



MALTA
INSTITUTE
OF TAXATION

MIT COURSE ON TAXATION

2023-2024 MODULE A EXAMINATION PAPER

DATE: WEDNESDAY 15TH NOVEMBER 2023

TIME: 17:00 - 19:15HRS (including 15 minutes reading time)

PREMISES: ST ALOYSIUS SECONDARY SCHOOL, B'KARA

INSTRUCTIONS:

1. The examination is held in accordance with the Course Regulation. No materials or reference books are to be brought into the examination hall save as allowed by the Regulations.
 2. Blue or black ball-point pens should be used.
 3. Use only one side of the writing paper provided. Insert your Index number, the Question number and the Page number on each page. Jottings and drafts are to be clearly cancelled. Please do not write underneath the last line on the writing paper.
 4. Candidates are to answer ANY TWO QUESTIONS.
 5. Each question carries 50 marks.
-

QUESTION 1

The Jade Group is a group of companies involved in the aviation industry and is structured as follows.

The parent company, Jade Holding Ltd, is incorporated and tax resident in Malta and is directly owned and controlled by five individuals who are neither resident nor domiciled in Malta. Jade Holding Ltd is the 100% shareholder of four companies:

(1) Iris Ltd: a company incorporated in Jersey but tax resident in Malta, by virtue of having its management and control in Malta, is the finance arm of the group. In the fiscal year 2022, Iris Ltd derived interest income of €7 million, as follows:

- i. €3,000,000 from Tulip Ltd, a related company, in respect of loans provided to finance the acquisition of four private jets;
- ii. €2,000,000 from Rose Ltd, a related company, in respect of loans provided to finance the acquisition of four second hand private jets;
- iii. €2,000,000 from Daffodil Ltd, a related company, in respect of a loan provided to finance the acquisition of a 5% holding in Jasime Lux.

The interest is all paid into a bank account held by Iris Ltd outside Malta.

Iris Ltd employs a full-time finance person to administer and monitor the loan granting activity as the interest charged on such loan varies and is determined according to the group's complex transfer pricing policy.

(2) Tulip Ltd: a company incorporated and tax resident in Malta, which owns and leases out, by way of an operating lease, four private jets to a Chinese company which charts private jets to individuals. The four aircrafts were acquired for €20 million each (i.e. a total of €80 million), fully debt financed, by loans granted by Iris Limited on which interest is paid as set out in (1)(i) above. For accounting purposes the aircraft will be depreciated over 20 years, using the straight line method. The company intends to claim wear and tear allowances for tax purposes. In the year 2022, Tulip Ltd derived total lease income of €12,000,000. Tulip Ltd has a 200m² office in Malta, which it owns and uses for the purpose of its operations.

(3) Rose Ltd: a company incorporated in the BVI but tax resident in Malta, by virtue of having its management and control in Malta, owns and leases, by way of an operating lease, four second hand private jets to a Maltese company which charts private jets. The four aircrafts were acquired for €32 million, fully debt financed. For accounting purposes the aircraft will be depreciated over 4 years, using the straight line method. The company intends to claim wear and tear allowances for tax purposes. In the year 2022, Rose Ltd derived lease income of €12,000,000 (i.e. 3,000,000 per aircraft). The lease income is paid into a bank account held by Rose Ltd outside Malta.

(4) Daffodil Ltd: a company incorporated and tax resident in Malta, which holds a 5% investment in Jasmine Lux a company incorporated and tax resident in Luxembourg. Daffodil Ltd's holding in Jasmine Lux entitles it to appoint a director to the board of Jasmine Lux. In the year 2022, Daffodil Ltd derived dividend income of €5,250,000 (gross of a 15% withholding tax) from its investment in Jasmine Lux. Jasmine Lux qualified for a deduction against its chargeable income in Luxembourg in respect of this dividend.

Required:

- a) Advice Jade Group on the Malta tax treatment of the income derived by group companies during the year 2022. Your comments should also include calculations and allocations of profits to the tax accounts. Provide insights on the implications that arise if group companies distribute dividends and advise on the optimal dividend distribution policy for tax refund purposes. Include comments on wear and tear allowances and balances c/f and their utilisation. Any assumptions made must be clearly stated.

[40 marks]

- b) Provide restructuring strategies that may be adopted which can improve the group's effective tax.

[10 marks]

[TOTAL: 50 marks]

QUESTION 2

Kindly note that this Question consists of three parts, and you are required to answer all of the questions included in each of the three parts.

A. Avatar Limited is a company which is resident and domiciled in Malta. The company was formed on 1st January 2022 to trade in the retail of foodstuffs. The company's directors would like to understand, the tax deductibility criteria to be adopted and the tax implications of the different streams of income.

You are required to advise the company's directors on such matters through references to the company's notes to the profit and loss account for the same year provided hereunder. Substantiate your reasoning with appropriate calculations and estimate the chargeable income of the company.

[22 marks]

Avatar Limited recognised a profit before tax as per financial statement drawn out according to Maltese accepted accounting principles of €12,400. The profit included the following items:

1. Income from the main trading operations - €50,000
2. Audit fee - €2,000 Professional fees - €2,500
3. Other administrative expenses consisting of preliminary feasibility study fees in relation to market analysis on a proposed new investment- €1,000
4. Donation to Malta Community Chest Fund –€500
5. Final Taxed Account (FTA) dividend income from a fully owned Maltese company Vintage Limited - €20,400
6. Interest on loan taken to finance the acquisition of shares in Vintage Limited - €25,000
7. Rent receivable (passive in nature) paid by the direct sole parent company - €6,000
8. Maintenance expenses and property management fee - €2,000 (directly attributable to rent received)
9. Interest receivable on intercompany balances - €3,000
10. A provision for slow moving stock – €1,000
11. Repair costs - €4,000 (Note 1)
12. Capital gain on sale of units in a non-prescribed fund of a collective investment scheme registered in Malta - €15,000
13. Blocked input VAT in relation to maintenance and repair costs of a saloon vehicle owned by the company and provided to the director as part of his remuneration package – €1,000

Note 1: The company acquired second hand office furniture costing €10,000 for business purposes on which it incurred repair costs of €4,000 to bring it to an adequate working state.

Further information: -

- a. The Company incurred €10,000 worth of expenses of a capital nature which it duly capitalised in its financial statements. This amount refers to the purchase of computer software.

B. Rarity Limited is a Maltese company which is owned and controlled to the extent of 98% by Gem Limited a Maltese holding company and 2% by Mr. Smith. Mr. Smith is neither tax resident nor domiciled in Malta. The company is considering entering into a fiscal unity in Malta and has asked for your advice. The directors would like to receive information on what does fiscal unity entail and what is the procedure for the Maltese company to enter into a fiscal unity if at all possible. The directors have also queries with regards to any capital allowances brought forward and trading losses brought forward and as to how these are treated. Your explanation should include an analysis of all administrative, regulatory and compliance requirements.

[15 marks]

Gem Limited is considering transferring 10% of its holding in Rarity Limited to 10 senior managing officials currently leading the operations of Rarity Limited, as a recognition for their service instead of a monetary bonus and would like to know if this would affect fiscal unity.

[5 marks]

C. How does the concept of residence effect the scope and exposure to taxation in Malta for individuals?

[8 marks]

[TOTAL: 50 marks]

QUESTION 3

Kindly note that this Question consists of four parts, and you are required to answer all of the questions included in each of the four parts.

- A. Raffele Limited earns income from various assets located outside Malta, which it includes in its chargeable income in Malta. The year 2022 was the first year of operation for Raffele Limited. The company has proof of payment for tax paid abroad for some of its sources of income and no proof of payment for others. The directors are aware that Maltese tax legislation provides for different forms of double taxation relief and would like to receive more information on the options available. You are required to prepare a memo detailing the forms of double tax relief, their applicability and the requirements that need to be satisfied in order for the company to be able to avail itself from double taxation relief in Malta.

[10 marks]

- B. Ms. Grima a single individual is tax resident and domiciled in Malta. During the calendar year 2022 she earned foreign sourced interest income amounting to € 1,500. On this income, tax was withheld abroad amounting to €225 and she received the net amount in a Maltese bank account. Her total income (included the foreign sourced income) amounted to €15,600 on which the Malta tax due amounted to €1,085. You are required to calculate the amount of double taxation relief that Mrs Grima can claim (assume that Ms. Grima has documentary evidence showing tax paid abroad).

[5 marks]

- C. Mr. and Mrs. Schembri are Maltese residents. During the year 2022, they were engaged in the following activities:

Mr. Schembri was employed with Tycon Ltd, a company registered in Malta earning a gross salary of €70,400. Mr Schembri's salary was paid by Tycon Ltd's parent company on which tax amounting to €15,915 was deducted under the FSS Rules using the rates applicable to residents opting for a computation using single rates.

Mrs. Schembri worked as a self-employed marketing consultant. She is registered for VAT purposes and on average, she works five hours daily over a 5-day working week. Mrs Schembri keeps proper books of accounts and during 2022, she calculated that she earned €18,000 in consultancy fees and incurred expenses in carrying out her consultancy services amounting to €3,850. At the end of the year, Mrs Schembri calculated that these expenses included personal fuel expenses of approximately €650. No provisional tax payments were paid by Mrs. Schembri.

Mr. and Mrs. Schembri have two children one of which attends secondary school and the other primary school. The annual fees paid to the private schools were €3,500 and €2,500 respectively.

One of Mr and Mrs Schembri's children attends ballet classes. The annual ballet fees paid were €700. The other child practices football. The total fees paid for football training were €500 during the same year.

Mr Schembri also paid €7,000 on behalf of his grandmother who lives in a private home for the elderly.

Required:-

- i. Mr Schembri is the responsible spouse and is required to file a tax return, calculate the correct amount of tax payable by Mr. and Mrs. Schembri and provide appropriate explanations for your workings.

[10 marks]

- ii. The spouses are considering separating their tax affairs. Provide brief notes on this option.

[5 marks]

D. Wallaby Holding Limited (WHL) is a company incorporated and managed and controlled in Italy and which is beneficially owned and controlled by an individual who is neither ordinarily resident nor domiciled in Malta. WHL holds the entire issued share capital of two subsidiaries, namely the following:

- o Penguin Trading Limited (PTL), which is incorporated and managed and controlled in Malta. PTL operates a chain of clothes shops in Malta whose chargeable income derived during the financial year ended 31st December 2022 amounted to €1,500,000. Most of the operations were financed by interest-bearing loans granted to it by WHL.
- o Orca Trading Limited (OTL) is incorporated and managed and controlled in Malta. OTL operates a chain of supermarkets in Malta. OTL was formed and started operating on 1st March 2022 and its chargeable income (before claiming any notional interest deduction) for the financial year ended 31st December 2022 amounted to €75,000. All its operations were financed through equity, share premium and interest free loans granted by the ultimate individual beneficial owner, which as at 31st December 2022 amounted to €1,800,000. OTL did not distribute any dividend.

Required:

- i. What is the basis of taxation on which each of the companies will be taxed in Malta? Explain the basis of taxation identified.

[4 marks]

- ii. Would any of the companies be able to claim Notional Interest Deduction? Your answer should provide the rational for your answer.

[6 marks]

- iii. What is the amount of Notional Interest Deduction (NID) available to OTL? What is the amount of NID absorbed in the current year (if any)? Provide insights on the applicability of NID in the subsequent financial year? Support your answer with appropriate calculations and explanations.

[10 marks]

[TOTAL: 50 marks]

-----END OF PAPER-----