Professional 2 – Module 9

August 2015

Solutions

Advanced Taxation

Solutions to Advanced Taxation September 2015

Solution 1

a)
Value of asset transferred – liabilities taken over – cash = shares

€3,041,000 - €39,000 - €102,000 = €2,900,000			**2 marks**

Gain

Goodwill	€450,000		**2 marks**
Premises			
Market Value		€2,500,000	
Cost			
€300,000 x 1.212		(€363,600)	
		€2,136,400	**2 marks**
Total Gains		€2,586,400	

Deferred Gain

€2,586,400 x	€2,900,000 / €3,041,000	=	€2,466,478	**2 marks**

Taxable Gain

€2,586,400 - €2,466,478 =	€119,922	**2 marks**
Less: Annual exemption	€ 1,270	
	€118,652	

Capital Gains Tax €118,652 x 33% =	€39,155	**2 marks**

b)
Base cost of shares for future disposal

Value of shares	€2,900,000	**2 marks**
Less: deferred gain	(€2,466,478)	**2 marks**
	€ 433,522	**1 mark**

c)
If Tina holds on to the premises in her own name she can avoid the future double tax exposure by having the premises in a company. She can also protect the premises from future creditor claims against the company. **2 marks**

The disadvantage is that she cannot claim deferral of CGT if she holds on to the premises. In order to claim relief Tina would need to transfer all assets of business except cash to new company in exchange for shares and possibly some other consideration. **1 mark**

Solution 2

A) Is Mark a farmer?

$$\frac{€1,250,000}{€1,250,000 + €320,000 - €250,000 + €120,000}$$

$$= \frac{€1,250,000}{€1,440,000}$$

= 86.8% Yes farmer **1 Mark**

Current inheritance	€1,250,000	
Less: Agricultural relief	(€1,125,000)	**2 Marks**
	€125,000	
Prior inheritance	€45,000	**1 Mark**
	€170,000	
€15,075 @ nil		
€154,925 @ 33%	€51,125	**1 Mark**
Less:		
Tax on prior inheritance		
€15,075 @ Nil		

€29,925 @ 33%	(€9,875)	**1 Mark**
€45,000		
	___________	
Tax on current inheritance	€41,250	**1 Mark**
	========	

B) 10/11/14

Amy CGT	€	
Sales proceeds	102,000	
Cost		
€43,800 x 1.212	(53,086)	**1 Mark**
	48,914	
Less: Annual exemption	(1,270)	
	47,644	
CGT @ 33%	€15,723	**1 Mark**
Noelle		
Gift	€102,000	
Less: Exemption	(3,000)	**1 Mark**
	€99,000	
	======	
€30,150 @ Nil		
€68,850 @ 33%	€22,721	**1 Mark**
Less: CGT Credit	(€15,723)	
	€6,998	
	=====	

Noelle sold within 2 years so CGT credit claimed back. Noelle has to pay CGT €15,723 and CGT of €12,121 on her current disposal. **1 Mark**

Sales proceeds	€140,000	
Less:		
Cost	(€102,000)	
Gain	€38,000	
Less: exemption	(€1,270)	
	€36,730	
CGT x 33%	€12,121	**2 Marks**

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

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

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

Solution 3

a)
If she incorporates she needs to consider the following taxes:

<u>Income Tax</u>
Incorporation is a cessation of her sole trader business and Revenue can revise the assessable profits for the penultimate year to actual if it gives them a higher tax intake so she needs to be careful with her date.
3 marks

<u>Stamp Duty</u>
Transfers assets from her own name to company name means ownership passes and written document will have stamp duty payable by company at 2% on assets transferred,. She could transfer plant and machinery and stock by delivery to avoid stamp duty.
3 marks

<u>Corporation tax</u>
New company will pay corporation tax 12.5% on trading profits which is lower than 55% income tax rate payable by sole traders. She will be an employee of new company.
3 marks

<u>Capital Gains Tax</u>
Assets transferred to company such as goodwill and premises will trigger a liability to cgt. Under Section 600 TCA 1999 there can be a full deferral of CGT if all assets except cash taken over by new company and only consideration is in the form of shares. If other consideration than shares or indeed other liabilities transferred there can be a partial deferral (Revenue will allow as a concession a full deferral if only liability transferred is trade creditors and only consideration is in the form of shares). If she decided to transfer in the premises she can do this. If not CGT due now.
Any two points 3 marks each, total 6 marks

b)
The advantage of claiming this deferral is as Sally is 53 years and want to retire in a few years in order to claim retirement relief she needs to have owned shares in new company for at least 10 years and also needs to be a director for at least 10 years. She can aggregate the time periods of sole trader and company for both purposes if she has claimed Section 600 relief. If not she cannot aggregate the time periods. She should incorporate now due to higher tax rate and also should claim section 600 relief as outlined above.**5 marks**

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 3 points, 2 marks each, 1 mark presentation.

(b) Your Domicile
Even though your parents moved to France in the 1970s 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.

5 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.

2 marks

(c) 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.

3 marks

Your liability is €56,051 computed as follows:

	€
Value of inheritance	3,000,000

Less:

Business Relief (Note 1)	2,70,000 **1 mark**
	300,000

Capital Acquisitions Tax payable:

	€
30,150 @ nil	-
269,850@ 33%	89,051 **3 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.

Solution 5

Letter format 4 marks

Ms Bronagh
Soft Wood Limited
Address

Date

Dear Bronagh

I refer to our recent meeting and the queries raised regarding the export of goods and services. I now set out the VAT treatment in respect of the transactions discussed:

EU "Exports" of goods
EU exports are known as "intra EU transactions". If the EU customer quotes their VAT number to the Irish supplier, they will then zero rate the supply. The net of VAT amount for such transactions is also included in box E1 "value of goods sent to other EU countries". **3 marks**

Exports of goods to non EU countries
These sales are zero rated for VAT purposes. Documentary evidence that the goods have been exported should be kept.
3 marks

Repairs for customers in the EU
These services are normally deemed to be supplied where the service is actually carried out. However, services on moveable goods in cases where the goods involved leave the Member State in which the service is physically carried out and the customer is a VAT registered person are deemed to be supplied in the State in which the customer is registered. The recipient of the service is liable to account for VAT (this is known as the reverse charge basis). If the customer provides the company with its VAT number the company can zero rate the supply.
2 marks

EU imports of goods
EU imports also, are known as "intra EU transactions". "Deferred accounting" applies to such transactions. The company quotes its VAT number to the EU supplier who should then zero rate the supply. The company self accounts for the VAT by calculating the VAT on the transaction, using the appropriate VAT rate and including the amount as a supply on the VAT return. This increases the VAT liability. If the company is entitled to a deduction for the VAT (which is usually the case)

it claims a deduction for the VAT as calculated. The net effect is that the transaction is VAT liability neutral.

The net of VAT amount for such transactions is also included in box E2 "value of goods received from other EU countries". **Any 2 points, 2 marks each**

Non EU imports of goods

This is an import from a non EU State. On arrival in the State, VAT is paid to Irish customs (VAT at point of entry). This VAT is reclaimable in the normal fashion on the VAT return for the period in which the payment is made or deemed to have been made if using the deferred payment system.

Depending on the circumstances and turnover level you may also be required to complete additional VAT returns such as a VIES return (quarterly return of EU exports) or an intrastate return (monthly return showing a detailed make up of EU imports or EU exports). **Any 2 points, 2 marks each**

Please contact me if you have any further queries.
Yours sincerely,

A Student.

Solution 6

a)
Party Place Ltd

Presents
2014
No CT use €12,000 case 1 loss to wipe out €6,000 Case V income.

2013

Case I	€200,000
Loss back	(€200,000)
Case I	0
Case V	€5,000
Ct €5,000 x 25%	€1,250
Less: Loss value basis	
€1,250/.125 = €10,000 x .125	(€1,250)
Ct	0 **3 marks**

Loss	€350,000
Used 2014 Value	(€12,000)
Used Case I 2013	(€200,000)
Used Case I 2013	(€10,000)
Left to group	€128,000 **2 marks**

2014

	Balloons	Toys
Case I	€200,000	€40,000
Loss from Presents	(€128,000)	0
Case I	€72,000	€50,000
Case V	€10,000	
Total	€82,000	
Ct		
€72,000 x .125 =	€9,000	
€40,000 x .125 =		€5,000
€10,000 x .25 =	€2,500	
Total Ct	€5,250	€5,000 **3 marks**

2013

	Balloons	Toys
Case I	€150,000	€50,000
Case v	€10,000	
Total	€160,000	
Ct		
€150,000 x 12.5%	€18,750	

€50,000 x 12.5%		€6,250
€10,000 x 25%	€2,500	
	€21,250	€6,250 **2 marks**

b)
If Party Place sells Presents Ltd Party Place will have no CGT on the sale of its shares due to S626B TCA 1997 participation exemption. **5 marks.**

Presents will be leaving the group within 10 years of having acquired a premises from Balloons Ltd. Presents will have to pay the tax Balloons avoided on the transfer. **2 marks**

Deemed sales proceeds	€100,000
€61,000 x 1.193	(€72,773)
Gain	€27,227

Chargeable gain€27,227 x 33%/12.56% = €71,879
Ct €71,879 x 12.5% = €18,985 **3 marks**