

THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

December 2023

MODULE 2.03 – CYPRUS OPTION

ADVANCED INTERNATIONAL TAXATION (JURISDICTION)

TIME ALLOWED – 3¼ HOURS

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

You need to answer **five** questions in total. You will **not** receive marks for any additional answers.

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 in Euros, unless otherwise stated. Any monetary calculations should be made to the nearest whole Euro. Any necessary time apportionments in your calculations should be made to the nearest whole month.
- 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.
- There is no separate reading time, so you can start typing your answers as soon as the exam begins. However, we recommend that you set aside some time to thoroughly read each question and plan each of your answers.

PART A

You are required to answer BOTH questions from this Part.

1. Hyper Solvency Cyprus Ltd (HSC) is a company registered and tax resident in Cyprus. It is owned by a non-Cyprus tax resident individual and its main activities are the holding of investments and the provision of finance to other group companies.

HSC holds 100% of the share capital of Hyper Solvency Seychelles Ltd (HSS), a company which is tax resident in the Seychelles. HSS's sole activity is the provision of finance to other group companies. HSS does not own any immovable property in Cyprus, directly or indirectly.

Both companies are members of the Hyper Solvency Group, which specialises primarily in high-tech solutions.

In 2019, Hyper Solvency Turkey (HST) obtained a loan of €100 million from an independent United States bank, in order to finance its activities. The loan was denominated in euros and was reported in the financial statements of the bank as a Loan Receivable.

In 2020, HSC obtained an interest bearing loan from another group company in Germany, in order to buy the rights of the Loan Receivable from the US bank at a discounted price of €60 million. HSC then immediately assigned the rights of the Loan Receivable to HSS for €40 million and the remaining €20 million was waived prior to its assignment.

The group is contemplating a restructure in 2024, which aims to create a treasury centre in Cyprus that will manage any intra-group financing activities. Under this plan:

- 1) HSC will set up a new Cyprus tax resident company, Financial Services Cyprus Ltd (FSC), and will contribute the shares in HSS to FSC in exchange for shares in the latter. The value of the shares to be issued by FSC will be below the fair market value of the loan.
- 2) HSS will then be liquidated and will distribute the Loan Receivable to FSC in the form of liquidation proceeds. Immediately prior to its liquidation, HSS shall declare and pay dividends, fully eliminating its distributable profits.
- 3) Following the distribution of the loan, the outstanding amount of the Loan Receivable (which will equal the principal amount plus the amount of interest accrued between the (i) date of contribution of HSS's shares to FSC and (ii) the date on which the loan will be transferred to FSC in the form of liquidation proceeds) may either:
 - be written off, or
 - be settled via the issue of shares by HST to FSC.

You are required to analyse the Income Tax and Special Defence Contribution implications of the transactions described for the 2020 tax year, as well as those resulting from the contemplated restructuring, for:

- | | |
|-------------|------------|
| 1) HSC; and | (10) |
| 2) FSC. | (15) |
| | Total (25) |

2. Fundamental Investments Cyprus Ltd (FIC) is a company resident in Cyprus for tax purposes. The company serves as a holding company, holding shares in a number of subsidiaries around the world and providing financial guarantees to assist the subsidiaries in obtaining finance for the purposes of funding their operations.

One of FIC's wholly owned subsidiaries since the 2019 tax year, Levante BVI Ltd, is incorporated, registered and a tax resident in the British Virgin Islands. The company engages in the time chartering of vessels and cargo, and enters into derivative agreements for the purpose of hedging operational and business financial risks.

The board of directors of Levante BVI Ltd is composed of four individuals, all of whom are tax residents in Cyprus. The meetings of the board are also held in Cyprus, and the decisions taken include the approval of:

- a) the acquisition of vessels;
- b) any possible future merger of Levante BVI Ltd with other group companies;
- c) the dissolution of the company;
- d) any amendments to the main operations of the company;
- e) changes in the tax residency seat of the company;
- f) the extent of funding acquired to finance the company's operations;
- g) the extent of financial risks assumed by the company; and
- h) the conclusion of significant contracts.

The company employs ten individuals, whose job specifications are restricted to the maintenance of the vessels and cargo, administrative operations and other activities of a supportive nature.

You may assume that Levante BVI Ltd pays corporate tax on its profits in the British Virgin Islands at a rate of 3% and that no other taxes are paid by the company. The company has not distributed any profits, up to and including the 2023 tax year, though it generated significant profits from its operations in 2022.

You are required to:

- 1) Describe the Controlled Foreign Company (CFC) provisions of Article 36A of the Income Tax Law. (15)**
- 2) Critically analyse the CFC tax implications during the 2022 tax year, if any, for FIC of the activities described. (10)**

Total (25)

PART B

You are required to answer ONE question from this Part.

3. **You are required to outline the main amendments to the provisions of the direct tax legislation in Cyprus relating to transfer pricing, effective from 1 January 2022.** (20)

4. Mr Lo, aged 48, was born and raised in Tergal, a country in East Africa. In October 2021 he visited Cyprus for a holiday with his family and fell in love with the island. In December 2021, Mr Lo returned to Cyprus and applied for temporary residence. In the same month he bought a house in Foinikaria, a Limassol village, for €450,000 and invested €5 million in a Cyprus real estate company, Xo Ltd, acquiring 75% of its shares.

In February 2022 Mr Lo's application was approved. Between March and June 2022, Mr Lo made repeated visits to Cyprus and, during this period, bought a deserted hotel in Pafos for €4 million and spent €2.6 million on its renovation. The hotel was rented to a tour operator, at an annual rental of €600,000, in June 2022. The hotel had been built in 2003 at a cost of €900,000, on land which had been purchased two years earlier for €400,000.

In June 2022 Mr Lo and his family moved permanently to Cyprus and soon realised that their house in Foinikaria was too small for the family's needs. Accordingly, Mr Lo sold the house for €500,000 and bought a larger house in a Limassol suburb for €750,000 in September 2022. Mr Lo did not sell any of his property in Tergal, as his wife is not yet sure as to whether she will stay in Cyprus or move back to Tergal.

In October 2022, a friend of Mr Lo also decided to apply for Cyprus temporary residence and accordingly made an investment of €2.5 million in Xo Ltd, acquiring 15% of Xo Ltd shares through a share capital increase. As a result of this transaction, Mr Lo's holding in Xo Ltd was reduced to 60%. Xo Ltd did not have any transactions between October 2021 and October 2022.

Mr Lo is the managing director and a substantial shareholder of a company registered and listed in Tergal; his salary from this company in 2022 remained at the same level as for 2021, even though most of Mr Lo's time in 2022 was spent in Cyprus, either alone or with his family. Tax was withheld at source on Mr Lo's salary.

During 2022 Mr Lo was physically present in Cyprus for a total of seven months. He spent four months in Tergal, and spent the remaining month on business trips in other countries.

Cyprus has a double tax agreement with Tergal, based on the OECD Model Tax Convention.

You are required to:

- 1) **Discuss the tax residence position of Mr Lo in relation to Cyprus and Tergal, with reference to his personal and economic circumstances tests for 2022.** (12)
- 2) **Explain the Cyprus Income Tax and Capital Gains Tax treatment of Mr Lo's income and gains for 2022. You are not required to provide calculations.** (8)

Total (20)

PART C

You are required to answer TWO questions from this Part.

5. Ms Zantilova was born in Kazakhstan in 1980 and her parents are of Ukrainian origin. Ms Zantilova holds Ukrainian nationality and in July 2015 obtained a Cypriot passport.

In 2022, Ms Zantilova did not reside in any other country for more than 183 days and nor she was tax resident in any other country.

From September 2022, Ms Zantilova has been employed as an internal legal adviser by the Cyprus tax resident company Semeli Funds Ltd, attending the company's premises as and when required. She also maintains a minority shareholding in the company, which distributed dividends in 2022.

In 2015, Ms Zantilova acquired a beach villa in Pafos, which she uses as her permanent private residence.

During 2022 Ms Zantilova resided in Cyprus for 83 days; she has not been resident in Cyprus during any previous tax year.

Ms Zantilova also maintains a fully-fledged enterprise in Kazakhstan, which provides legal services to potential customers in the Central Asia region and also engages in real estate business which generate rental income from independent parties. The business does not constitute a legal entity and is carried on through owned office premises. The registered address of the business is in Kazakhstan. The income generated by the Kazakhstan enterprise is subject to tax in Kazakhstan.

Ms Zantilova maintains a bank account in Kazakhstan, denominated in Russian rubles. The bank account is used for placing funds generated from the business carried on in Kazakhstan and for covering any business expenses.

You are required to determine Ms Zantilova's Income Tax and Special Defence Contribution implications for the 2022 tax year. (15)

6. Mr Jones was employed by Cy Tech Ltd, a Cyprus tax resident company and a member of a global group, from 1 January 2017 until 30 April 2020. From the 2017 tax year, Mr Jones has been a Cyprus tax resident.

For at least ten years prior to his employment in Cyprus, Mr Jones was tax resident outside Cyprus. During the first year of his employment, he earned a total remuneration amounting to €25,000 and was eligible to claim the 20% tax exemption stipulated by Article 21 of the Income Tax Law from the 2018 tax year.

On 1 May 2020 Mr Jones was recruited, under a ten-year contract, by the holding company of the group, Cy Holdings Ltd, which is also tax resident in Cyprus and owns 100% of the share capital of Cy Tech Ltd.

For the 2018 tax year onwards, Mr Jones's total annual remuneration exceeded €55,000 and it is expected that, while he is employed by Cy Holdings Ltd, his total annual remuneration will continue to exceed this amount.

You are required to:

- 1) **Determine the Income Tax implications for Mr Jones for the 2022 tax year, with particular reference to the provisions of Articles 8(21), 8(23) and 8(23A) of the Income Tax Law.** (8)
- 2) **Briefly outline which provisions of Article 8(23A) of the Income Tax Law allow the eligibility of taxpayers to transition from the provisions of Articles 8(21) and 8(23) to the provisions of Article 8(23A).** (7)

Total (15)

7. Buzz was born in the United Kingdom with British parents, who have been individual and permanent residents of Cyprus since 2014. During 2022, Buzz had the following income:

<u>Income</u>	<u>Amount</u>
Income from salaried services	€50,600 (PAYE deducted at source: €8,835; GeSy: €1,340.90)
Net income from overseas fees	€13,102 (gross income: €18,013; less €4,911 expenses)
Dividends from Overseas	€60,000 (GeSy paid by self-assessment: €1,590)
Income from UK licensed Tourist Apartments	€30,000 (UK tax paid: €7,500. Gross income: 45,000; less €15,000 expenses)
Donations paid	€300

You may assume that Cyprus and the UK maintain a double tax agreement which is in full line with the OECD Model Tax Convention.

You may also assume that no temporary tax self-assessment was filed in relation to 2022, and that all other self-assessments and tax payments were submitted and paid on time.

You are required to determine Buzz's Income Tax, Special Defence Contribution and GeSy liabilities for 2022, assuming that he takes advantage of all available exemptions and reliefs. (15)

8. **You are required to outline and explain the following, with reference to the Cyprus VAT Law (95/2000):**

- 1) **The meaning of 'distance selling', and the compliance requirements relating to this type of activity if it takes place in Cyprus.** (4)
- 2) **The conditions that must apply, for the supply of goods by a Cyprus VAT-registered trader to a VAT-registered trader in other EU member states to be zero rated.** (4)
- 3) **The concepts of 'triangulation' and the 'simplified procedure', and the compliance requirements that must be satisfied should the simplified procedure be unavailable.** (7)

Total (15)