AGENDA

- Jurisdiction to tax
- Taxable persons
- Basis of taxation
- Taxable income and gains
- Source of income and gains
- Tax rates
- Introduction to residence under tax treaties
- Summary
JURISDICTION TO TAX
JURISDICTION TO TAX

• The right of a country to tax the income of a person is based on a factor that determines that person’s connection to that country.

• Most countries tax on the basis of an established nexus with that country whether due to source or residence and therefore we normally speak of two types of jurisdiction to tax:
  • **Source jurisdiction**: Nexus between Malta and the income;
  • **Residence jurisdiction**: Nexus between Malta and the taxpayer.
To understand the precise scope of taxation in Malta, the questions to be answered are the following:

• Who are taxable persons:
  • What is meant by persons?
  • What is meant by residence, ordinary residence and domicile?

• What is taxable:
  • What is meant by income and capital gains?
  • What constitutes income/gains arising in Malta and income/gains arising outside Malta?

• How much is taxable?
  • What are the tax rates?
TAXABLE PERSONS
DEFINITION OF PERSON

Article 2 ITA – ‘Person’ includes ‘a body of persons’:

• ‘Body of persons’ means any body corporate, including a company, and any fellowship, society or other association of persons, whether corporate or unincorporate, and whether vested with legal personality or not.

• ‘Company’ means:
  • A limited liability company constituted under the Companies Act or under the Commercial Partnerships Ordinance or any other company constituted as such under any other law in force in Malta;
  • Any partnership en nom collectif and any partnership en commandite constituted under the Companies Act or under the Commercial Partnerships Ordinance;
  • Any body of persons constituted, incorporated or registered outside Malta, and of a nature similar to the aforesaid partnerships; and
  • Any co-operative society duly registered as such under the appropriate law for the time being in force in Malta.
Domicile of persons has a legal meaning and is strictly speaking not a tax matter.

It is not determined by nationality or residence and various conditions surrounding a person should be taken into consideration.

Generally considered to be the place of a person’s permanent home; i.e. the place where a person originated from and belongs by origin as opposed to the place where a person lives.

Maltese law does not contain any rules in this respect.
DOMICILE FOR INDIVIDUALS (CONT.)

Domicile of origin:

- A person’s domicile of origin is acquired at birth.
- The domicile of origin typically follows the domicile of the father, or in his absence, the domicile of the mother.
- The domicile of origin is not necessarily the country in which a person is born.
- The domicile of origin is kept until a domicile of dependence or choice is acquired.
Domicile of dependence:

• Until a person has the legal capacity to change its domicile of origin, the domicile will follow that of the person on whom that person is legally dependent.

• If the domicile of a person changes, the domicile of any dependents will automatically change into the same domicile.
Domicile of choice:

- A person can acquire a new domicile by leaving his current country of domicile and change his residence and settle in another country. This is not easy and the person must provide an intention to live in a new place of residence permanently or indefinitely, with no realistic intention to return to the previous country of domicile.

- There is a rebuttable presumption in favour of retention.

- _Grech v Busuttil 7.12.53 (COA)_: This case explicitly stated that it is not enough for a person alleging a change in domicile to prove his change in residence, but he must also prove the will and intention to abandon his domicile of origin so as to assume a new domicile, that is, his domicile of choice, in a different country.
DOMICILE FOR INDIVIDUALS (CONT.)

Domicile of choice:

- Whoever alleges a change in domicile must prove it; evidence is required of:
  - Protracted residence in the country of choice;
  - Which must prove an intention to abandon the domicile of origin;
  - Plus clear, conclusive and unequivocal evidence of an intention not to return to the previous domicile.
DOMICILE FOR INDIVIDUALS (CONT.)

Fundamental principles:

- No person can be without a domicile.
- Any person can only have one domicile at a time.
- Typically, a person is domiciled in the country where he has his permanent home.
- A person’s existing domicile will continue until he has acquired a new one.
- Domicile is distinct from nationality or residence, although both can have an impact on a person’s domicile.
Gaines-Cooper

• Facts:
  • Mr Gaines-Cooper, a UK-born individual appealed against a number of assessments raised by Her Majesty’s Revenue and Customs.
  • Gaines-Cooper, born and raised in England is a successful businessman who has set up and ran many different businesses.
  • He first visited the Seychelles in 1973. In 1975 he purchased a home and set up a business there and in 1976 he was granted a residency permit. In 1993 he married a Seychelles citizen.
  • He retained a home and many connections in England; his son was educated there and his wife lived there during term time, although holidays were spent in the Seychelles.
  • Gaines-Cooper had retained his British citizenship and had not applied for citizenship in the Seychelles.
  • He married in England, his wife applied for British citizenship and his son was educated in the UK.
Gaines-Cooper

- Conclusion:
  - Domiciled in the UK. It was found that Gaines-Cooper had not abandoned his English domicile of origin in favour of a Seychelles domicile of choice.
  - Gaines-Cooper had retained a strong connection in England – particularly in a relatively small area of England – where he had friends, family and business and social connections.
  - It was noted that in order for a person to lose his or her domicile of origin, ‘there must be an intention to reside in a certain territory indefinitely’.
  - Although it was believed that the Seychelles was a very important part of his life, he had not shown that he had “wholly rejected England.”
  - The number of days spent in the UK was not so relevant, rather the quality of the physical presence was considered.
DOMICILE FOR LEGAL PERSONS

Domicile by operation of the law:

• Legal persons owe their existence to the legal system under which they have been incorporated or established.

• The domicile of legal entities is the country which legal system gives the person its legal personality, i.e. the country under the laws of which the person has been incorporated or established.
Domicile of choice:

- In terms of Maltese law, the domicile of origin of a limited liability company and a company, which is similar in nature to a limited liability company, can be substituted for a domicile of choice without impacting the continuity and the property of the company (no new legal entity will be created and the company would retain all its assets, rights, liabilities and obligations).

- A company which is similar in nature to a limited liability company known under the laws of Malta but which is incorporated outside Malta (in a country which entitles the company to continue/migrate to Malta), may request to be registered in Malta as a company continued in Malta.

- A company incorporated in Malta, may seek to continue/migrate to a country outside Malta, the laws of which permit the proposed continuation.
Article 2 ITA – Resident in Malta:

- When applied to an individual means an individual who resides in Malta except for such temporary absences as to the Commissioner for Revenue may seem reasonable and not inconsistent with the claim of such individual to be resident in Malta.
RESIDENCE FOR INDIVIDUALS

Article 13 - Temporary residents:

- Tax shall not be payable in respect of any income arising outside Malta to any person who is in Malta for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in Malta at one or more times for a period equal in the whole to six months in the year preceding the year of assessment.

- Some element of physical presence;
- Intention & Purpose;
- 183 day rule.
RESIDENCE FOR LEGAL PERSONS

Article 2 ITA – Resident in Malta:

• When applied to a body of persons, means any body of persons the control and management of whose business are exercised in Malta or which is incorporated in Malta.

Incorporation principle:

• A company is considered resident when it is incorporated in Malta.

Management and control test:

• A body of persons is resident in Malta if the control and management of its business is exercised in Malta.
Management and control test:

• The ‘control and management’ of a company’s business refers to that practiced and exercised at the level of the board of directors of the given company.

• In practice, the following are typically considered relevant for the purposes of determining tax residence in Malta:
  • The majority of the directors are persons who are resident in Malta.
  • All meetings of the board of directors are physically held in Malta.
  • The company has properly equipped office space at its disposal in Malta.
  • The company has sufficient human and technical resources at the disposal of the company in Malta so as to take key management and commercial decisions from Malta.

• Tax residence certificate may be obtained.
RESIDENCE FOR LEGAL PERSONS – CASE LAW

Cesena Sulphur Co v Nicholson

• Facts:
  • The company was founded for trading in Italy and registered in the UK.
  • By the articles of association the company UK affairs are managed by a board of 8 directors, holding their meetings in UK.
  • There is an Italian delegation, consisting of 2-3 members of the board resident in Italy, by whom all the practical management of the company is carried on.
  • All operations connected with the manufacture and sale are exclusively carried on at Cesena, but the Italian members of the board are in constant correspondence with their co-directors resident in France and in England, who meet at the English registered office.
  • Copies of the company’s books of accounts are sent to London, but all originals kept in Italy.
  • The principal banking accounts are kept in Turin and Paris.
RESIDENCE FOR LEGAL PERSONS – CASE LAW (CONT.)

Cesena Sulphur Co v Nicholson

• Conclusion:
  • Resident in the UK.
  • The company resides where its governing body is to be met with and found, and where its governing body exercises the powers conferred upon it by the Act and by the articles of association, where it meets and is in bodily and personal presence for the purposes of the concern.
Laerstate

• Facts:
  • Laerstate BV (LBV), a Dutch company, was the vehicle used by DB (a UK resident) to acquire and subsequently dispose of his interests in Lonrho plc.
  • Advice relating to the sale of the shares was given to DB by his solicitors at meetings in London, and by letters addressed to him, and DB negotiated the details of the transaction. It did not appear that JT was kept up to date with these events during the relevant time.
Laerstate

- Conclusion:
  - Resident in the UK.
  - LBV was UK tax resident by virtue of being managed and controlled from the UK. Although JT had the power to bind the company, it was DB who made the key decisions, and these decisions were simply ‘rubber stamped’ by JT.
ORDINARY RESIDENCE FOR INDIVIDUALS

• Nationality or citizenship is not relevant.
• It is the fact pattern of a person’s presence in Malta which is to be taken into account when deciding upon the degree (simple vs. ordinary) of residence.
• The word indicates a level of continued residence which is higher than a mere residence and therefore implies a narrower concept than simple residence.
• An intention to spend a significant period of time in Malta (does not have to be permanent or indefinite) and entails a degree of continuity.
ORDINARY RESIDENCE FOR INDIVIDUALS (CONT.)

- A person’s intentions, lifestyle and habits are not, of themselves, factors which are to be taken into account in determining ordinary residence in Malta.
- Only if the factual residence in Malta subsists for a repeated number of successive years, shall a person eventually (i.e. not already from the moment he first arrives) be considered to voluntarily, habitually and normally reside in Malta for a settled purpose, and classified as ordinary resident in Malta.
Lysaght v IRC & Shah v Barnet London Borough Council

• A ‘continued regular and habitual mode of life in a particular place, adopted voluntarily and for a settled purpose’. Education, business or profession, employment, health, family, or merely the love of the specific place spring to mind as common reasons for a choice of regular abode, but there may well be many others.

• The purpose of the place of living must have a sufficient degree of continuity to be properly described as settled.

• ‘…the converse to 'ordinarily' is 'extraordinarily' and that part of the regular order of a man's life, adopted voluntarily and for settled purposes is not 'extraordinary'.}
Levene v IRC

• Facts:
  • Mr Levene, a British subject, leased a house in London for a period of time after which he stayed at hotels in the UK or abroad.
  • He then went abroad for a period of 5 years and spent between 4 and 5 months each year in the UK to obtain medical advice, visit relatives, take part in religious observances and deal with his income tax affairs.
  • Eventually he leased a flat abroad and expected to continue to make visits to the UK though not to such an extent.
Levene v IRC

• Conclusion:
  • Resident and ordinarily resident in the UK.
  • Mr Levene originally left the UK and went to live abroad for the purpose of occasional residence only.
  • The word ‘reside’ is a familiar English word and is defined in the Oxford English Dictionary as meaning ‘to dwell permanently or for a considerable time, to have one's settled or usual abode, to live in or at a particular place. The expression 'ordinary residence' is found in the Income Tax Act 1806 and features again in the later Income Tax Acts, where it is contrasted with the usual or occasional or temporary residence and it connotes residence in a place with some degree of continuity, apart from accidental or temporary absences.
The Pavarotti case

• Conclusion:
  • The Italian Tax Court concluded that the concept of ‘residence’ used in Italian civil and tax law and which is made up of the concepts of ‘habitual’ and ‘abode’ could not be utilized in the case because: Pavarotti was enrolled in the Registry of Italian Citizens Residing Abroad and it was very hard to verify the intention to continue to live in his current abode.
  • The Court examined the concept of ‘domicile’ under Italian civil law: the place where a person has established the ‘main centre of his business and interests’. The Court explained that the expression ‘interests’ used to identify a taxpayer’s domicile covers both economic and personal interests. In the case at issue the Court held that the economic and personal interests of the taxpayer were in Italy.
  • The Court concluded that, although he resided abroad, the taxpayer maintained the centre of his business and interests, i.e. his domicile, in Italy and therefore he was liable to individual income tax there under Italian domestic law.
Lauren Blanc case

• Facts:
  • Lauren Blanc (a French football player) was living with his mother in France, however, he then moved to Italy in order to play football for two seasons.
  • In Italy he purchased a house together with his girlfriend.
  • During the years he spent in Italy he occasionally travelled to France to represent the French national team as well as to spend some time with his mother in France.
  • Blanc’s main source of income was his remuneration from playing football in Italy, but he also received some remuneration for promotional activities carried out in France and from some investments held in France (rental income).
Lauren Blanc case

- Conclusion:
  - Despite the fact that he had not informed the tax authorities that he had transferred his residence to Italy, the Court recognized the fact that he had held the centre of his vital interests in Italy during the time he was playing in Italy.
  - In this respect the Court noted that income derived from the football activity in Italy was much more significant than income derived from activities carried out in France (football wages much higher than any rental income fee).
  - The Supreme Court discarded the mother’s house as ‘personal home’ accordingly and considered that the football player had centred his career, his own personal life, and a house, in Italy for the years at stake, and that he should therefore be regarded as an Italian tax resident.
ORDINARY RESIDENCE FOR LEGAL PERSONS

- Should the concept of ordinary resident also apply to companies, a company may be considered ordinary resident in Malta if the residence in Malta subsist for a repeated number of successive years.
- Companies are classified as ordinary resident in Malta if they are incorporated in Malta.
- Since the tax treatment in Malta of companies incorporated outside Malta but ‘resident’ or ‘ordinary resident’ in Malta is identical, the distinction is of no practical importance.
RESIDENCE VS. ORDINARY RESIDENCE

• Ordinary residence implies a narrower concept than mere or simple residence.
• Typically implies repeated/successive (voluntary) residence over a number of years.
• Exceptionally a person may be ordinarily resident in Malta in a given year without being resident in Malta in that year.
• Locally equated with habitual residence and is considered to be that country which forms part of the taxpayer’s life’s natural order of things.
BASIS OF TAXATION

Worldwide basis:

• Liability to tax in Malta on Malta source income and capital gains and on foreign source income and capital gains.
  • On all income derived from or arising in Malta.
  • On all income derived from or arising outside Malta whether received in Malta or otherwise.
  • On all capital gains derived from or arising in Malta.
  • On all capital gains derived from or arising in Malta whether received in Malta or otherwise.
BASIS OF TAXATION (CONT.)

Source and remittance basis:

- Liability to tax in Malta on Malta source income and capital gains and on foreign source income remitted to Malta.

- Under UK law general earnings are treated as remitted to the UK at the time when money or property is brought to, received, used or enjoyed in the UK, in any manner or form.

- Remittance would thus not be restricted to physical transfers of money from a foreign bank account to Malta. Remittance can also occur when, inter alia, funds are used to repay a loan in Malta or to settle invoices (e.g. from service providers), when a cheque from the foreign bank account is cashed or used in Malta or when the credit card of the foreign bank account is used in Malta.

- As applicable to companies: The Companies Act requires that foreign companies which establish a place of business in Malta register as a so-called ‘oversea company’ with the Malta Registrar of Companies.
Source basis:
- Liability to tax in Malta on Malta source income and capital gains.
## PERSONAL STATUS IN MALTA

<table>
<thead>
<tr>
<th>Personal Status</th>
<th>Basis of Taxation in Malta</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domiciled &amp; ordinary resident</td>
<td>Worldwide basis</td>
</tr>
<tr>
<td>(Ordinary) resident but not domiciled</td>
<td>Malta source and remittance basis</td>
</tr>
<tr>
<td>Domiciled but not (ordinary) resident</td>
<td>Malta source and remittance basis</td>
</tr>
<tr>
<td>Non-resident and non-domiciled</td>
<td>Malta source basis</td>
</tr>
<tr>
<td>Temporary resident</td>
<td>Malta source basis</td>
</tr>
</tbody>
</table>
THE CHARGING PROVISION

Article 4(1) ITA

- Income tax shall be payable at the rate or rates specified hereafter upon:

  - **Capital** gains accruing or derived from Malta or elsewhere, and whether received in Malta or not; and
  - **Income** of any person accruing in or derived from Malta or elsewhere, and whether received in Malta or not in respect of [...].
THE CHARGING PROVISION (CONT.)

Proviso to Article 4(1) ITA

• Provided that:
  • In the case of income arising outside Malta to a person who is not ordinarily resident in Malta or not domiciled in Malta, the tax shall be payable on the amount received in Malta.
  • No tax shall be payable on capital gains arising outside Malta to a person who is not ordinarily resident in Malta or not domiciled in Malta.

• Remittance basis taxation and exemption of foreign source capital gains shall not apply to an individual whose spouse is ordinarily resident and domiciled in Malta.
THE CHARGING PROVISION (CONT.)

Article 13 ITA

- No tax shall be payable in respect of any income arising outside Malta to temporary residents:
  - If their stay in Malta is for temporary purposes only and they have no intention of establishing residence in Malta and they do not actually reside in Malta for an aggregate period of 6 months or more in a year.
TAXABLE INCOME AND GAINS
CHARGEABLE INCOME

• Article 56 ITA
  • The tax upon the chargeable income of every person shall be charged at the following rates…

• Article 2(1) ITA
  • ‘Chargeable income’ means the total income of any person for any year.
  • ‘Total income’ means the aggregate amount of the income of any person from the sources specified in Part II of the ITA, remaining after allowing the exemption under Part III of the ITA and the deductions under Part IV of the ITA, and computed in accordance with the provisions of Part V of the ITA.

• Part II of the ITA: Imposition of income tax
  • Article 4: Income
  • Article 5: Capital gains
INCOME

Article 4 ITA

Income tax shall be payable in respect of:

• Active income:
  • Gains or profits from any trade, business, profession or vocation, for whatever period of time such trade, business, profession or vocation may have been carried on or exercised including the profit arising from the sale by any person of any property acquired by him for the purpose of profit-making by sale, or from the carrying on or carrying out of any profit making undertaking or scheme (self-employment);
  • Gains or profits from any employment or office, including the value of any benefit provided by reason of any employment or office;
INCOME (CONT.)

Article 4 ITA

Income tax shall be payable in respect of:

• Passive income:
  • Dividends, premiums, interest or discounts;
  • Any pension, charge, annuity or annual payment;
  • Rents, royalties, premiums and any other profits arising from property;
  • Gains or profits not falling under any of the foregoing paragraphs.
Article 5 ITA
Categories of capital assets which would, subject to exemptions, constitute a chargeable receipt where a gain or profit is derived upon the transfer (or deemed) thereof:

- Immovable property;
- Securities, business, goodwill, business permits, copyright, patents, trademarks and trade-names;
- Beneficial interest in a trust which includes property referred to in the points above; and
- Interests in a partnership.

- List of chargeable assets is limited.
SOURCE OF INCOME AND GAINS
SOURCE OF INCOME AND GAINS

Active vs. Passive

• Undefined terms:
  • Arising in Malta
  • Accruing in Malta
  • Derived from Malta

• Reliance on generally accepted principles.
ACTIVE INCOME

- This is considered to arise in the country where the income earning activity takes place.
- Typically it is the country of residence of the tax payer.
- Income from the performance of services (e.g. employment income) is generally treated as arising where the services are performed, although other factors should also be taken into consideration, such as the place of residence of the payer and on behalf of whom the work is performed.
- Malta IRD clarification: Directors’ fees, being fees and similar payments received in the person’s capacity as a member of the board of directors, are considered as income arising where the company is resident, i.e. where the company has its management and control.
PASSIVE INCOME

• This is generally considered to arise in the country where the income earning asset is situated.

• Immovable property: In the case of income derived from immovable property, such as rental income, this would be the relevant state where the property is situated.

• Dividends: There are no clear rules. Dividend income arises primarily in the country of registration and incorporation of the distributing entity.
PASSIVE INCOME (CONT.)

• Interest/royalties:
  • Typically the county of residence of the debtor or the licensee (i.e. the county of residence of the payer of the interest or royalties).
  • It is however important that the royalty or interest income is derived from the mere exploitation of an intangible asset or from the availability of funds without the conduct of additional activities in the nature of trade.
  • This will ensure the income to be classified as passive.
  • Should any additional activities/functions be carried on, or should any additional risks or responsibilities be assumed, the income may change its nature and may then be classified as active income.
CAPITAL GAINS

• These are generally considered to arise in the country where the capital asset is situated.

• Immovable property: The source of capital gain derived from the transfer of an immovable would be the state where the immovable is situated.

• Intellectual property: With regards to intellectual property, the concerned state would be where such property is registered.

• Shares: Shares in a company are generally taxed in the country of registration and incorporation of the legal entity. This may give rise to the uncertainty of the residency of the company which must first be determined.
TAX RATES
TAX RATES

- Article 56(1)(b) ITA – Individual income tax rates.
- Article 56(1)(a) ITA – Individual income tax rates for married couples.
- Article 56(1)(b) proviso ITA – Individual income tax rates for parents.
- Article 56(1)(c) ITA – Individual income tax rates for non-residents.
- Article 56(5) ITA – Corporate income tax rate.
INTRODUCTION TO RESIDENCE UNDER TAX TREATIES
RESIDENCE UNDER TAX TREATIES

• Most countries tax on the basis of an established nexus with that country whether due to source or residence.

• This may give rise to a situation where more than one country claims jurisdiction to tax, resulting in conflicts and therefore: double taxation.

• Examples of such conflicts include:
  • Residence – residence;
  • Residence – source;
  • Source – source.
TREATY ACCESS

Article 1
This Convention shall apply to persons who are residents of one or both of the Contracting States.

• Article 3 – includes an individual, a company and any other body of person.
• Article 4 – provisions regarding the tax residence of individuals and companies for treaty purposes.
TREATY ACCESS (CONT.)

Access to treaty benefits granted if:

• A person;
• Qualifies as a resident; and
• Is a resident recipient.
DEFINITION OF A ‘RESIDENT OF A CONTRACTING STATE’

Article 4(1)

For the purposes of this Convention, the term ‘resident of a Contracting State’ means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

- Treaty definition determined in accordance with domestic law. In order to qualify as a treaty resident, you must first and foremost be considered a resident under the domestic laws of the Contracting States. It is possible at this stage, to end up being a resident of both of the Contracting States.

- Any person who is liable to tax in a particular State only in respect of income from sources in that State (therefore not subject to worldwide tax liability) is excluded from the definition.
TIE-BREAKER RULE FOR INDIVIDUALS

If in none = go to habitual abode

Permanent Home

Centre of Vital Interests

Habitual Abode

Nationality

MAP

In both CS = Go to centre of vital interests

Centre of vital interests not determinable/no permanent home = Go to habitual abode

In none or in both CS = Go to nationality

In none or in both CS = Go to MAP
TIE-BREAKER RULE FOR PERSONS OTHER THAN INDIVIDUALS

Article 4(3) - NEW
Where by reason of the provisions of paragraph 1 a person other than an individual is resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Convention, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Convention, except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting State.
Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.
DETERMINING MALTA TAX LIABILITY

• Status of the person:
  • Domiciled?
  • Resident?
  • Ordinarily resident?

• Basis of taxation:
  • Worldwide?
  • Source and remittance?
  • Source?

• Type of income/gain:
  • Income (article 4 ITA)?
  • Capital (chargeable under article 5 ITA)?

• Source of income/gain:
  • Malta?
  • Non-Malta?
QUESTIONS?
The MIT will make available by e-mail all hand-outs, slides and other material to be used during the Lectures as soon as possible after delivery and, occasionally, before the Lecture. This material is strictly confidential, is protected by copyright and must not be made available to third parties. Furthermore, this material is intended for educational purposes only and does not in any way constitute advice and should not be relied upon for the purpose of providing advice.