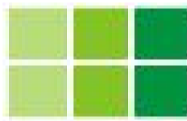

Advanced Tax May 2015 Solutions

Solution 1

Step 1: Value of shares

Value of assets transferred			
Property	€560,000		
Goodwill	€1,000,000		
Trade receivables	€50,000		
Total		€1,610,000	**1 mark**
Value of Liabilities taken over			
Trade payables	€35,000		
Personal tax debt	€10,000		
Total		€45,000	**1 mark**
		€1,565,000	
Less: Cash equivalent		(€75,000)	**1 mark**
Value of Shares		**€1,490,000**	**1 mark**

Step 2: Chargeable gains

Gain on Property (€560,000 - €160,000)	€400,000	
Goodwill gain	€1,000,000	
Total gains	€1,400,000	**1 mark**

Step 3: Deferred gain

Gains x Value of Shares/Value of Assets

€1,400,000 x 1,490,000/1,610,000 = €1,295,652 **1 mark**

Step 4: Taxable gain

Gains	€1,400,000	
Less: Deferred Gains	(€1,295,652)	**1 mark**
	€104,348	
Less: Annual exemption	(€1,270)	**1 mark**
Chargeable Gains	€103,078	**1 mark**
CGT 33%	€34,016	**1 mark**

Step 5: New base cost of shares

Value of Shares	€1,490,000	
Less: Deferred Gain	(€1,295,652)	**1 mark**
New Base Cost	€194,348	**1 mark**

CGT should have been paid €34,016 **2 marks**

Stamp duty 2% on €1,610,000 = €32,200 **2 marks**

No VAT assuming both business VAT registered. **2 marks**

Income tax cessation for sole trader business. **2 marks**

Solution 2
Property in Spain
Daughter in Law steps into shoes of deceased spouse so Group A.
€500,000-€225,000 = €275,000 x 33% = €90,750 **5 marks**
Shares in Irish Companies
Friend Group C
€325,000 - €15,075 = €309,925 x 33% = €102,275 **5 marks**
Flowers Galore
Niece favourite niece, Group A
Also Business Property relief
€1,200,000 x 10% = €120,000 No CAT **5 marks**
Rental Property to Charity
No CAT **5 marks**

Solution 3
a)
Green Ltd leaving group within 10 years of having acquired an assets from another group member so tax Purple avoided on transfer payable by Green Ltd.

€500,000 gain
€500,000 x 30%/12.5% = €1,200,000 x 12.5% = €150,000 **10 marks**

Sales of shares in Green Ltd
S 626B TCA 1997 Participation exemption, as Blue Ltd owned more than 5% of a trading company for a continuous period of at least 12 months and company in Ireland no tax on sale. **5 marks**

b)
Salary or dividends or loan
Salary – deduction for company, saves them 12.5% corporation tax. Individual taxed up to 55%

Dividend – no deduction for company as paid out of after tax income. Reduced close company surcharge if a close company. Individual taxed up to 55%

Loan – if a close company could have to regross loan and pay income tax by company and when loan repaid company reclaim income tax. Also if loan given interest free benefit in kind on individual. Not a good option here as Paul will want to jeep the money.

Sell shares in Blue Limited - CGT He is unlikely to do this as Blue owns Yellow and Purple and that would be in effect selling those companies. Salary or dividend the best option.
2 marks per option, maximum 4 marks. 1 mark per recommendation.

Solution 4

(a) Residence and Domicile
Domicile is a concept of common law. It defines the jurisdiction that an individual regards as his/her permanent home and the place to which he ultimately intends to return.

Everybody has a domicile of origin. A child's domicile of origin is generally his/her father's domicile. This domicile of origin is retained unless an individual takes steps to acquire a domicile of choice.

A person over the age of 18 may acquire a domicile of choice. This involves taking up residence in a different jurisdiction with the intention of establishing a permanent home there as well as other indications of a change of citizenship.

The Taxes Consolidation Act 1997 sets out the rules governing the residence of individuals. For a full tax year an individual is resident in the State in a tax year if he spends:

(a) 183 days in the State in that year, or
(b) 280 days in aggregate in that tax year and the preceding tax year.
Under (b) above an individual who is present in the State for 30 days or less in a tax year will not be treated as resident for that tax year unless he elects to be resident.

Any 5 points, 1 mark each

(b) Your Domicile
Even though your parents moved to England in the 1940s they would seem to have retained their Irish domicile, as it was always their intention to return to Ireland. You would therefore have, at birth, acquired a domicile of origin in Ireland.

4 marks

There is no indication that you have taken any steps to change your domicile of origin. Over the years you also maintained your strong links with Ireland.

1 mark

(c) Residence under Irish/UK Double Tax Treaty

The UK/Irish Tax Treaty starts from the position that a person is regarded as resident in the State in which he is regarded as resident under the rules of the domestic laws of that State.

However differences in the laws of the two States could result in a person being resident in both jurisdictions for tax purposes for a tax year. The Double Tax Treaty contains provisions aimed at settling such conflicts

It requires the application of the following four rules in the order given:
1. A person is deemed to be resident in the State in which he has a permanent home available to him. If he has a permanent home in both States he is deemed to be resident in the State with which his personal and economic relations are closer (centre of vital interest)

2. If the State where he has his centre of vital interest cannot be determined he shall be deemed to be resident in the State in which he has an habitual abode.

3. If he has an habitual abode in both States or in neither State, he shall be deemed to be a resident of the State of which he is a National.

4. If he is a national of both States or of neither State, the Authorities of both States shall settle the question by mutual agreement.

Any 5 points, 1 mark each

(d) Capital Acquisition Tax
Regardless of whether your are resident in the State, clearly your inheritance is liable to Capital Acquisitions Tax because your uncle was resident in Ireland and the property is situated in Ireland.

2 marks

Your liability is €56,051 computed as follows:

	€
Value of inheritance	2,000,000
Less:	
Business Relief (Note 1)	1,800,000 **1 mark**
	200,000

Capital Acquisitions Tax payable:

	€
30,150 @ nil	-
169,850@ 33%	56,051 **2 marks**

Note 1

Business relief should be available to you provided that Agricultural Relief does not apply.

Agricultural relief would apply if you satisfied the definition of a farmer. Since you appear to be domiciled in the State you would satisfy the definition if, after the taking of the inheritance, 80% of your gross property in possession was represented by agricultural property, livestock, bloodstock and agricultural machinery and provided that you are resident for the following 3 tax years.

Question 5

Part A
a)
Smith Ltd Nov/Dec 2014

	Net	Vat	
Sales			
ROI	800,000	184,000	**½ mark**
UK	150,000	0	**½ mark**
UK Purchases	220,000	50,600	**½ mark**
		234,600	**½ mark**
Purchases			
Irish	300,000	69,000	**½ mark**
UK	150,000	34,500	**½ mark**
Wages	70,000	0	**½ mark**
Insurance	8,000	0	**½ mark**
Accountants	5,000	1,150	**½ mark**
Car	45,000	0	**½ mark**
Machine	150,00	34,500	**½ mark**
Diesel	6,000	1,380	**½ mark**
Petrol	1,000	0	**½ mark**
Lease	3,000	690	**½ mark**
		141,220	**½ mark**
Payment due		93,380	**½ mark**

b) The return should be filed by 19th Jan 2015 **2 marks**

Part B
Exempt supplies are not liable to VAT. No VAT is chargeable on the supply and no input credit can be claimed for VAT suffered in relation to the supply. VAT records do not have to be maintained. Examples of exempt supplies are insurance, education and medical services. Any two points,

4 marks

Where a business has some supplies exempt and some not then the business is to be considered partially vat exempt. Where input credits apply to both exempt and taxable activities the input credit is apportioned on a reasonable basis.

1 mark

The exempt trader is not obliged to make VAT returns or maintain VAT records.

1 mark

An exempt trader is obliged to register in respect of VAT on imports of goods from EU countries where the total value of such imports of goods exceeds €41,000 annually. Again such traders are not entitled to any input credit for VAT suffered on such purchases.

2 marks

An exempt trader is obliged to register for fourth schedule services received from abroad in all cases, there is not a minimum threshold. Again such traders are not entitled to any input credit for VAT suffered.

1 mark

Because input VAT is not recoverable any VAT paid is an increase in the cost of a particular good or service to the exempt business. **1 mark**

Total Marks 20

Solution 6

(a) Boats Ltd
Adjusted Profits Computation for the year ended 30 April 2014

	€		€	
Profit per accounts			440,090	**1 mark**
Addback:				
Depreciation	12,000	**1mark**		
Repairs and Renewals	5,500	**1mark**		
Legal fees	500	**1mark**		
Miscellaneous – Entertaining suppliers	500	**1mark**		
Customer gifts	800	**1mark**		
Purchase of machine	7,310	**1mark**		
Interest on late payment of tax	700	**1mark**		
Leasing Charges (2,000 x (30,000-24,000) / 30,000	400	**1mark**	27,710	
Deduct:				
Interest	2,000	**1mark**		
Irish Dividend	4,000	**1mark**		
Profit on sale of fixed assets	15,000	**1mark**	(21,000)	
Case I adjusted trading profits			446,800	
Less: Capital allowances			(31,000)	**1 mark**
			415,800	
Capital Gains (32,000x33%/12.5%)			84,480	**1 mark**
Profits taxable at 12.5%			500,280	
Case IIII UK dividend			2,000	**1 mark**
			502,280	
Taxable as follows:				
€500,280 @ 12.5%			62,535	**1 mark**
€2,000 @ 25%			500	**1 mark**
Corporation tax due			63,035	**1 mark**

b) By 21st March 2014 **2 marks**