Answer-to-Question-_3

a. NID notional interest deduction the provisions of section 9Bof the income tax law of 118/2002
entail the following: one would need the 10 year bond of the country |(and we add to this 5%) where the amounts of equity is invested to be multiplied by the amounts of equity. This product is then compared to the product of 80% * taxable profits for the year. The deduction of 80% cannot be exceded if the 1st product given above is more . We then choose the lowest of the two and we deduct form the taxable profits and the rest is taxed. If a company has losses then this deduction cannot be utilised.

If a loan is utilised to fund the equity then the interest rate of the loan so long as it is at armslength is subtracted from the above rate and then multiplied to the funds of equity. When a company produces its own IP box and utilises resources from unrelated parties then it can utilise the 80% deduction of the IP box further from the tax profits by utilizing this formula OI=QP*QE+UE/OE which trnslates to Overall income equals qualifying profittimes qualified expenditure plus uplift expenditure divided by overall expenditure.

b. As discussed above as long as the IP box is developed by the own cypriot company then the deduction of the 80% to the tax profits can be utilised and also as long as it utilises resources from unrelated parties. In the scenario we are being given tha the IP is developed in Germany and Cyprus is given the right to utilise it and KAxachstan will pay royalties therfore Cyprus cannot utilise the 80% of the IP box but if appropriate it can utilise the 80% deduction in line with section 9B the notional

---

interest deduction
scenario a. capital contribution in cash at fixed annual fee
Cyprus will hgave to pay royalty fees there is no withholding tax in cyprus on royalties but depending what DTA is in place of course GErmany will handle the IP royalty income accordingly. IF only capital contribution is given then it sounds like a permanent establishment in Cyprus form the German company.A permannet establishment is also taxed at 12.50%
b. the issue of share capital of CYP to Germany will entail the section 9B to be utilised so long the usage of funds is for business requirements of the cyp and is matched to the assets utilised the 80% deduction can be utilised as already described above. Also Cypr will have to declare dividends if profitable to Germany and utilise the EC directive since Germany is a member country rrlating to parent subsidiary declaration of dividends. here Cyp co can be taxed normally at 12.50% Care should be taken if in general if the cypriot company embodies a permanent establishment of the German company whereby article 5 can be utilised.
c.GERCO fixed annual fee and capital contribution in cash will have a percentage of the profits of C|YP co and will earn IP royalties from Cyprus taxed accordingly. But in c the capital contribution by KAzco will be in the form of share to share exchange which will involve new issues of shares by both Cyp co and KAzco again the issue of shares can utilised the notional interest deduction as described above and the transaction cannot be considered as a reorganisation or restructuring since the other participant Germany is only contributing cash and it is bound to be more than 10% of the nominal value of the shares involved. Here casre should be taken the company Cyp co can be taxed normally at 12.5% Care should be taken if the cyprus

company is a permanent establishment of the German company whereby article 5 can be utilised.

d. HEre the whole scenario gives clings like a reorganisationbut it is not .the part of Germany will give rise to the 9B deduction while the part of Kazachstan will also give rise to section 9B being utilised and it will betaxed at 12.50% care should be taken if it is a permanet establishment of the german company whereby article 5 of the OECD can be utilised.

Answer-to-Question-__1_

a. Mr B if he relocates to Cyprus will be considered a cyprus tax resident if there is no dual tax residency issue and if it is not solved via article 4 of the OCED and dual tax residency. That is if no other country we assume claims the tax residency and if stays in Cyprus for over 183 days then he will be a tax resident of Cyprus and his worldwide income will be taxed over from Cyrprus. Demolishing the house building a nd erecting block of flats will allow him to utilise capital allowances form the rental profit and the 20% income tax deduction of the rents deduct capital allownances and any interest used for the provision of a loan necessary to be utilised for the erection of the flats.. He will not pay SDC as he is not considered domiciled in Cyprus while it is not being mentioned if he has a domicile of choice in Anguila and while his domicile of origin is Cyprus it is evident from the scenariothat he was waway for more than 20 years prior to the relocation in Cyprus and also 20 years away prior to the enactment of the law of domicile wills and succession of 16/7/2015 . He is therfore considered a non domiciled and no SDC is paid He will pay SDC as long he remains in Cyprus for 17 out of 20 years consecutively he will then have to pay *17% on dividends, *3% on rents after judicial deduction of 25% and 30% on any interest earned from passive income while for government bonds this interest is reduced to 3%. No capital gains tax will arise when transfrrring to his Children as the y are 1st degree relatives . When the children decide to dispose of the property then it will be taxed under CGT capital gains tax. Also when it is disposed the price of the land purchased

before 1974 will not be utilised for the land for index purposes RPI bu the price given at 1980. and the structure of the building will take the year when it is constructed.no transfer fees involved

b.again the loan will be utilised to subtract hte interest ffrom the rental income if rented out by his sons . The flats when sold . the 6 flats will cause transfer fees to the people buyng them the people buying them will have to pay transfer fees.. he will also have to charge VAT on the sale of the flats and the government will collect this. If VAt is charge d no transfer fees will be charged also when selling the flats CGT will be caused and the rates to be used as describe in a . above the 1980 price valuation of the land and price fvaluation of the 6 flats when sold the RPI used will be the rate of the previous month sold divided by the date of acquisition which will be 1980. if the 9 flats are rented by the sons then depending on who they will rent they will charge VAT if to a doctor no VAT and the sons will be taxed rents at 20% deduction capital allowances deductions of the cost of the construction and interest if the father assigns part of the loan to them. No capital gains tax will be caused when the father gives gift to the sons as they are 1st degree relatives.

c. no capital gains tax and no transfer fees if gifted to the sons. the rents if rented will be taxed to the sons. SDC will be paid by the sons so long they are in Cyprus for 17 out of the 20 years.

d. the company cannot utilise the 9B N|ID for the shares as it is not meant to be for business it is for family matters. the company can claim the capital allowances to the rents and the expenses for the rents to be subtracted if renovated and the interest of the loan to reduce the rental amont no 20% deduction

---

here as it is a company. capital allowances will be at the rate of 3% it will be 7% if constructed between 2012-2018 for the whole life of the building. Depending on who they rent if a doctor no VAT is charged bu if a businessman then it is charge with VAT the rent . if they rent for residential purposes as if in where the apartment will be treated as a 1st house of residence then no VAt is charged.. When Mr and Mrs B transfer their shares to their children it will still account as as causing capital gains tax and utilising the article 13 of capital gains tax as long as the value of the share s is more than 50% of the value of the underlying immovable property then it cause s CGT tax at 20%. But in this case as it is first degree relatives no CGT is caused and no transfer fees No transfer fees it is the scenario of th e parent gifting to the chilren.

Answer-to-Question-__2_
a. In line with cyprus domestic legislation and in line with the OECD guidelines a company is said to be tax resident where effective management and control please refer to b. below. Tax legislation outlines
where all board meetings are taken here in Cyprus
where the tax residency of all directors is here Cyprus except Mr C
where all important decisions are taken
all three above have to coincided but the effective management and control whereby important decisions are taken is the most important. MR C plays an important role with signatory powers to the bank accounts. and gfives instructions through emails to the ret of the directors please see b below. IF the company is taken to have tax residency in Cyprus then the below apply for the article 5 of the permanent establishment.
In qatar the place of production refers to permanent estanblishment through a fixed place of office factory etc in line with 5.2 article of the OECD or quarry or workshop or branch or place of management.. However we are buing told that in Qatar has a factory and and stock is maintained where only stock is maintained then it is only auxiliarry purposes and would not constitute as a PE. It is not clear if the y sell from Qatar and stock as well if they indeed sell then it is a PE in line withthe fixed place of type of PE. the UAE distributor who gets goods on consignment the dependnt agency of paragraph 5.5 if dependent agent due to the consignment of goods held in UAE then it constitutes a PE and it can habitually conclude contracts in

---

the name of BCO. In both Qatar and |UAE they have wasrehouses but tyehy sell as well and therfeor they carry out business naad they are held to be both PEs. Also sales from to northwest u contries are made through subsidiary distributors who are also held to have PEs as they have a permanent fixed place of business and they sell from there since theya re all bought on consignment proving dpendent agency. It is not indepndent in line with 5.6 article proving that it is under the orders of the BCO inc.and acting on its behalf. The warehous in Malta is used exclusively for stock keeping and therefore in line with article 5.4 this is of auxhilliary format and it is not held to be a PE. if only storage maintenance of stock all items in 5.4 a.b.c.d.e.f. the maintenance of a fixed place of business solely for any combination of these does not constitute a permanent establishment. so Malta is not a permanent establishment.
the joint venture the Kazachstan IT people are no dependent agents and they do not form a PE in line with article 5.5 of dependnt agency. They are independent in line with 5.6 and they act on their own and they are considered freelancers so they do not form a PE even though they are given offices they do not take orders from BCO inc. they take orders fro m their own other companies of employment.The 40% of the JV will constitute a permanent establishment in MAlta with the remianing accounting to the profits of BCO 60%. Malta will be taxed for the 40%. In all above scenarios the PEs will be taxed in their own countries and be exempted in Cyprus so long they do not elect to be taxed in Cyprus if the the tax rate of 12.5% is lower in Cyprus. If there are losses at the beginning they will be set off to the Cypriot tax resident company and recaptured later when the branch or PE becomes profitable.

---

b. Mr C where he lives and control s the company can challenge the tax residency of the BCO inc and it whould not be Cyprus . HE acts as a shadow director aand could challenge a dual tax residency for the company under question. A shadow director orders around all other directors and takes important decsiions by himself.. It does not matter the geographical area where the decisions are executed bu the geographical area of where the decision was taken is important and that is where the tax residency of the company is and where effective management and control of the company lies Otherwise if the dual tax residency of the company is challenged they can utilise article 4 of the OECD and the parties shall endevour to reach a decision under MAP

mutual agreement procedure.

In Woodversus Hooven the above was decided where the shadow director scenario is evident.

Answer-to-Question-_7she is tax resident of Cyprus and she is therfore considered to be taxed over her worldwide income over cyprus
PEnsion from abroad she will be taxed using the special mode and subtracting form income 3.420 and multiply the rest with 5%
30.000-3420=26580*5%=1329 tax to be paid which is less than the ta she would optherwise pay under normal rates starting from 20% this would be subtracted form the she would be given tax credit of 1329 as she already paid 3000 in Uk article 23 tax credit.
UK private pension 40.000-3420=36580*5%1829 she will be given credit to 12.000 which she paid in Uk in other words she will not pay for it as she already paid alot in UK
Rental income form Uk 24000*20%=4800 24000-4800=19200 here she will pay taxes on this and subtract the 6000 she already paid in UK no SDC as she is non domiciled she has to stay 17/20 years before she will pay.,
Rental income from Cyprus 9000*80%=7200 and tax ther est with all income
trading goodwil not taxed of 300000 the tax she paid in Uk will be at the own expense also any tax from above not given any credit will be her own cost and as she is not paying any SDC she cannot deduct from the SDC cost.
UK bank interest 5000 specially exempt non domiciled no rate of 30% she is not domiciled no domicile of origin Cyprus she jus t relocated to cyprus now and was away for a consecutive 20 years prios r to relocation. the tax paid in Uk will be her own cost.
Cyprus bank deposit 2000 she has to be given back the SDC non dom and intrest amount speccifically exempt no SDC as non domiciled.

Dividends form Uk specifically exempt no income tax the tax paid abroad is her own cost as she is non dom
renting in Greece is to be held as permanent establishment and taxed in Greece exempt in Cyprus.

She will pay GESY on all rents from abroad and from Cyprus and willpay GEsy on all rents gross and interest earned and dividends earned as she is a tax resident of Cyprus now at the rate of 3.65 with maximum amount to be charge of income maximum 180.000.
She will be taxed on the pensions but waht she paid in Uk is more than Cypriot which is given tax credit
She will be taxed on rents according to the scales (24000*80%=19200*25% scale 4800she will not pay anythng here as she already paid 6.000 in Uk. tax credit. the rest will be her own cost 1200 .
Also she willbe taxed on 9000 rents *80% =7200*25% scale 1800 no tax credit here all is cypriot.
no executive deduction of 50% allowed as she is not earning employment income and no 20% deduction capped at 8550

Answer-to-Question-__6_

1. Andy willbe considered a s a Cyprus tax resident and willbe taxed out of his worldwide income from Cyprus as he will be stayng more than 183 in Cyprus and working in Cyprus. Even though he is of Cypriot origin by examining the law of the Wills and succession rules he was abroad for many years the scenario does not say but if he was more than 20 years abroad prior to the reloccaton and also 20 years prior to the enactment foth wills and succession law of 16/7/2015 then he is considered non domiciled however and willnot be charged with SDC. He will be eligible howeve rto the executive deduction of 50% if he earns more than 100.000euro and he is employed all throughout the year and he was way at least 3 out of 5 years prior to the relocation which the scenario says that he was abroad for many yeras he was overseas we assume the 3/5 is complied with. Or if he earns less he will get the 20% deduction and capped to 8550 . Tobe charged with SDC he ha to live in Cyprus for the 17 years out of 20 consecutive years.

2. Eco Ltd we assume from the scenario it is a cyprus tax resident company. In line with Cyprus domestic legislation construction contracts of 3 months can be held to be permanent establishments in Cyprus but here the OECD guidelines prevail as they are boungd by it as said in the scenario . In line with the OECD guidelines construction contracts are said to be permanent establishments in line witharticle 5 .3 paragraph in the guidelines 51 version 2020/2021 of keys van Raad when they are 12 months. We are being told in the scenario that they are in 2 different countries these construction contracts they are not in

the same country if thery were in the same country then both the 6 month and the 12 month contract will be taken to be PE in line with the OECD as they can be scattered over the same arrea. IF they are 12 months all of them then all are considered PE. If a PE is taxed in the country where it is and exempt form the Cyprus company as long as it does not opt to be taxxed in Cyprus. |Care should be taken that all profits emanate from trading business income. If more than 50% of the trading profits emanate from pasive income and i fthe tax is less than 6.25% which is 50% of the cyprus tax of 12.50% then it would have to be taxed in Cyprus and not be exempt. If it iis for 6 months or less than 12 months it will not be a PE abroad and willbe taxed under the cypriot company.
Andy is allowed the 90 day exemption rule as he is staying 102 days all his income during this time and his allowance willbe exempted from cyprus income tax as long as he is employed by the PE of a Cypriot employer.. However in line with article 15 he will be taxed in the country he is as he willbe staying ther eless than 183 days and if hte the other two conditions are complied of article 15.2a.b.c the remuneration is paid .

as long it is a by and on bejhalf of an employer who is not a resident of the other state and the remuneraton is not borne by a permanent establishment which the employer has in the other state. From this is deduced that he will b taxed when it is not a PE when the construction contract is less than 12 months.

Andys salary willbe tax deductible from companys tax profits as long as it is not a PE abroad i.e when the construction project is for less than 12 months which it would mean that Andy would be entirely taxed for that period abroad. If it is a PE then it will

be tax deductible.I.e. when it is 12 months the construction project

__