

Answer-to-Question-_1_

FWL is a company in Malta so it is taxed on the worldwide basis meaning will be tax on all income and capital gains derived in Malta or out of Malta.

partners not res and not dom hence not taxed in Malta.

1. the termination benefits will be taxable in Malta since in terms of the fss rules 34 these will be paid in relation to the employment contract hence taxable. termination benefits in the hands of FWL are exempt from tax in terms of article 12 (1)(h) of the income tax act as the 30% exemption may be increased to 100%.

from duty point of view nothing has to be done.

2. the termination benefits will be taxable in Malta since in terms of the fss rules 34 these will be paid in relation to the employment contract hence taxable. termination benefits in the hands of FWL are exempt from tax in terms of article 12 (1)(h) of the income tax act as the 30% exemption may be increased to 100%.

from duty point of view nothing has to be done.

3. upon the transfer of the ip in terms of art 5(1)(a)(ii) of the income tax act any gains or profits arising from the transfer of ownership or usufruct or the assignment or cessation of any rights over the intellectual property. this is considered as a transfer of capital gains and the rights of the cost of acquisition cannot include any amount claimed as a deduction in terms of article 14(1)(m) although the capital gains rules provide that the COA of the asset may be deducted n arriving at the

chargeable income.

intellectual property is out of scope for duty.

4. the transfer of apartment will be taxed in terms of art 5A of the ita of the property transfers tax. at a rate of 8% of the transfer value. in terms of the duty shall be taxable on 5euro on every 100 euro.

5. upon sale this shall be liable to property transfer tax at a rate of 8% on the transfer value which shall be subject to duty at a rate of 5%.

6. the office block is in Malta so it is taxable in terms of art 5A immovable property in Malta and since this will be given to the spouses of one of the partners and made for a nil consideration this shall not be taxable because art 5A states that a transfer made to close family shall be exempt form tax. even given the fact that this is made for nil consideration so no income can be taxed.

from duty since this is going to be in Malta it will fall in scope to duty in Malta if it is used in Malta however transfer in a contract of marriage it is exempt for duty purposes.

7. an auction will be subject to tax in Malta during a winding up of the company in the case of a judicial sales by auction they are taxed at a final rate of 7%.

it is also important to check because of the badges of trade since the company is making this sale it may be seen that these

are trade since there could be the affinity with trade.

for duty purposes nothing should be done.

8. for FWL in terms of art 24 of the ita when a company dispose of an asset and it had claimed capital allowances, a balancing statement must be done. the balancing statement essentially compares the tax written down value to the consideration received for each of the asset. the consideration received is capped at the original cost of the asset and if it more than the tax written down value, it will result into a taxable gain i.e. balancing charge or written down value is more than consideration a balancing allowance.

out of scope for duty purposes.

9. in terms of art 24 of the ita when a company dispose of an asset and it had claimed capital allowances, a balancing statement must be done. the balancing statement essentially compares the tax written down value to the consideration received for each of the asset. the consideration received is capped at the original cost of the asset and if it more than the tax written down value, it will result into a taxable gain i.e. balancing charge or written down value is more than consideration a balancing allowance.

the ita and sl allow for capitalisation of expenditure incurred on the purchase of motor vehicles and the tax payer can calculate capital allowance on the asset. in the case of non-commercial motor vehicles, the capping is at 14,000 euro. capital allowances on motor vehicles can be taken over a minimum of 5 years.

additional in the hands of the partner the car which is for both work and pleasure is a fringe benefit. a formula is applied to calculate it on the motor vehicles use, maintenance and fuel and private use element. the vehicle is 17% of the car value and 10% for cars more than 6 years old. whilst maintenance and fuel is % of the car value if it is not more than 28000 and 5% if less. the fringe benefit is equal to the summation of these times the presence of the private use which is dependent on the value of the vehicle. then depending on the personal use and business use for FWL the only part of business use can be taken as a deduction.

out of scope for duty purposes.

10. since this agreement will be given then in terms of art 5(1)(a)(ii) taxed on gains or profits arising from the transfer of ownership or usufruct or from the assignment or cession of any rights over the business shall be treated as a capital gain hence the cost of acquisition may be deducted in arriving at the chargeable income. in the case of rights cannot be claimed as a deduction.

duty will be applicable this does not fall in scope of charge in Malta.

11. since the stock will be sold at a loss hence no profit will be generated then this shall not be taxable in Malta. in the hands of the partner b this shall not be taxable. there is no income but since these are not resident in Malta unless any income was to be generated it has to be remitted to Malta to be

taxable.

duty will be applicable this is does not fall in scope of charge in Malta.

12. so since the dividend will be distributed to the partners art 59 of the income tax act states that the company will be taxed on the full amount whilst then the individuals can claim a refund of up to 6/7 of the tax that have been paid at the level of the company in terms of art 60 of the ita.

dividends are not in scope for duty purposes.

Answer-to-Question-_2_

Mr a is not resident or domicile in Malta hence it is not taxable in Malta. however mhl assuming will be set up in Malta will be taxed on all its income and capital gains.

1. since this the is situated in Malta hence the rent should be taxable in Malta - the rental income is brought to tax under art 4 or 31D of the income tax act. under art 4 of the ITA rental may be tax at the marginal tax rate of the company in terms of art 4(1) (a) as trading income or in terms of art 4(1) (e) passive income. to assess which one applies we need to look at the badges of trade normally since this could be just this warehouse it is of passive hence it will be allowed a deduction in terms of art s1 123.26 which from the passive rental income we shall deduct
- a) interest payable
 - b) any rent
 - c) licence fee and
 - d) a deduction of 20% of b and c.

in this case it will be allocated to the IPA.

whilst art 31D a fWH tax of 15% is applied on the gross rent. this method of taxation is optional and when the tax payer elects for it it applies to all tenements rented out by the person for that year. the election may be different every year.

in this case it will be allocated in the FTA

2. since this the is situated in Malta hence the rent should be taxable in Malta since the company is taxed on a worldwide basis - the rental income is brought to tax under art 4 or 31D of the income tax act. under art 4 of the ITA rental may be tax at the marginal tax rate of the company in terms of art 4(1)(a) as trading income or in terms of art 4(1)(e) passive income. to assess which one applies we need to look at the badges of trade normally since this could be just this warehouse it is of passive hence it will be allowed a deduction in terms of art sl 123.26 which from the passive rental income we shall deduct

- a) interest payable
- b) any rent
- c) licence fee and
- d) a deduction of 20% of b and c.

it will be allocated to the IPA.

whilst art 31D a fWH tax of 15% is applied on the gross rent. this method of taxation is optional and when the tax payer elects for it it applies to all tenements rented out by the person for that year. the election may be different every year. shall be allocated to the FTA.

3. these shall be interest income which is allocated to the MTA and because the income which is generated from the Malta government stocks is generating annual interest income in terms of art 4(1)(c) of the income tax act and shall be taxable at the point when it is received.

4. since the case is held at a Maltese bank this should be allocated in the FTA account however it interest income generated in a Maltese bank would have a 15% wHT at source and then it is not subject to any further tax irrespective of the marginal rates. the 15% FWH to apply the provisions in art 32-42 are applicable and the investment income are payable by a Maltese bank.

5. since the shares are listed on the Malta stock exchange these will be exempt from tax in terms of art 5 of the income tax act as it actually states that any transfers of securities in a Malta stock exchange are exempt from income tax in Malta. hence these shall be allocated in the untaxed account.

6. in terms of art 5 of the income tax act this shall constitute a transfer of controlling interest so the transfer value is the market value however, since it yields dividend then this may qualify for PEX. so the 100% must be a participating holding,. this will apply because MHL holds 100% in the Italian company hence represents a holding of share capital in the company which is similar to a company in Malta and does not own any immovable property in Malta and MHL has equity shares 5% or more in the Italian company shares which have the right of 2/3 of the following;

1. right to vote
2. right for profits available for distribution
3. right for assets during the course of winding up.

and since the Italian company is in a eu state then pex it is applicable and will be allocated in the untaxed account. then at the level of the shareholders since ms a is not resident or

domicile in Malta she shall not be considered at as a recipient so nothing shall be done.

7. so the Italian branch shall constitute of a permanent establishment so any dividend which is received shall be allowed to pex here in Malta as long as in Italy as long as the PE is seen independently in terms of the transfer pricing provisions the arms length to avoid shifting profits to the pe. hence this shall be allocated to the untaxed account.

8. the dividend shall be allowed to pex however since the shareholding in the company is only 2% then therefore pex will not allowed as it doesn't satisfy the criteria equity shares 5% or more in the US corporation company shares which have the right of 2/3 of the following;

1. right to vote
2. right for profits available for distribution
3. right for assets during the course of winding up.

hence the income shall be allocated to the fia and if the memorandum and articles of associating would have contained the empowerment clause there would be available to have the 25% FRFTC relief however one should see if either of the commonwealth relief, unilateral or double taxation treaty relief are applicable.

9. the dividend shall be allowed to pex however since the shareholding in the company is only 0.5% then therefore pex will not allowed as it doesn't satisfy the criteria equity shares 5% or more in the EU corporation company shares which have the right

of 2/3 of the following;

1. right to vote
2. right for profits available for distribution
3. right for assets during the course of winding up.

hence the income shall be allocated to the fia and if the memorandum and articles of associating would have contained the empowerment clause there would be available to have the 25% FRFTC relief however one should see if either of the commonwealth relief, unilateral or double taxation treaty relief are applicable.

10. since the shareholding is in a tax-exempt company i.e. Latvia and it is in an eu state then to avoid double non taxation since it is already exempt aboard it cannot be exempt here in Malta as well. although it does satisfy the criteria of the pex because it is exempt it cannot be also exempt here in Malta. hence taxable will be allocated to the fia income and if the memorandum and articles of associating would have contained the empowerment clause there would be available to have the 25% FRFTC relief however one should see if either of the commonwealth relief, unilateral or double taxation treaty relief are applicable.

11. since this is in china and this warehouse is being rented out to unrelated parties the rent should be taxable here in Malta irrespective that this is in china because the company is taxable on a worldwide basis. - the rental income is brought to tax under art 4 or 31D of the income tax act. under art 4 of the ITA rental may be tax at the marginal tax rate of the company in terms of art 4(1)(a) as trading income or in terms of art 4(1)(e) passive

income. to assess which one applies we need to look at the badges of trade normally since this could be just this warehouse it is of passive hence it will be allowed a deduction in terms of art 123.26 which from the passive rental income we shall deduct

- a) interest payable
- b) any rent
- c) licence fee and
- d) a deduction of 20% of b and c.

it will be allocated to the IPA.

whilst art 31D a FWH tax of 15% is applied on the gross rent. this method of taxation is optional and when the tax payer elects for it it applies to all tenements related out by the person for that year. the election may be different every year. shall be allocated to the FTA.

12. although the interest income is not received in Malta since the company is taxable on a worldwide basis the company shall still be subject to tax here in Malta on that interest income at a rate of 15% should be allocated in the FIA account however if interest income generated in a Maltese bank would have a 15% WHT at source and then it is not subject to any further tax irrespective of the marginal rates. the 15% FWH to apply the provisions in art 32-42 are applicable and the investment income are payable by a Maltese bank.

Part C

Answer-to-Question-___7

abc is a company resident in Malta so will be subject to tax here in Malta on the worldwide basis.

the shareholder is a company resident outside of Malta. and the shareholder of the company is not resident and dom in Malta so not taxable in Malta.

1. rental income to the FTA since this is allocated in the final tax account then it is not subject to further tax in Malta and does not have to be reported in the income tax return.

2. the rental income allocated to the ipa it has already been taxed at a rate of 35% at the level of the company so now declare the income in the tax return of the marginal tax rate and if this lower then claim a refund.

3. since it has received passive interest and royalty income in the FIA account abc can claim a refund of 5/7 as long as it is not subject to tax at a rate of more than 5% other wise if more than 5% then it will not be treated for passive and TBPV and taxed in terms of art 4(1)(a).

4. the dividends they are subject to pex but since it does not satisfy the anti-abuse conditions then a refund cannot be claimed and the income will still be in the fia account however if the

company has the empowerment clause of the FRFTC then it would be eligible to apply 25% or relevant tax treaty which is the most beneficial.

5. since the dividend satisfy the conditions of the anti-abuse then therefore pex refund of 100% can be claimed and hence then this shall be allocated in the untaxed account of the company then at the level of the recipient nothing will be done since it is not ord res and dom in Malta.

6. trading income allocated to the mta this would be taxed at a rate of 35%. dividend distributions of such profits would be refundable the default is 6/7 which will bring the tax rate down to 5%.

7. since this is allocated to the UA then at the level of a recipient so abc company since it is a Maltese company receiving the profits from the UA of another company then allocate such profits to the UA in the income tax return.

part B

Answer-to-Question-_4__

GCL is a company resident in Malta hence will be taxable in Malta on the worldwide basis of taxation meaning all income and capital gains.

1. non-domicile employees means they will be taxed on the remittance basis if they will be relocated to Malta hence they will be ordinary resident here but not domicile. When these employees do their duty out of their country of residence the relocation costs are not treated as a fringe benefit as long as this employment is expected to be more than 12 months.

2. this shall be considered as an exempt fringe benefit as the employees are given this advice as part of the business by a company of their choice so could be an associated company as part of its business this shall be an inhouse benefit which for those employees which are not in a controlling position up to 700 euro is allowed as a discount over 700 euro then this will be taxable.

3. the fringe benefit in relation to the immovable property is equal to 5% on the higher of the market value or original cost but if rented from third parties the fringe benefit will be equal to the rent paid but since no rent is paid this is a fringe benefit which is not taxable.

4. since this is given to all employees in terms of rule 39 this is exempt however if there is a beneficiary which earns more than the other beneficiaries the amount which is covered by the exemption is limited to maximum 3 times the cost of providing this to other beneficiaries. above the 3 times shall be a taxable fringe benefit.

5. the share option scheme is a taxable fringe benefit and will be taxed at a rate of 15% the cost of acquisition shall be deemed to be the market value at the point of acquisition and the value of the fringe benefit which will be taxed at 15% shall be the difference of the price of the market value less the price paid by the employee.

6. this is beneficial since up to 50,000 euro is interest free and then if more at a rate of 1% assuming that the benchmark rate is higher than 1% then this is beneficial. the taxable fringe benefit is payable on the loan, calculated at the benchmark rate, less any interest actually paid to the beneficiary. however if the beneficiary is the shareholder who has more than 25% of the share capital and voting rights in the company this shall not be considered as a fringe benefit.

7. the reimbursement of business travel is not considered as a fringe benefit. this shall be travel of business transactions and meetings. business travel shall only cover that of the employee and if they are costs for the family members then these are not considered as business travel costs but as private costs. out of Malta the costs allowed are those of insurance, the journey, accommodation, meals and allowance and the allowance shall not be more than 140 euro per day if more than taxable allowance and

meals. these shall also include Gozo travel hence if travelling by sea then these are also allowed.

8. the 100 euro as mentioned in 7 above is less than 140 hence it is not taxable allowance.

9. this shall not be a taxable fringe benefit as the meal is served to the employees in the canteen of GCL.

10. the car which is for both work and private use is a fringe benefit. a formula is applied to calculate it on the motor vehicles use, maintenance and fuel and private use element. the vehicle is 17% of the car value and 10% for car more than 6 years old. whilst maintenance and fuel is % of the car value if it is not more than 28000 euro and 5% if less. the fringe benefit is equal to the summation of these times the presence of the private use which is dependent on the value of the vehicle. since the fuel and maintenance costs are being incurred by the employees of the company then these should be taken as 0 when calculating the above mentioned equation. since these are going to be at their end of employment hence termination this shall be allowed to be done by the employees and not be taxed whilst GCL will have a capital gain which is not taxable since it is not engaged in the business of buying and selling cars.

Part C

Answer-to-Question-___5

mhl is a company which is in Malta hence it shall be registered under article 10 so it will have a vat number for example: MT12345678 and can recover i.e. claim input vat. it shall submit its vat returns at the end of every quarter 45 days after and electronic filing will allow an additional 7 days.

1. this shall be a supply of service so and the vat rate applicable is 12% since this is providing care of the human body by a health care profession. these shall be allowed to recover the input vat in accordance with the vat act a credit shall be allowed. as long as there is a support of invoice.

2. this shall be a supply of service and the vat rate applicable is 12% since this is providing care of the human body by a health care profession. these shall be allowed to recover the input vat in accordance with the vat act a credit shall be allowed. as long as there is a support of invoice.

3. this shall be a supply of service and the vat rate applicable is 12% since this is providing care of the human body by a health care profession. these shall be allowed to recover the input vat in accordance with the vat act a credit shall be allowed. as long as there is a support of invoice.

4. since this supply so b2c it will be taxable in the hands of where the supplier is and since they are not regulated by the

health care professions act then this shall not be charged to the rate of 12% but exempt without credit hence cannot recover input vat.

5. this shall be taxable in Malta because where the supply's is where the physically it is being carried out assuming that these food are under the HS codes then these would be exempt with credit supplies. so the supplier can recover the input vat attributable to these supplies as these are for resale and in terms of the economic activity of the company.

6. b2b it is where the taxable person has its business so here in Malta i.e. mhl. pharmaceutical goods these fall under the hs codes are also exempt with credit supplies i.e. vat is not a cost. so the supplier can recover the input vat attributable to these supplies as these are for resale and in terms of the economic activity of the company.

7. supply of service it is in relation to immovable property so it depends where the immovable property is situated assuming it is in Malta accommodation shall be taxable at a rate of 18% since this is not for tourist accommodation in terms of the Malta travel and tourism services act. cannot recover input vat because is not part of the persons economic activity

8. general admin services are out of scope for VAT.