THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2025

MODULE 3.01 – EU DIRECT TAX OPTION

ADVANCED INTERNATIONAL TAXATION (THEMATIC)

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 appropriate monetary currency, unless otherwise stated. Any monetary calculations should be made to the nearest whole unit of currency. 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. Corporation ABC recently moved its place of effective management from Member State A, where it had previously been resident, to Member State B.

   On the day of the transfer, Member State A imposed an exit tax on the value of the assets leaving its territory. Corporation ABC had the choice to pay the tax immediately, or defer its payment over five years (paying five annual staggered payments). According to the domestic law of Member State A, if the taxpayer opts for deferral, interest will be charged by Member State A on each yearly payment.

   You are required to answer the following questions:

   1) **Is the exit tax compatible with EU law? Would your answer change if the taxpayer changing their tax residence were an individual, rather than a company?** (10)

   2) **Assuming that Member State B seeks to contest the valuation of the transferred assets, to what extent is it required to accept the market value established by Member State A?** (5)

   3) **Corporation ABC sold some of its assets two years after the transfer of its tax residence, arguing that, according to EU law, these losses should be deducted from the remaining yearly payments of the exit tax. Is Corporation ABC right, and on what basis?** (5)

   4) **The law of Member State A provides that, if the company transfers its tax residence to a (non-EU) third country, it will have to pay the tax immediately with no possibility of deferral. Is this law compatible with EU law, and on what basis?** (5)

   Total (25)

2. Member State A is examining the introduction of a group taxation regime. The draft legislation prepared provides, among other things, that losses incurred by a company resident in Member State A can be surrendered to, and offset against the profits of, another company of the same group arising in the same accounting period, provided the other company is also established in Member State A or is a permanent establishment in Member State A.

   This means that losses that arise outside Member State A cannot be surrendered and offset against profits arising in Member State A.

   You are required to prepare a report on the compatibility of the draft legislation with the EU fundamental freedoms. Your analysis should include appropriate references to the case law of the Court of Justice of the European Union. (25)

PART B

You are required to answer ONE question from this Part.

3. Member State Z imposes an environmental tax that applies to all companies that deal with the extraction of resources. For companies that extract rapidly-renewable resources, the tax rate is reduced by half.

   You are required to determine the extent to which this measure is compatible with EU state aid rules. When answering the question, you should follow an analysis similar to the one that the Court of Justice of the European Union employs in state aid cases. (20)

4. Member State A is engaged in double tax agreement (DTA) negotiations with Country X, a non-EU country, with the aim of concluding a DTA based on the OECD Model Tax Convention 2017.

   Country X has proposed including a limitation-on-benefits (LoB) clause, i.e. a clause that restricts the benefits of a DTA for certain residents of a contracting state, such as entities controlled by a resident of a non-contracting state (notably foreign-controlled corporations). The Ministry of Finance of Member State A has expressed doubts as to whether it can accept an LoB clause in a DTA, and has approached you for an expert opinion.

   You are required to prepare a report on the compatibility of LoB clauses in DTAs with the EU fundamental freedoms. (20)

PART C

You are required to answer TWO questions from this Part.

5. **You are required to discuss whether the fundamental freedoms may resolve both economic and juridical double taxation.** (15)

6. **You are required to discuss whether the Most Favoured Nation (MFN) principle applies in the Court of Justice of the European Union case law on direct taxation.** (15)

7. **You are required to prepare a report on the implementation of the results of the OECD/G20 BEPS Project in the EU, briefly referring to the specific measures implemented and the instrument chosen for that purpose.** (15)

8. The Court of Justice of the European Union (CJEU) has sometimes used the concept of the 'coherence of the tax system' as a justification for tax measures that restrict the fundamental freedoms.

   You are required to outline the concept of 'coherence of the tax system' as used by the CJEU, illustrating your answer with examples from relevant CJEU case law. (15)