application to the tax department. This election is irrevocable and will apply until the building changes owner. The disadvantage of such an election is not being able to recover the VAT on any expenses.

Another option for Anna is to seek for a tenant making exempt supplies like a doctor, an insurance agent, a bank, etc. In which case, she will not be required to be registered for VAT.

(c) Tax assessment

The tax department may have raised an assessment for one of two possible reasons:

- The assessment is in accordance with her tax return but there is still tax payable – i.e. although Anna thought she had; she did not pay all the tax due for the year or;
- In accordance with its best judgement and/or information at its disposal the tax department decided that her tax return was incorrect and after making the necessary corrections tax was still due.

An assessment may be issued within six years from the end of the year of assessment or in the case where there is a willful default or fraud (as it appears to the Commissioner) within 12 years from the end of the year of assessment. As the assessment relates to 2015 it has been issued within the six years provided by the legislation.

Anna has the right to file an objection, by the end of the month following the month in which the assessment was raised. An objection should be in writing and must set out specifically the grounds of objection, providing any relevant information.

	<i>Available</i>	<i>Maximum</i>
1 Corporation tax		
Begin computation with accounting profit as given	0·5	
Add tax suffered in Farland and explain that the gross income is taxable	1·5	
Add provision for diminution in value of Zeta	1·0	
Add company levy	0·5	
Add depreciation	0·5	
Deduct net proceeds from flat in Farland and explain that it is not taxable in Cyprus under corporation tax – clarify that it is a capital gain not a trading profit	1·5	
Deduct dividends from associated company as exempt from corporation tax	0·5	
Deduct interest on bank deposit account as exempt from corporation tax	0·5	
Capital allowances:		
– No allowances on land	0·5	
– 3% on construction cost warehouse	0·5	
– 20% on warehouse equipment as acquired in 2017	0·5	
– 20% on office furniture as acquired in 2017	0·5	
– 20% on computer hardware	0·5	
– 33% on accounting software	0·5	
Deduct Farland tax – explain the relief allowed unilaterally – explain all tax allowed as under 12·5% which is average applicable in rental income	2·0	
Deduct provisional tax paid in July	0·5	
State and explain deadlines for payment of provisional tax	1·0	
Recognise that 1st instalment was short and explain on how revision can be made – state penalty of 10% on shortfall of 75%	1·5	
Assuming only 75% paid compute balance of tax payable and state date of payment	1·0	
Only interest payable on adjustment of December instalment – no penalty	0·5	
	<u>16·0</u>	15·0
Special Defence Contribution – rental income		
Compute total SDC payable on Farland rent	1·0	
Explain dates of payment – compute SDC payable for each 6-month period – state dates due – state that penalty and interest will apply on SDC due on 30 June 2020	2·0	
Special Defence Contribution – deemed dividend		
Start with accounting profit	0·5	
Provision for diminution in investment value	1·0	
Deduct corporation tax	0·5	
Deduct SDC on Farland rental income	0·5	
Explain no need to adjust for withholding tax paid in Farland/capital gains tax in Farland/SDC on interest – or alternatively show on computation	1·5	
Apply 70% of profit after tax	0·5	
Apply 17% on profit after tax	0·5	
ABC Ltd could by deemed dividend provisions as shareholders if tax resident and domiciled	0·5	
State that 70% of profits are deemed to be distributed in two years	1·0	
Reduced by actual dividends	0·5	
State date of payment of SDC and explained paid in the month following payment of dividend	1·5	
Explain that nothing can be done in future that will reduce this liability	1·0	
Delay by not paying actual dividend until December 2022	0·5	
	<u>13·0</u>	12·0
Other taxes		
No capital gains tax payable in Cyprus on Farland flat sale as property not situated in Cyprus	1·0	
GHS payable on actual or deemed dividend	1·0	
Contributions on a maximum of €180,000 which includes salary and other income	1·0	
Compute amount using 1·70% on €140,000 – state assumption that salary will remain the same	1·0	
State date of payment of GHS on dividends	0·5	
	<u>4·5</u>	4·0

	<i>Available</i>	<i>Maximum</i>
Format and presentation of the memorandum	1·0	
Clarity and effectiveness of communication	2·0	
Logical flow of calculations	1·0	
	<u>4</u>	<u>4</u>
		<u>35</u>

Note to markers: *Candidates should be awarded the mark if they correctly explain in the commentary something which is (correctly) not included in the computation, but not if they fail to mention in the commentary (i.e. no mark for leaving out of the calculation without explaining why).*

2 (a)	Payment not-exempt and no provision for lower rate so standard rate of 19% applicable – John should issue VAT invoice	1·5	
	Kafe Ltd can recover the VAT paid if registered at the time or within six months	1·0	
	'Location' goodwill as opposed to 'business' goodwill	1·0	
	No income tax or capital gains tax for John	1·0	
	Not allowed for corporation tax and capital allowances not available for Kafe Ltd	1·0	
	Interest restriction for 7 years for Kafe Ltd on the cost of purchase	1·0	
		<u>6·5</u>	6·0
(b)	Companies have to deduct SDC and GHS from rental payments	1·0	
	Pay tax deducted in following month	0·5	
	Supply six-monthly certificates	1·0	
	SDC applies on tax resident and domiciled – applicable on Anna – Maria not resident thus not domiciled	2·0	
	Maria should provide declaration in tax department prescribed format to Kafe Ltd	0·5	
	GHS applies to both as Cyprus source income	1·0	
	Computation:		
	Apply VAT on gross amount of rent	1·0	
	Use correct SDC percentage and rate on amount before VAT and deduct	1·0	
	Use correct GHS rate on amount before VAT and deduct	1·0	
		<u>9·0</u>	8·0
(c)	Define historic test of compulsory VAT registration	1·0	
	Define future prospects test for compulsory VAT registration	1·0	
	Historic test applies to Kafe Ltd	0·5	
	Less administration costs	0·5	
	Cheaper price to customers – marginally	1·0	
	Delay in recovering input VAT	1·0	
	Define limits for pre-registration input VAT for goods and services separately	1·0	
	Fail to register on time – penalties – loose input VAT	0·5	
	Payment to John and rent are supplies of service – 6 months – register voluntarily if necessary, to recover	2·0	
	Import from Colombia – Cyprus VAT will be on total cost of importation irrespective of registered or not but can be recovered on stock in hand at time of registration	2·0	
	For Italy if registered – reverse charge with explanation	1·0	
	For Italy if not registered – then Italian VAT – cannot be recovered on stock in hand if registered later	1·0	
		<u>12·5</u>	<u>11·0</u>
			<u>25</u>

	<i>Available</i>	<i>Maximum</i>
3 (a) Tax resident if management and control exercised in Cyprus	1·0	
Three criteria (0·5 each) + co-existence essential (0·5)	2·0	
Nothing wrong or illegal with nominee director for tax purposes	1·0	
But real management control is with Maro thus company not managed and controlled in Cyprus – state that in such case not taxed in Cyprus	1·5	
Existence of office/equipment/bank account in Cyprus not relevant	1·0	
No difference if Maro is Director of the company from the start – when she returns to Cyprus company will be taxable in Cyprus	1·0	
	<u>7·5</u>	7·0
(b) Trust is a legal relationship, in life or on death, settlor, trustee, beneficiary	1·5	
Person can only be two out of the three parties – Maro can be settlor and trustee	0·5	
No special taxing provisions for trusts in Cyprus	0·5	
Income is taxed as if it were the income of the beneficiary on the basis of his or her tax status and applies to worldwide income	1·5	
But tax return made by representative and assessments issued in the name of representative	1·0	
Rental income (after statutory deductions) added to sister's salary and taxed at highest rate	1·0	
Dividends and interest only SDC and GHS	1·0	
Rental income also subject to SDC and GHS	1·0	
	<u>8·0</u>	7·0
(c) When Maro returns she will become Cyprus tax resident once she spends 183 days in a tax year and taxed on worldwide income	1·0	
Salary taxed in Cyprus irrespective of abroad source	1·0	
Maro may take advantage of 90-days rule – explanation	1·0	
When she becomes tax-resident she will automatically become domiciled as she was not non-resident for 20 consecutive years	1·0	
Dividends exempt from income tax Liable for SDC and GHS on dividends	1·5	
Profit on disposal of shares not taxed in Cyprus – i.e. exempt from income tax and capital gains tax, but GHS on a maximum total income of €180,000	1·5	
	<u>7·0</u>	6·0
		<u>20</u>

	<i>Available</i>	<i>Maximum</i>
4 (a) Capital gains tax computation		
Start with market value	0·5	
Indexation applied on purchase cost (0·5 each number)	1·5	
Deduct transfer fees with no indexation	0·5	
Add capital allowances claimed:		
– Deduct land cost from total construction cost	1·0	
– Compute proportion of developer's profit	1·5	
– Compute capital allowances claimed for 10 years	1·5	
Deduct lifetime exemption	0·5	
Use correct capital gains tax rate	0·5	
	<u>7·5</u>	7·0
(b) Income tax implications		
Rental income taxed as normal – no adjustment that it is less than market rate – third party tenant	1·0	
Deduction of 20% for expenses	0·5	
Capital allowances allowed until shop 33 years old	0·5	
Possible taxable benefit for landlord if erection, addition or modification	1·0	
If so benefit allocated over lease term	0·5	
But new tenant only repairs	0·5	
No benefit for Anna at the end	0·5	
Difference in rent equal to cost of repairs	0·5	
VAT Implications		
Rent now subject to VAT at standard rate	1·0	
Kiosk taxable supplies – not exempt	1·0	
Over threshold of €15,600 so Anna must register/issued invoice/file VAT returns quarterly and pay VAT – thus additional admin cost	1·5	
Option to exempt property – it is irrevocable until change of owner	1·0	
If exempt cannot recover VAT on expenses	1·0	
Option to find a tenant making exempt supplies	0·5	
	<u>11·0</u>	10·0
(c) Assessment		
Raised per tax return but tax is still due	0·5	
Raised if tax department disagrees	0·5	
6 years – 12 years limit explained – Anna case in time	1·5	
Raise objection by the end of following month	1·0	
	<u>3·5</u>	<u>3·0</u>
		<u>20</u>