

Solutions to Advanced Taxation Exam August 2011

Solution 1

- a) Retirement relief is available to Fred on part of business that excludes investments. Mary will not be able to get retirement relief as she is under 55 years old and she does not meet director for 10 years and full time working director for 5 years.

€942,000			
€692,000		€250,000	
70%	30%	70%	30%
€484,400	€207,600	€175,000	€75,000
Retirement Relief			2 Marks
<u>CGT</u>			
Fred			
Gain	€207,600		1 Mark
Less:			
Annual exemption	<u>(1,270)</u>		1 Mark
	<u>€206,300</u>		1 Mark
Mary			
Gains	€55,000	(€250,000 - €195,000)	2 Marks
Less:			
Annual exemption	<u>(1,270)</u>		1 Mark
	<u>€53,730</u>		1 Mark
Total Gains	€260,030		
CGT @ 25%	€65,007.50		1 Mark

- b) Mary could gift her shares in the business to Fred before she reaches 55 years old. Fred would be deemed to acquire them without any tax implications and at original cost and date of acquisition. **4 Marks**

CGT then (all portion of business that relates to non-investment assets eligible for retirement reliefs. (Sales proceeds €750,000)		1 Mark
Total Gains	€282,600	
(€207,600 + €75,000)		
Less: annual exemption	<u>(1,270)</u>	
	<u>€281,330</u>	
CGT @ 25%	€70,333	2 Marks
This results in a tax saving of €43,432. (€113,765 - €70,333).		1 Mark
Alternatively May could have wasted 2 years until she met director torts and was over 55 to personally qualify for retirement relief.		2 Marks

Solution 2

A) Is Mark a farmer?

€950,000

€950,000 + €420,000 - €350,000 + €100,000

= €950,000

€1,120,000

= 84.8% Yes farmer

1 Mark

Current inheritance €950,000

Less: Agricultural relief (€855,000)

2 Marks

€95,000

Prior inheritance

€45,000

1 Mark

€140,000

€20,740 @ nil

€119,260 @ 25%

€29,815

1 Mark

Less:

Tax on prior inheritance

€20,740 @ Nil

€24,260 @ 25%

(€6,065)

1 Mark

€45,000

Tax on current inheritance

€23,750

1 Mark

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B) 10/11/09

Anne CGT	€	
Sales proceeds	82,000	
Cost		
€43,800 x 1.212	<u>(53,086)</u>	1 Mark
	28,914	
Less: Annual exemption	<u>(1,270)</u>	
	<u>27,644</u>	
CGT @ 25%	€6,911	1 Mark

Sally

Gift	€82,000	
Less: Exemption	<u>(3,000)</u>	1 Mark
	€79,000	
	=====	

€41,481 @ Nil

€37,519 @ 25%	€9,380	1 Mark
Less: CGT Credit	<u>(€6,911)</u>	
	€2,469	
	=====	

Sally sold within 2 years so CGT credit claimed back. Sally has to pay CGT €6,911 and CGT of €9,183 on her current disposal. **1 Mark**

Sales proceeds	€120,000	
Less:		
Cost	<u>(€82,000)</u>	
Gain	€38,000	
Less: exemption	<u>(€1,270)</u>	
	<u>€36,730</u>	
CGT x 25%	€9,183	2 Marks

C) Sally under threshold group A as surviving spouse of deceased spouse of disposer. **2 Marks**

Mary under threshold Group A minor child of deceased child of disposer. **2 Marks**

Fred, incapacitated child and it pays for medical expenses, exempt. **2 Marks**

Solution 3

a)

A,B,C Ltd loss group

Y/E	A 31/1/210	B 31/12/10	C 31/10/10
Sch D Case I	€150,000	€190,000	-
Loss €150,000x10/12 (2)		(3)	1 Mark
	<u>(€125,000)</u>	<u>(€158,333)</u>	1 Mark
€190,000x 10/12	€25,000	€31,667	<u>€22,000</u>
Sch D Case V	<u>€25,000</u>	<u>€10,000</u>	<u>€22,000</u>
	€50,000	€41,667	€22,000
	=====	=====	=====
Corporation Tax			
€25,000 x 12½%	€3,125		
€25,000 x 25%	€6,250		
€31,667 x 12½%		€3,958	
€10,000 x 25%		€2,500	
€22,000 x 25%	-----	-----	<u>5,500</u>
	9,375	6,458	5,500 1 Mark
Less: Value basis			
<u>€5,500</u> = €44,000 (1) x .125			<u>(5,500)</u>
.125			1 Mark
€6,250 x 10/12 (5,208)			
= <u>€5,208</u> = €41,664 (4)			2 Marks
.125 x 12 1/2%			
CT Due	<u>€4,167</u>		<u>-</u>
	=====		=====
€2,500 x 10/12 =		<u>(2,083)</u>	1 Mark
= <u>€2,083</u> = €16,664 (5)			
.125 x 12 1/2%		_____	1 Mark
CT Due		€4,375	1 Mark
Loss Schedule			
	€500,000		
Used value basis C	<u>(44,000)</u>		

	456,000
Used case 1 A	(125,000)
Used case 1 B	(158,333)
Value A	(41,664)
Value B	<u>(16,664)</u>
	114,339

€114,339 available to carry forward against future profits of C Ltd.

1 Mark

B) When A Ltd transferred the premises to B Ltd, no capital gains tax was due at CGT group. B Ltd was deemed to acquire asset at original cost and original date A Ltd got asset. No stamp duty was payable as associated companies relief claimed (>90% relationship)

Two Marks Per point
Total 4 Marks

As B Ltd is leaving Group within 10 years of acquiring asset tax A Ltd avoided on transfer payable by B Ltd. Stamp Duty not claimed back as associated relationship not broken within two years.

2 Marks

A Ltd can sell its shares in B Ltd without incurring any liability as it can claim participation exemption. A Ltd owns B Ltd (a trading company) for more than 12 months and owns more than 5%.

2 Marks

No stamp duty implications

CGT payable by B Ltd.

Sales proceeds	€500,000
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Cost

€180,000 x 1.356 (€244,080)

€255,920

25%

€255,920 x 12½% = €511,840

€511,840 x 12½% = €63,980

2 Marks

Solution 4

He could reduce the value of the company by the following:

- (1) Sell assets surplus to requirements before sale e.g. plant and machinery that will not trigger a taxable gain.

- (2) Sell and lease back assets prior to same.

- (3) Reduce value of company by taking extra salary (company get deduction and reduce corporation tax, individual taxed at income tax). While it does reduce value not that tax efficient as saving 12½% tax while paying 55% tax.

- (4) Company pay dividend. Company get no deduction and individual taxed at 55%. It may however reduce close company surcharge.

- (5) Termination payment

Tom may be able to make a termination payment to enable him get a tax free lump sum from the pension scheme and at the same time reduce the value of the company.

- (6) The company could contribute to a corporate pension scheme for Tom. There is no limit on proceeds involved by company.

Any 4 points, 5 Marks each

Solution 5

a) A Ltd

	Y/E 31/12/10	Y/E 31/12/09	
Sch D case 1	-	€75,000	
Less: Loss		<u>€75,000</u> (1)	
		-	3 Marks
Sch D Case III	€20,000	€10,000	
Sch D Case V	<u>€12,000</u>	<u>€2,000</u>	
	€32,000	€12,000	
	=====	=====	

CT

€32,000 x 25%	€8,000	
€12,000 x 25%	-----	<u>€3,000</u>
	€8,000	€3,000

Value basis

€8,000 = €64,000

125

(2)

€64,000 x 12½%	<u>(8,000)</u>	3 Marks
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Value basis

€3,000 = €24,000

125

(3)

€24,000 x 12½%		<u>(3,000)</u>	3 Marks
Less Schedule		-	
Loss	€250,000	=====	
Used in 2009 Case 1	€75,000		
Used value			
2010	(64,000)		
2009	<u>(24,000)</u>		
Carry forward against	(87,000)		2 Marks
b) a) A, B,C, D			3 Marks
b) A, B, C			3 Marks
c) A, B,			3 Marks

Solution 6

A) VAT Charge on which input credit is not allowed

No deduction is allowed for VAT on any of the following:

- Provision of food, drink or accommodation supplied to a taxable person, his agents or employees.
- Entertainment expenses
- Purchase or hiring of passenger motor vehicles other than as stock in trade
- Purchase of petrol other than as stock in trade, can however reclaim diesel
- VAT in respect of goods or services used by the taxable persons for the purposes of an exempt activity or for personal use
- VAT for goods and services for which the registered trader does not have a valid VAT invoice.

Need 5 for all points

B) Who must register for VAT?

You must register for VAT if you are a taxable person and your annual turnover (i.e. the amount of your receipts excluding VAT) exceeds or is likely to exceed the following annual limits.

€75,000 in respect of the supply of goods

€37,500 in respect of the supply of services

You may also be obliged to register for VAT if you receive taxable services from abroad or if you are a foreign trader doing business in the State.

Need all for 5 points

C) Cash receipts basis of accounting

Can use if:

- Persons engaged in the supply of taxable goods or services where at least 90% of sales are to unregistered persons
- Persons whose annual turnover is less than €1,000,000

Means you pay VAT to Revenue when you are paid for goods / services.

Need all for all 5 points

D) Requirements for valid VAT invoice / credit note

A Valid VAT invoice / credit note must contain the following:

- Name and address of person issuing the invoice
- The sellers VAT registration number
- Date of issue of invoice
- Date of supply of goods / services
- Full description of goods / services
- Amount charged excluding VAT
- Rate (including zero rate) and amount of VAT at each rate
- Name and address of customer.

Need 5 for all 5 points.

A VAT Invoice must be provided where the business is transacted with another taxable person. VAT invoice must be issued by 15th day of month following the month in which the goods / services are supplied or advance payment received.

All records must be maintained for 6 years.