



Examiner's Feedback Report Module D 2023-2024

- The students were assessed on their awareness and understanding of the application of EU 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
 - Anti-hybrid rules (including PE and possibly dividends)
 - Beneficial ownership considerations
 - Arm's length limitations
 - Parent-Subsidiary Directive
 - Controlled foreign company rules
 - Proposed EU UnShell Directive
 - Anti-abuse rules and CJEU case law
 - Cross-border merger Directive
 - Exit taxation
 - APAs, State aid and Exchange of rulings
 - Mandatory Disclosure Rules
 - Country by country reporting (as possible mention).
- Generally, the students showed awareness of the matters to be raised in their role as a new financial controller of the group of companies, guided by the plan proposed in the assignment question. Most students touched upon the majority of points though several 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, while most mentioned the Cross-border Merger Directive, few set out all the requisite elements for the deferral and their implications in this case.
- Most students correctly distinguished between EU and non-EU / domestic scenarios and generally applied the direct tax Directives appropriately, though a few considered Member State options to be the rule without including the appropriate assumptions. In fact, a number of students shared domestic tax implications beyond harmonised EU law, which are in principle irrelevant to the assignment as indicated in the question.
- Several students connected the dots in terms of the distinction between equity and debt financing, particularly in respect of the Romanian PE, though a handful mentioned the possible application of anti-hybrid rules to the latter. Many correctly identified the application of the interest deduction limitation rules, though less properly delved into the transfer of losses, the beneficial ownership case-law and the special anti-abuse provisions in the respective Directives.

- Several would have improved their result by investing time in the application of the case-law identified in the slide deck and during class. A few students quoted relevant CJEU decisions shared in class in applying the Directives, and marks were attributed accordingly.
- A good number of students need to refine their understanding of the ATAD rules, from controlled foreign company rules to exit taxation. The majority 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.
- More depth was expected on topics such as anti-abuse rules including the GAAR in ATAD, ATAD II, APAs, State aid and the exchange of rulings, and the proper application of the Mandatory Disclosure Rules. Often, where mentioned, these matters were seldom applied adequately.
- 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. Students whose assignment was too short or too long were marked accordingly.
- Largely, the assignments and results portray that the learning was effective, though attention is to be given to detail and selective application.