



MALTA
INSTITUTE
OF TAXATION

MIT COURSE ON TAXATION

2024-2025 MODULE A EXAMINATION PAPER

DATE: WEDNESDAY 13TH NOVEMBER 2024

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

PREMISES: ST ALOYSIUS SIXTH FORM, 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.
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QUESTION 1

Malta Holding Company Limited ('MHC') a company incorporated in Malta, was set up in 2023 and acts as intermediate holding company of the Research Group Inc. a multinational corporation with head offices in the United Kingdom and operating in the technical research field.

MHC has investment in four fully owned subsidiaries and it has received dividend income from all of its subsidiaries during the year ended 31 December 2023 as follows:

Research Limited – a trading company -Refer to Dividend Warrant;
Production Limited – a trading company Refer to Dividend Warrant;
Intellectual Property Limited – MHC received dividend income of €16,000. MHC is empowered in its Memorandum and Articles of Association to receive dividend income. MHC does not have any proof of tax paid outside Malta. It is also noted that Intellectual Property Limited is incorporated and tax resident in Mexico and only derives income from passive interest and royalties.
Europe Distributions GmbH – Europe Distributions GmbH effected a dividend distribution of €250,000 which has been subject to withholding tax of 5% in terms of the Double Taxation Agreement between Malta and Germany. Proof of the foreign tax withheld is available.

Furthermore, MHC has claimed refund of the underlying tax on the dividend income received from its Malta registered subsidiaries.

Below is a breakdown of the profit and loss account for MHC Limited for the year ended 31st December 2023.

	€
Investment income	516,048
Audit fee	(2,500)
Professional & legal fees	(1,843)
Rental of office	(7,500)
Directors' fees	(20,000)
Company registration fee	(450)
Office expenses	(848)
Profit before tax	482,907

Required:

- i. Advice MHC on the Malta tax treatment of the income received during the year 2023 and on the correct treatment of the expenses. Your comments should also include calculations in order to determine the chargeable income for the company and allocations of profits to the tax accounts. Assume that the company is renting from third parties.
- (35 marks)
- ii. Would the allocations of profits to the tax accounts in:
- a. be different if the company was renting from a related party. Assume that the total office space being rented is 200 square metres.
 - b. Comment with the support of calculation on whether MHC has applied for the correct tax refund.
 - c. Comment on any tax refund available to the shareholder of MHC.
- (15 marks)

[TOTAL: 50 marks]

Further information and Notes**Investment income**

Investment income represents the gross dividends received from subsidiary undertakings as follows:

	2023
	€
Research Limited	145,953
Production Limited	75,428
Intellectual Property Limited	16,000
Europe Distributions GmbH	250,000
Other Income (Refund)	28,667
	516,048
	=====

Research Limited

1
Valletta Road
Floriana
Malta

Reg. No: C 99998

Ref: DW 01/23

DIVIDEND WARRANT

In accordance with A. 59(5) of the Income Tax Act, CAP 123 of the laws of Malta

31 December 2023

The Directors
Malta Holding Company Limited
1
Valletta Road
Floriana
Malta

Dear Sirs,

We hereby notify you that your share of the net dividend distribution of the 31 December 2023 which amounts to €139,869 has been distributed out of the company's profits chargeable to tax in year of assessment 2024, in the following manner:

	Maltese Taxed Account	Foreign Income Account	Final Tax Account	Immovable Property Account	Untaxed Account	Total
	35%					
	€	€	€	€	€	€
Gross dividend	45,953	-	-	-	100,000	145,953
Tax at source						
• Net Malta tax	16,084	-	-	-	-	16,084
• Double taxation relief	-	-	-	-	-	-
• Unilateral relief	-	-	-	-	-	-
• Relief in respect of Commonwealth income tax	-	-	-	-	-	-
• Flat rate foreign tax credit	-	-	-	-	-	-
• Tax Credits	(10,000)	-	-	-	-	(10,000)
	6,084	-	-	-	-	6,084
	39,869	-	-	-	100,000	139,869
Tax paid on distribution						
• Section 62	-	-	-	-	-	-
• Section 67	-	-	-	-	-	-
• Section 67A	-	-	-	-	-	-
	-	-	-	-	-	-
Net dividend	39,869	-	-	-	100,000	139,869
Net Malta rate						

Yours faithfully,
Research Limited

Director

Production Limited

1
Valletta Road
Floriana
Malta

Reg. No: C 99997

Ref: DW 01/23

DIVIDEND WARRANT

In accordance with A. 59(5) of the Income Tax Act, CAP 123 of the laws of Malta

31 December 2023

The Directors
Malta Holding Company Limited
1
Valletta Road
Floriana
Malta

Dear Sirs,

We hereby notify you that your share of the net dividend distribution of the 31 December 2023 which amounts to €49,059 has been distributed out of the company's profits chargeable to tax in year of assessment 2024, in the following manner:

	Maltese Taxed Account	Foreign Income Account	Final Tax Account	Immovable Property Account	Untaxed Account	Total
	35%		15%			
	€	€	€	€	€	€
Gross dividend	75,274	-	154	-	-	75,428
Tax at source						
• Net Malta tax	26,346	-	23	-	-	26,369
• Double taxation relief	-	-	-	-	-	-
• Unilateral relief	-	-	-	-	-	-
• Relief in respect of Commonwealth income tax	-	-	-	-	-	-
• Flat rate foreign tax credit	-	-	-	-	-	-
• Tax Credits	-	-	-	-	-	-
	26,346	-	23	-	-	26,369
	48,928	-	131	-	-	49,059
Tax paid on distribution						
• Section 62	-	-	-	-	-	-
• Section 67	-	-	-	-	-	-
• Section 67A	-	-	-	-	-	-
	-	-	-	-	-	-
Net dividend	48,928	-	131	-	-	49,059
Net Malta rate						

Yours faithfully,
Production Limited

Director

QUESTION 2

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. A company is required to allocate its distributable profits to five different 'taxed accounts'. In this regard:

i. List the five different accounts providing additional comments in respect of the types of profits which fall to be allocated to each tax account;

(5 marks)

ii. Provide comments on the Malta tax considerations applicable to a dividend distribution made by a Maltese registered company out of all five tax accounts to a Maltese ordinarily resident and domiciled individual shareholder;

(5 Marks)

iii. Mediterranean Company Limited (MCL) a Maltese registered company, has distributed dividends in favour of its sole corporate shareholder Papier Limited (PL). PL is registered for the purpose of claiming the refundable tax. The beneficial owner is an individual who is neither tax resident nor domiciled in Malta. MCL is an active trading company which has earned income from both its trade and also from investments held outside Malta. It has distributed dividends to its shareholder from the following tax accounts.

Kindly advise what is the refundable tax that the shareholder would be able to apply for. Provide insights on the procedural aspect required to be satisfied in order for the refund to be claimed.

- Distributions out of the MTA taxed at 35%
- Distributions out of the FIA – income having suffered tax outside Malta on which DTR has been claimed (not FRFTC)
- Distributions out of the FTA taxed at 15%
- Distributions out of the IPA
- Distributions out of FIA - Income subject to double taxation relief being FRFTC
- Distributions out of FIA - Income from participating holding not satisfying anti abuse provisions

(10 marks)

B. You have been asked by a client on the methods adopted to resolve juridical double taxation i.e. the exemption and credit method. Discuss the method adopted in Malta. You have also been asked to discuss the salient features of such methods. Please present your answer in the form of a memo. Substantiate your answer with examples.

(8 marks)

C. An aircraft management company received a large lump sum as a result of the cancellation of a contract by an airline company going into insolvency. The aircraft management company received 90% of its potential receipts from the airline contract.

Would you consider the aforementioned receipt of an income or capital nature. Give reasons for your answer.

(8 marks)

D. You have been asked to provide advice to Luke and Mary a married couple who are currently considering moving their residence to Malta. They are currently residing in Portugal but would like to spend a couple of years in Malta before returning to their UK home. Information provided by clients' as follows:

- Mary and Luke have been married for 11 years and had purchased their matrimonial home in the UK when they got married 11 years ago. They still own this property which is also rented out when they are away
- They have resided in three different EU countries staying approximately 3 years in each country and 2 years in a country outside the EU.
- They have purchased Maltese immovable property 2 years ago.
- They own property in Portugal in which they currently reside.
- Mary was born in Malta to Maltese parents, however at the age of 23 she moved to the UK to further her studies in medicine after graduating as a doctor from the University of Malta. She has thereafter always resided in the UK until she met Luke. Mary has a Maltese passport.
- Mary intends to take up a job at a private hospital in Malta should they reside in Malta
- Luke was born in the UK and has a UK passport. He has always resided in the UK before he has met Mary. His immediate family still resides in the UK.
- Luke has a portfolio of stocks, bonds and shares which he actively trades and shall be focusing on enhancing the couples' income by deriving interest, dividends and gains from the purchase and sale of such financial instruments.
- The couple intends to rent out their property in the UK and Portugal should they move to Malta. The rent is to be deposited in a UK and Portuguese bank account in Luke's name.

Required:

- i. Comment on the tax status of Luke and Mary in terms of residence and domicile and their scope of taxation in terms of the Income Tax Act, should the couple move to Malta. Your comments should include salient points on couple's tax liability in Malta. Substantiate your arguments with fact pattern outlined.

(14 marks)

[TOTAL: 50 marks]

QUESTION 3

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. Innovation Limited had the following IP assets during the year ended 31st December 2023:

- IP Asset 'A' – Costing €4,000,000 - acquired and put into use during the year ending 31st December 2022.
- IP Asset 'B' – Costing €6,000,000 – acquired and put into use during the year ended 31st December 2023.

Further information:

- Innovation Limited in its tax return for YA 2023 had claimed a deduction in terms of article 14(1)(m), with the useful life for IP Asset 'A' estimated to be a period of 4 years.
- The IP Asset 'B' is considered to have an infinite useful life by the directors of Innovation Limited.
- Both IP assets are used and employed in the production of the income for the same trading activity.
- Chargeable income produced through the use or employment of the IP assets before article 14(1)(m) deductions are taken into account is €3,800,000 for the year ended 31st December 2023.

Required:

- i. The Directors have asked you to explain to them the new second proviso to article 14(1)(m) and if they can utilise this in arriving at the tax due by Innovation Limited for YA 2024.
(7 marks)
- ii. During YA 2025 the company is estimating that it will have chargeable income before any 14(1)(m) deductions of €3,700,000. Calculate the amount of deductions that the company can avail itself of over the 2 years (YA 2024 and YA 2025), utilising the 2nd proviso to article 14(1)(m). Your workings should distinguish clearly between standard and accelerated amortisation.
(8 marks)

B. Angle Limited is a Malta trading company which is 95% owned by Stitch Holding Limited and 5% owned by Ms. Lilo. Both Angle Limited and Stitch Holding Limited are Maltese tax resident and domiciled companies. Ms. Lilo is a non-Maltese tax resident and non-Malta domiciled individual. The beneficial owner of Stitch Holding Limited is Ms. Lilo. Ms. Lilo has heard that Malta operates a fiscal unit regime. She has approached you to explain to her in detail how the regime operates. You are required to draft a memo explaining to Ms. Lilo if her companies can benefit from the fiscal unit regime and what are the legal and tax implications for the group. The memo should also include details of how the chargeable income is taxed and how dividends can be distributed from both Maltese companies.
(20 marks)

Ms. Lilo is also considering giving one of its directors who has shown loyalty to her company 1 percent shares in Angle Limited. She has asked if you foresee that this has any bearing on the group to form a fiscal unit.

(3 marks)

C. Sawdust Limited had the following assets. You are required to calculate for each asset the capital allowances for the year ended 31st December 2023 and also work out the balancing statement were required.

(12 marks)

- Sawdust Limited acquired second hand office furniture for business purposes for the cost of €50,000 on which it incurred repair costs of €5,000 to bring it to a working condition.
- During the year 2023 the company replaced computer equipment it had acquired in 2020 for €2,000. The cost of the new computer equipment was €2,500. When disposing of the old computer equipment the company obtained €800 as proceeds from disposal.
- An office desk worth €8,000 which the company acquired in 2021 and which was disposed of during the year. The proceeds from disposal were €10,000

[TOTAL: 50 marks]

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