THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2022

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 to the nearest month and in Euros, unless otherwise stated.
- As you are using the online 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.
- 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. "I am confident that Ireland will provide an attractive home for multinational enterprises long into the future. Ireland will remain 'best in class' when multi-nationals look to investment locations, we will continue to have an attractive tax rate, and we will continue have all of the many benefits multinational enterprises in Ireland benefit from and enjoy."

   Paschal Donohue, Irish Minister for Finance, 8th October 2021

   You are required to outline how Ireland has responded to the significant shifts in the international tax landscape since the inception of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project, as well as EU changes, referencing legislative and other developments which have changed Ireland's international offering, and comment on its attractiveness to foreign direct investment. (25)

2. You are a tax manager in a professional services firm; your client David has provided you with the following information.

   David and his wife, Susan, have lived in the United Kingdom since moving from the Republic of Ireland in 2019. Prior to the move, David was always Irish tax resident.

   David had invested in a number of properties in 2006, some of which was based in Ireland, and has also invested in a company in Poland. Some of the Irish properties were sold after the market crash in 2008 and no gains were made on the properties. One of the disposals was an industrial site which David sold to his brother Barry. However, he did not file any returns in respect of the disposals.

   The total amount invested in Irish properties between 2006 and 2018 amounted to €600,000. The total amount of proceeds from the eventual sale of these properties amounted to €500,000. The last property was sold in 2020.

   The investment in the company in Poland began in 2016 with the initial share capital of €5,000; David was the sole shareholder. The company in Poland acquired a site for €1 million with a view of clearing up the site and selling it on. The additional funds required to acquire the site were invested into the company by way of a director's loan from David's own personal funds of €350,000. The remainder was raised by way of a Polish bank loan to the company.

   Part of the site was disposed of in 2017, with a gain of €50,000 computed under Irish tax rules arising on disposal. David transferred the shares in the Polish company to Susan in 2018.The remainder of the site was sold by the company in 2020 and the company was then liquidated. The funds paid out to David on the eventual wind up of the company amounted to €360,000.

   David has in the last week received an Aspect Query from the Revenue Commissioners of Ireland. The query relates to a figure on his 2020 return, which showed proceeds on a capital gains tax disposal of €310,000 but disclosing the gain arising as nil.

   You are required to answer the following questions:

   1) What are David's obligations in this situation, and what should his response be to the Revenue Commissioners' query? (19)

   2) Other than Capital Gains Tax, what other taxes should David consider before responding to the Revenue Commissioners? (3)

   3) What implications may arise for David's situation, from the Automatic Exchange of Information (AEOI) agreement between OECD countries? (3)

   Total (25)

PART B

You are required to answer ONE question from this Part.

3. You are a Tax Manager at Kingdom plc, an Irish public limited company which is quoted on the Irish stock exchange that produces and markets premium gin to international consumer drinks markets. Kingdom plc owns several 100% subsidiaries in Asia and Europe.

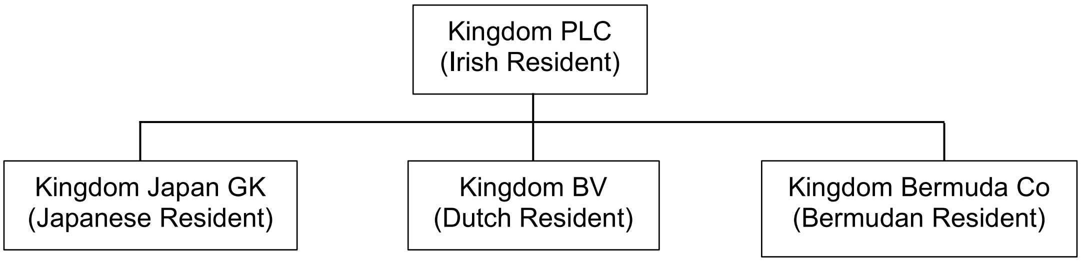
Kingdom plc has been very successful in recent years, achieving record turnover in international markets and generating a significant amount of cash within its local subsidiaries. The Corporate Treasury team are keen to centralise the cash to fund further ambitious growth plans within the group.

Kingdom plc's ownership structure includes the following entities:

- An operating company (Kingdom Japan GK), a Japanese resident company operating as a full risk distributor, contracting with and invoicing Japanese customers;

- A Dutch resident company (Kingdom Dutch Co. Sarl), which operates a group financing function with two full time employees; and

- A Bermuda resident company (Kingdom Overseas Co.), which owns several of the group's trademarks that are licensed to the overseas markets.



	Statutory tax rate	Effective tax rate	Distributable reserves	Surplus cash
Kingdom Japan GK	30%	25%	€7 million	€7 million
Kingdom BV	33%	5%	€5 million	€5 million
Kingdom Bermuda Co	0%	0%	€20 million	€20 million

You may assume that the relevant tax treaties follow the OECD Model, and that the dividends are the only transactions in the financial statements of Kingdom Japan GK.

You are required to:

1) **Suggest three mechanisms by which surplus cash can be repatriated to Ireland from the foreign subsidiaries. Outline both the Irish and foreign tax issues which may arise in each case.** (10)

2) **Compute the Irish Corporation Tax payable on the amount repatriated, assuming that all companies within the ownership structure declare dividends to the limit of their distributable reserves in respect of the year to 31 December 2021.** (10)

Total (20)

4. “Ireland already has international tax rules governing customs, trade and movement of people, for individuals and businesses based outside the European Union. We can cope with Brexit.”

a) James and Maura are moving from Wales in the United Kingdom, where they have been married and living for twenty years, to Westmeath in Ireland. James was born and raised in Wales, while Maura is originally from Westmeath.

The move has been prompted by Brexit, but James and Maura are unsure of the tax implications for them. James runs a small consultancy business from home, advising both businesses and private individuals on overseas property purchases. He hopes to continue this business and retain his customers after the move to Ireland. The only plant and equipment which he has to take with him are a laptop and printer/scanner.

James and Maura have one son, Daniel, who is currently studying at a university in London. At present, James does not expect to move to Ireland permanently but intends to visit his parents frequently.

James and Maura plan to keep their house in Wales and rent it out; this will also provide an alternative plan in the event that they regret the move to Ireland. They think it is highly unlikely that Daniel will move back to Wales as most of the career options he is interested in pursuing are in London. They would like to help him get onto the property ladder and buy his own home, so are considering gifting him the deposit.

b) Valerie is an Irish resident living in Dublin, where she runs a small fabrics business from home. She imports rolls of popular fabrics from suppliers in Asia and cuts them into small squares suitable for quilting and craft work. Valerie’s customers are based in the Republic of Ireland, Northern Ireland and Great Britain. Most of the customers are hobby crafters, but a few are businesses which buy from Valerie to resell locally.

Valerie’s sister Monica used to live in Dublin and also ran a small business, manufacturing and engraving trophies. The trophy parts were sourced locally and all of Monica’s customers were in the Republic of Ireland or Northern Ireland. The customer base consisted mostly of amateur sports clubs. Monica got married in 2020 and moved to England. She hoped to continue her business from there, and retain as many of her Irish customers as possible.

You are required to explain how the exit of the United Kingdom from the European Union changes how tax rules are applied in Ireland, with respect to the transactions involving businesses and individuals in these two scenarios.

In each of the two scenarios:

1) Identify the charges to tax and the application of the rules. (8)

2) Identify if any of the rules differ before and after 1 January 2021. (6)

3) Outline any tax planning opportunities which you are able to identify. (6)

Total (20)

PART C

You are required to answer TWO questions from this Part.

5. You are the tax manager in the Los Angeles office of a United States-headquartered multinational company which is engaged in the development and manufacture of longer life batteries for electronic cars. To date, revenue has been primarily generated within the US, and the board of directors now intends to concentrate on international expansion in a tax efficient manner. The chief financial officer has asked you to review Ireland as a location for the ownership of the international intellectual property (IP) within the group.

   You are required to prepare a memo addressing how income from the IP will be taxed in Ireland, including foreign royalties as well as any other reliefs that may be available to the company. (15)

6. **Describe the extent to which Ireland has a General Anti-Avoidance Rule (GAAR) designed to prevent or reduce abusive tax avoidance, and discuss the extent to which such a GAAR has been tested within the courts.** (15)

7. "The Revenue Commissioners of Ireland relaxed some tax rules in the face of the global pandemic. The purpose was to restrict the movement of people and therefore the spread of disease but, paradoxically, this resulted in more global mobility from an employment tax perspective."

   You are required to answer the following questions:

   1) Explain the global mobility tax rules which govern when a foreign employer must register for payroll taxes in Ireland, applicable to foreign employment exercised in Ireland. Why might greater focus on the global mobility rules have arisen during the pandemic when travel was restricted? (7)

   2) Identify two tax reliefs which can apply to an employee in Ireland and relate to the global mobility of the employee. (8)

   Total (15)

8. "Ireland treats all of its resident citizens equally when it comes to tax."

   Do you agree with this statement? Explain your analysis, using the three examples below and outlining the taxes charged and reliefs available to individuals to illustrate your points:

   1) Charge to tax on income and gains for resident persons. (5)

   2) Comparing Capital Acquisitions Tax rules for domiciled and non-domiciled resident persons. (5)

   3) Taxation of the gains of close companies on the resident participator. (5)

   Total (15)