THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2019

MODULE 2.06 – IRELAND OPTION

ADVANCED INTERNATIONAL TAXATION (JURISDICTION)

TIME ALLOWED – 3¼ HOURS

This paper has **three** parts: **Part A**, **Part B** and **Part C**.

You need to answer **five** questions in total.

You must answer:

- **Both** questions in **Part A** (25 marks each)
- **One** question from **Part B** (20 marks)
- **Two** questions from **Part C** (15 marks each)

Further instructions

- All workings should be made to the nearest month and in Euros, unless otherwise stated.
- Start each answer on a new page and clearly indicate which question you are answering. If you are using the on-screen method to complete your exam, you must provide appropriate line breaks between each question, and clearly indicate the start of each new question using the formatting tools available.
- Marks may be allocated for clarity of presentation of your answers.
- The time you spend answering questions should correspond broadly to the number of marks available for that question. You should therefore aim to spend approximately half of your time answering Part A, and the other half answering questions in Parts B and C.
- The first 15 minutes of the exam is reading time. You will be allowed to annotate the question paper during this time; however, you will **not** be permitted to start writing or typing your answer. The Presiding Officer will inform you when you can start answering the questions.

PART A

You are required to answer BOTH questions from this Part.

1. You are a tax manager at the Irish office of a worldwide firm of professional advisors. Your United States office in Austin has recently contacted you to advise their client, Red Box Inc., a Fortune 500 company. Red Box Inc. is a US leader in the development and manufacture of long-life batteries for electric cars, and its headquarters are in Texas.

   Red Box Inc. does not have any operations outside the US, and it is keen to expand internationally. Red Box Inc.'s management team is considering possible countries in which to incorporate an international headquarters, which will own all of its international subsidiaries. The chief financial officer (CFO) has requested a briefing document summarising, from a tax perspective, the main features of Ireland as a holding company location. The CFO has requested that the briefing document address, among other things, how income from international trading subsidiaries will be taxed in Ireland, how any potential capital gains arising from international subsidiaries could be taxed, and how Irish tax could apply if income were to be repatriated to the US from the Irish holding company. The CFO has also asked to be apprised of the expected impact, if any, of the OECD BEPS project and/or EU developments on Ireland's attractiveness as a holding company location.

   You are required to prepare the requested briefing document. (25)

2. Tom, a longstanding client of your firm, has contacted you to advise him on the Irish tax implications of his brother returning to live in Ireland. He has provided you with the following background information.

   Francie Brady is thinking of retiring to Ireland from the United Kingdom, having lived in the UK for many years. He moved from Ireland to the UK in 1976, met and married his wife Karen there, and settled in London where they had two children, both of whom are now adults. Karen was born and grew up in London, and has English parents.

   Both of Francie and Karen's children live in London. Francie has built up a hardware business which he has decided to pass on to their son, Gareth. Francie intends to pass 80% of hardware company shares to Gareth but retain 20% and expect to still be able to derive an income from the company.

   Francie and Karen have several investments in property in the UK, and Karen has a share in a local football club. They intend to retain possession of their home in London as Karen would like to continue spending time in London.

   You are required to provide the Brady family with an outline of the tax implications for Francie and Karen of their planned relocation to Ireland.

   1) **Address the tax issues to be considered by Francie and Karen ahead of their move to Ireland.** (15)

   2) **What ongoing tax issues will Francie and Karen need to address as Irish residents?** (10)

   Total (25 marks)

PART B

You are required to answer ONE question from this Part.

3. Blue Horizons Inc. (BH Inc.) is a United States-resident company listed on the Nasdaq stock exchange, and is a leader in the development and manufacture of immunotherapy drugs. BH Inc.'s board has divided the company's intellectual property (IP) between its US and international operations, with the US IP owned directly by BH Inc. and the international IP owned by Blue Horizons International Holdings Ltd (BHIH), an Irish company incorporated in 2012.

BHIH has quarterly board meetings in Bermuda, where it pays an annual flat tax of US$80,000. BHIH has four directors on its board, three of whom are US residents; the remaining director is resident in Ireland. All four directors attend the board meetings in Bermuda in person. The company has engaged a professional services firm in Bermuda to provide accounting and administration services.

BH Inc. entered into a cost sharing agreement (CSA) in 2014 with BHIH. Under the terms of the CSA:

- BH Inc. and BHIH will bear the research and development costs of the group, all of which are incurred in the US, in proportion to the value of the group's US and non-US sales respectively.
- Each company has the royalty-free right to patent relevant drugs in its respective area of operation, namely the US for BH Inc. and all countries outside the US for BHIH.

BHIH has licensed under agreement its interest in the patents of the group to an Irish company, Blue OpCo, from which it receives royalty payments. The license can be cancelled with 30 days' notice. Blue OpCo is a wholly owned subsidiary of BHIH, employs 500 people, and engages in manufacturing, sales and marketing operations in all territories outside the US.

Prepare a briefing document, outlining the following items:

1) **The tax residence of BHIH under the current structure, including any potential impact of the Finance Act 2014 residency changes.** (13)

2) **Your suggestion for the possible reorganisation of the group, and the steps involved.** (7)

Total (20)

4. Simplex Ltd is a company registered in the United Kingdom with an office and factory established in Northern Ireland. It carries out contract furniture upholstering services, predominantly for hotels, pubs and restaurants, and has been trading in Northern Ireland for several years. Its customer base is spread across the whole island of Ireland.

Due to the uncertainty surrounding future changes that may result from Brexit, and its growing customer base in the Republic of Ireland, Simplex's board has begun to consider opening an office in Dublin. Initially only the Director, Tim, will be spending time in the Republic of Ireland, meeting customers and selling their services. However, within a short period of time Tim will likely need support, and one of the company's Northern Ireland resident office managers, Rosie, has been identified as a suitable candidate to run the Dublin office once it has been set up.

The board wishes to ensure that the company does not breach any rules when it comes to tax compliance.

You are required to:

1) Outline the tax implications for Simplex Ltd of their proposed move into the Republic of Ireland market. You should assume, for this purpose, that at the time of writing both the UK and the Republic of Ireland are in the European single market and the European Union customs union. (8)

2) What are the implications for Northern Ireland workers who are posted to work in the Dublin branch? (4)

3) Are there any improvements that Simplex's board could make to the company's current structure to facilitate tax efficiency. (6)

4) How might your answer to 1) above change if the UK, including Northern Ireland, leaves the single market and customs union and becomes a non-EU third country? (2)

Total (20)

PART C

You are required to answer TWO questions from this Part.

5. You are tax manager in a professional services practice and you have recently acquired a client, Bird Holdings Ltd. Bird Holdings Ltd is an Irish resident company, owned by ten unrelated individuals who are all resident in Ireland. Bird Holdings Ltd has subsidiaries in a number of different jurisdictions. None of the companies in the group are considered close companies for tax purposes.

The shareholders of Bird Holdings Ltd are considering executing a number of transactions during the year ending 31 December 2018, and have asked you to specify the Irish tax consequences of each of the transactions for Bird Holdings Ltd any subsidiaries concerned.

You are required to set out the Irish tax implications and, if relevant, how these could be minimised, of the following proposed transactions for the Bird Holdings group for the year ending 31 December 2018.

1) **Bird Holdings SA owns a 100% subsidiary, Wren BV, a Dutch resident company which in turn owns 100% of Crow Ltd. Crow Ltd is an Irish resident company carrying on a trade in software development. Its balance sheet as of 31 December 2017 consists of chargeable patent assets of €5 million and goodwill of €8 million. Crow Ltd intends to change its tax residence to France in 2018.** (5)

2) **Parrot Ltd is a 100% subsidiary of Bird Holdings Ltd and is tax resident in the Cayman Islands. It purchased a vacant Irish commercial property in Galway in 2018, financed by third party debt. The annual interest on the borrowings amounts to €200,000. At acquisition, Parrot Ltd appointed an Irish third party property management company to secure a tenant for the property. The property management company has recently negotiated a 30-year lease with a call centre at an annual rent of €500,000, commencing in January 2019.** (5)

3) **Bird Holdings Ltd has a branch in Spain, which sells lawnmowers to large property management companies. Bird Holdings Ltd has lent money to a significant customer which is experiencing some short-term cashflow difficulties. This customer is the market leading property management company in Malaga and is regarded as a strategic reference customer from which a large amount of business is expected to be generated. This customer is tax resident in Spain, and Bird Holdings Ltd charges an annual interest rate of 7%. Under Spain's domestic legislation, a 20% withholding tax applies on interest payments.** (5)

Total (15)

6. Since Ireland joined the EU, the jurisprudence of the Court of Justice of the European Union (CJEU) has influenced Irish domestic tax law.

Briefly summarise three cases in which CJEU decisions have required a change to Irish tax legislation, with reference to the CJEU findings and the Irish tax legislation that was introduced as a result. (15)

7. "The increasing global mobility of individual contractors and employees and the significant tax changes we have seen coming from the United States, the United Kingdom and the European Union have made Ireland's tax treaty network even more important in the current climate."

Please discuss the above statement, explaining how Ireland's tax treaties assist in determining where an individual is taxed. Your answer should include appropriate examples. (15)

8.

1) **Explain the tax rules which apply to a non-resident individual who acquires investment property in Ireland.** (10)

2) **What are the tax withholding provisions under legislation in Ireland which relate specifically to property and non-residents, and on whom do these responsibilities fall?** (5)

Total (15)