THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2024

MODULE 2.06 – IRELAND 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. You are the tax manager in the Irish office of a global tax advisory firm. One of the firm's major United States-based clients, Taylor Telecoms Inc. (Taylor Telecoms), has asked your office for advice as they are contemplating expansion of their business into Ireland.

   Taylor Telecoms has a global turnover of US$3 billion. In order to evaluate its prospects in the Irish market, Taylor Telecoms may send some of its US employees to Ireland to study the market and draw up a list of potential customers. However, due to the time it will take to obtain the relevant telecommunication licenses required to sell its telecom services in the Irish market, the company believes it will not be selling in Ireland for at least another year.

   Following its market evaluation, and if it is anticipated that sufficient volume will be achieved in the Irish market, Taylor Telecoms will establish an Irish incorporated subsidiary to employ 300 people and generate revenues of US$75 million in its first year. It is likely that the entity will purchase telecom services from the US parent company under a reseller intercompany agreement and then sell those telecom services on to Irish customers. It is likely that the expansion will be funded by a loan arrangement from the US parent to the Irish entity.

   You are required to advise Taylor Telecoms on the following matters:

   1) **How is Irish tax residence determined, and how are resident companies taxed in Ireland?** (5)

   2) **Outline the Irish transfer pricing context, including relevant laws and considerations, that would be applicable to the proposed reseller arrangement.** (10)

   3) **Taylor Telecoms' management team intends to ensure maximum efficiency in the group's Irish tax arrangements. Advise Taylor Telecoms on any Irish tax considerations relevant to the proposed loan from the US parent to the Irish entity.** (10)

   Total (25)

2. Roberta is a construction contractor resident in the United Kingdom with her own business. She has been offered a lucrative contract to carry out building work on the Irish headquarters of a major multinational corporation outside Dublin.

The value of the contract would triple Roberta's income in 2024, when compared with her 2023 income. However, she knows nothing about the tax system in Ireland, including the taxes to which she might be subject as a self-employed contractor.

Roberta has a team of five employees in the UK who regularly work with her on projects, but will require three additional employees or subcontractors to carry out the planned work in Ireland. She could recruit these locally in Ireland, or alternatively persuade some UK-based subcontractors that she has previously used to relocate to Ireland for the duration of the project.

The UK personnel will need to bring their vans and equipment with them from the UK to Ireland. All large equipment will be supplied by the main contractor on-site.

The contract is likely to last between five and six months. However, if successful, it could lead to further contracts with the same customer on the same site.

You are required to write a letter to Roberta, explaining the following:

1) **Any taxes that will arise in Ireland if she takes up the contract. Which taxes should she be registered for, before she starts the work?** (9)

2) **Any reliefs available to Roberta which could reduce her overall tax burden.** (5)

3) **What would be the tax implications of extending the contract or taking on a further contract in Ireland?** (6)

4) **Any changes to organisational structure that Roberta could make to increase her tax efficiency.** (5)

Total (25)

PART B

You are required to answer ONE question from this Part.

3. Bold Beauty Ltd was established as an Irish company in August 2019, and is involved in the manufacture and sale of various beauty products. Its sales revenues have increased exponentially and, due to its high profit margins, the company has accumulated significant profits in a relatively short period of time. The board of directors of Bold Beauty Ltd has decided to return substantial dividends to the shareholders, all of whom own the same class of share:

   - Montrachet Benelux Sarl (53% of shares), a Luxembourg resident company owned by one Irish resident individual. This company was set up solely to avail of beneficial tax rates on investment income in Luxembourg.
   - Beaurive Sociedad S.A (3% of shares), a Spanish tax resident company owned by three individuals who are tax resident in Spain.
   - Cillian Nolan (44% of shares), an Australian resident individual.

   In January 2024, the board passed a resolution to pay a total gross dividend of €100,000 to its shareholders.

   1) You are requirement to explain Bold Beauty Ltd's withholding tax obligations in relation to the dividend payment, including applicable calculations and in consideration of Irish domestic legislation, EU legislation and double taxation agreements (DTAs).

   You may assume that DTAs are in place in all cases and are identical to the OECD Model Tax Convention 2017. (10)

   To grow its international business, Bold Beauty Ltd formed an Italian subsidiary, Bold Beauty Italia SPA (BB Italia), in 2020 to distribute its products in Italy. The companies entered into an intercompany agreement, under which BB Italia acts as a distributor in Italy on behalf of Bold Beauty Ltd and is paid a 5% mark-up on its costs.

   The Italian tax authority completed an audit of BB Italia for 2020 and 2021, concluding that the return under the terms of the intercompany agreement was not at arm's length and that BB Italia should have been paid a distribution fee of 3% of total Italian revenues. The Italian tax authority has issued a tax assessment to BB Italia for additional taxable income of €1 million that should have been included in its tax returns. BB Italia appealed the assessment through all levels of court in Italy, and all courts found in favour of the Italian tax authorities.

   2) You are required to outline what adjustments, if any, are required to Bold Beauty Ltd's Irish Corporation Tax returns as a result of the Italian tax audit, on the basis that the transfer pricing adjustment is accepted as valid by both tax administrations.

   You should assume that Bold Beauty Ltd has always been tax resident in Ireland and that the DTA between Ireland and Italy follows the 2017 OECD Model Tax Convention. (10)

   Total (20)

4. "Ireland identified as one of world's top tax havens" – Irish Times Headline, 23 October 2023

   You are required to explain:

   1) the extent to which you regard the above headline as true of the personal taxation system in Ireland; (4)

   2) the tax reliefs available for individuals moving to Ireland; (4)

   3) the tax reliefs available for individuals travelling in and out of Ireland for work purposes; and (4)

   4) the tax reliefs available to non-residents as well as residents. (8)

   Total (20)

PART C

You are required to answer TWO questions from this Part.

5. Saffron Holdings Ltd is an Irish resident company, owned by twelve unrelated individuals who are all resident in Ireland. The company has several subsidiaries in various jurisdictions. None of the companies in the group are considered close companies for tax purposes.

The shareholders are contemplating whether to undertake several transactions and activities during the year ending 31 December 2023, and have requested advice on the specific Irish tax consequences of each proposed transaction or activity for Saffron Holdings Ltd or its relevant subsidiaries.

You are required to prepare a note setting out the Irish tax implications and, if relevant, how these could be minimised, of the following proposed transactions and activities for the Saffron Holdings group for 2023:

1) **Saffron Holdings Ltd owns a 100% subsidiary, Dahlia Sarl, a French resident company, which in turn owns 100% of Lily Ltd. Lily Ltd is an Irish resident company trading in biomedical device development. Its balance sheet as of 31 December 2022 consisted of chargeable assets in the form of patents (€5 million) and goodwill (€8 million). Lily Ltd intends to change its tax residence to France in 2023.** (5)

2) **Poppy Ltd is a 100% subsidiary of Saffron Holdings Ltd and is tax resident in the British Virgin Islands. It purchased a vacant commercial property in Ireland in 2018, financed by third party debt. The annual interest on the borrowings is €200,000. At acquisition, Poppy Ltd appointed a local Irish third party property management company to secure a tenant for the property. This company has recently negotiated a 30-year lease with a call centre at an annual rent of €500,000, which will commence in January 2024.** (5)

3) **Saffron Holdings Ltd has a branch in Latvia, selling seed pods to large garden retailers. Saffron Holdings Ltd has lent money to a market-leading garden leisure company, based and tax-resident in Latvia, which is experiencing some short-term cashflow difficulties. The customer is regarded as a strategic customer from which a large amount of future business is expected to be generated. Saffron Holdings Ltd charges interest on the loan at an annual rate of 7%. Under Latvia's domestic legislation, a 20% withholding tax applies on interest payments.** (5)

Total (15)

6. Ireland's tax regime has undergone major changes over the past number of years, driven by the OECD BEPS project as well as by EU developments.

Like other EU member states, Ireland introduced controlled foreign corporation (CFC) rules from 1 January 2019, in compliance with Directive 2016/1164/EU (the Anti-Tax Avoidance Directive). Ireland has also introduced a new, formal Advance Pricing Agreement (APA) programme.

You are required to:

1) **Briefly outline how Ireland's CFC rules work, and their impact.** (8)

2) **Outline how the new APA programme works, and the extent of its applicability.** (7)

Total (15)

7. **You are required to explain how the following Irish taxes could apply to a non-resident of Ireland:**

   1) Capital Acquisitions Tax; (3)

   2) Universal Social Charge; (3)

   3) Customs Import Duty; (3)

   4) Irish Stamp Duty; and (3)

   5) Pay Related Social Insurance. (3)

   Total (15)

8. Jimmy McDermott was born and raised in Dundalk, Ireland. He went to work in the United Kingdom in 2009, where he met and married his wife, Julie, in 2012. They live in London and have two young children, the oldest of whom will turn four this year, and the couple are thinking of where to send him to school.

   Both Jimmy and Julie would like to relocate to Ireland permanently, however there are several considerations to take into account. Jimmy has a very well-paid job with an international energy company, while Julie works part-time in the engineering sector.

   Jimmy and Julie seek advice on the various tax implications of moving to the island of Ireland. A move to Northern Ireland would be simpler as it is still in the UK tax system and not much would change from a tax perspective. They could locate close to the border to be close to Jimmy's family, who live just south of the border. However, a move to the Republic of Ireland remains their preference.

   Jimmy has not yet approached his employer about his potential move, but is considering working from home either in Northern Ireland at a remote working hub or in the Republic of Ireland, and commuting once per week to the London office.

   You are required to advise Jimmy and Julie on the tax implications of a move to the Republic of Ireland. You should consider both the personal tax position and the employer tax position, should Jimmy or Julie choose to work in the Republic of Ireland. (15)