



MALTA  
INSTITUTE  
OF TAXATION

### Examiner's Feedback Report – COT Module D 2024-2025

- The students were assessed on their awareness and understanding of the application of EU direct tax Directives, decisions and initiatives covered in the Module D materials and lectures. The case study provided touched upon several points including the below:
  - Interest and Royalties Directive
  - Interest deduction limitation rules
  - Arm's length limitations
  - Beneficial ownership considerations
  - Anti-hybrid rules
  - Exit taxation
  - Cross-border merger Directive
  - Parent-Subsidiary Directive
  - Anti-abuse rules and CJEU case law
  - APAs, State aid and Exchange of rulings
  - Controlled foreign company rules
  - Proposed EU UnShell Directive
  - Mandatory Disclosure Rules
  - Country by country reporting.
- Generally, the students showed awareness of the matters to be raised in their role as an in-house tax manager of the group of companies that is planning a re-organisation, guided by the plan proposed in the assignment question. Most students correctly identified the majority of the above points though further depth was expected in some cases. A number of replies merely gave an overview of general principles and lacked constructive and accurate application. A more precise application is expected in an assignment reply of 2000 to 3000 words, particularly where guidance was provided through the plan and the student had the course materials, the law and several supporting resources at hand. For example, the interaction between Exit Taxation and the Cross-border Merger Directive was often vague and lacked application of the precise conditions and consequences thereunder.
- Most students correctly distinguished between EU and non-EU / domestic scenarios and generally applied the direct tax Directives appropriately. A few included domestic-specific nuances beyond harmonised EU law, which were expressly indicated as being irrelevant for this exercise.
- Several students correctly applied the direct tax Directives in terms of the income flows, in particular the Interest and Royalties Directive and the ATAD interest deduction limitation rule under ATAD in respect of debt financing. More depth was expected on topics such as the Mandatory Disclosure Rules, APAs, State aid and the exchange of rulings, and the GAAR in ATAD. The majority of the students appropriately considered beneficial ownership and the anti-abuse clauses in the relevant Directives, one or two even referring to the proposed UnShell Directive.

- Many students referred, albeit in differing degrees, to case-law mentioned in class and provided in the materials, and marks were attributed accordingly. Others would have improved their result by investing time in the relevance of the identified CJEU decisions in applying the Directives (especially in the case of the transfer of losses).
- A good number of students should refine their understanding of the ATAD rules, from controlled foreign company rules to exit taxation. Many would have been more successful had they taken the time to sit with the slide deck and the law, and concisely apply the building blocks of the relevant provisions in a structured manner. Very few students thought to apply the controlled foreign company rules, and the exit taxation provisions were often applied incorrectly or incompletely. Marks were given for the correct application of the anti-hybrid rules, although few attempted same (again anti-hybrid rules were identified but not concretely applied by most).
- In assignments with a strict wordcount, it is important to focus on the ask, and to apply oneself concisely and effectively, rather than being verbose and repetitive. Assignments of general application, without relevant and purposeful application of the law to the facts and circumstances set out in the question together with appropriate assumptions, were penalised. The assignment grants a student the opportunity to apply the education obtained in class and through the provided materials, at home, with all identified resources at hand.
- Generally, most assignments were well set out and a reasonable attempt was made to explain the implications in a structured manner. More attention should be given, particularly in an assignment where sources are available for consultation and time is available, to ensure that the detail is correct and to provide appropriate depth for the word count allowed. Overly lengthy assignments were penalised.
- Largely, the assignments and results portray that the learning was effective, though attention is to be given to detail and selective application to the facts of the case, or reasonable assumptions thereto.