

## PAPER 2 – CORPORATE TAX PRACTICE 2

### Learning objectives

The purpose of the Corporate Tax Practice 2 course is to:

- » Enable students to build on their knowledge of corporate tax, capital gains tax for companies and stamp duty obtained at Parts 1 and 2
- » Ensure students have an advanced knowledge of the relevant provisions of the Taxes Consolidation Act 1997
- » Enable students to interpret legislation at an advanced level and apply theoretical knowledge to factual situations
- » Enable students to interpret case law and apply knowledge of the established principles to factual scenarios
- » Enable students to provide narrative advice that is coherent and displays commercial awareness
- » Enable students to have knowledge of general anti-avoidance legislation and apply this knowledge to factual situations

### Learning outcomes

Having passed the Corporate Tax Practice 2 examination, students will be able to:

- » Interpret corporate tax legislation, and apply theoretical knowledge to a variety of scenarios involving corporate clients
- » Draft reports in a coherent and structured manner, demonstrating commercial awareness
- » Address planning matters such as corporate structuring, corporate issues, and inward and outward investment issues
- » Demonstrate an awareness of the interaction of corporation tax with stamp duty and other relevant taxes
- » Advise on effective corporation tax planning to maximise utilisation of available reliefs and to minimise exposure to corporation tax, with due awareness of relevant anti-avoidance provisions
- » Advise on stamp duty and how to maximise utilisation of reliefs
- » Advise clients on international tax considerations such as permanent establishment issues, double tax relief issues, and planning for inward and outward investment
- » Provide tax advice for groups dealing with provisions for corporation tax and capital gains purposes
- » Provide tax advice on anti-avoidance legislation

Computational questions that may arise on this paper will be in respect of accounting periods beginning on/after 1 January 2008. In the event that a question requires reference to a period prior to 2008 (e.g. in the case of terminal loss relief), students may assume that the rates applicable in prior periods are the same as in 2008.

Stamp duty aspects will comprise no more than 15% of the examination paper.

The following matters will be examinable:

### CORPORATION TAX

#### Trading income versus passive income

- » Determining of charging schedule, including case law/badges of trade

## READING LIST

### Designated case law

A list of examinable cases, included in the CTP2 manual and available to download from the ITI website, forms an integral part of the Part 3 Corporate Tax Practice 2 course.

### The latest published editions of the following:

*Direct Tax Acts* (Irish Taxation Institute)

*Stamp Acts* – Goodman (ed.) (Irish Taxation Institute)

*Corporation Tax* – Ryan (ed.), Brennan, Moore & O’Sullivan (Irish Taxation Institute)

*The Taxation of Capital Gains* – McClean (ed.), Appleby & O’Hanlon (Irish Taxation Institute)

*The Law and Practice of Irish Stamp Duty* – Devlin (ed.), Power & Scully (Irish Taxation Institute)

### Included on Student TaxFind:

*Capital Allowances and Property Incentives* – Purcell (ed.), Bradley & Walsh (Irish Taxation Institute)

*Double Taxation Agreements* – Haccius & O’Brien (Irish Taxation Institute)

*Taxation of Property Transactions* – Gaffney (Irish Taxation Institute)

*Irish Tax Review*

*Tax Briefing*

Statements of Revenue Practice

### Supplementary reading:

*Tax Acts Commentary* – Brennan & Howley (LexisNexis)

*The Tax Book* – Moore (Taxworld International)

*The Taxation of Companies* – Feeney (LexisNexis)

- » Appropriation to and from trading stock
- » Interest charged to capital
- » Winding up a company
- » Asset and dividend stripping
- » Anti-avoidance legislation
- » Company changing tax residence/exit charges

### 13 **Capital gains – companies and their shareholders**

- » Treatment of capital distributions
- » Methods of reorganisation or reduction of share capital
  - Shareholder implications
- » Company amalgamations by exchange of shares (Section 586 TCA 1997), including specific anti-avoidance legislation denying deferral on issue of loan stock, debentures or other similar securities
- » Company reconstructions and amalgamations (Section 587 TCA 1997)
- » Acquisition by a company of its own shares
- » Share transactions
- » Capital distributions
- » Sale of rights
- » Conversion of securities

### 14 **Capital gains tax groups**

- » Definition of a group
- » Intra-group transfers of assets
- » Non-resident groups
- » Disposal outside the group
- » Company ceasing to be a member of a group
- » EU capital gains group relief
- » Relief for certain branch profits and capital gains – participation exemption
- » Disposal of shares in certain subsidiary companies

## **STAMP DUTY**

### 15 **Associated companies relief**

- » Section 79 SDCA 1999
- » Anti-avoidance

### 16 **Reorganisation and mergers relief**

- » Stamp duty relief

### 17 **Mere conveyances**

- » Company distribution
- » Distribution *in specie*

- 7           **Interest and withholding tax**
- » Interest payments to foreign recipients
  - » Interest withholding tax
  - » Application of EU Interest & Royalties Directive
  - » Recharacterisation of interest as a distribution
  - » Dividend withholding tax on interest payments and relevant exemptions
- 8           **Royalties and withholding tax**
- » Tax treatment of royalty payments including patent royalties and application of withholding tax where relevant
- 9           **Double taxation and foreign exchange issues**
- » Principles of double taxation relief
  - » Mechanics of double taxation relief
  - » OECD Model Treaty as it affects companies
  - » The concept of permanent establishment
  - » Ireland - UK Double Tax Agreement
  - » Parent/Subsidiary Directive
  - » Onshore pooling
  - » Foreign exchange issues
  - » Issues for inward/outward investment
  - » Transfer pricing
  - » Controlled foreign companies
  - » Thin capitalisation
  - » Foreign withholding taxes
- 10          **Anti-avoidance provisions**
- » At Part 3 students are expected to have an understanding of developments in anti-avoidance provisions and Revenue's approach. In particular, students are required to have a thorough knowledge of the following:
    - Distinction between tax avoidance and tax evasion
    - Attitude of the Courts in Ireland and the UK towards tax avoidance, and a thorough knowledge of the related case law
    - General anti-avoidance provision (Section 811 & 811A TCA 1997)
    - Schemes to avoid liability to tax under Schedule F (Section 817 & 817A)
- 11          **Administration**
- » Other reporting requirements
  - » Appeals
  - » Interest and penalties
- CAPITAL GAINS TAX**
- 12          **Company capital gains**
- » Charge to tax on capital gains
  - » Charge to tax on development land gains
  - » Recovery of tax from shareholders/group companies

- » Income chargeable at 12.5% versus income at 25% including:
  - The licensing of intellectual property through Ireland
  - Levels of employment / establishment and activity required to be regarded as trading

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### **Taxation of property**

- » Trading v capital
- » Planning for property transactions
- » Dealing in developing land – CT implications

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### **Research and development**

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### **Losses and charges**

- » Trading losses – Schedule D, Cases I and II
- » Excess trade charges
- » Losses on foreign trades
- » Terminal loss
- » Losses arising under Case IV and Case V
- » Losses
  - Surplus management expenses
  - Disallowance of certain losses
  - Restriction on loss relief
- » Charges – including interest
  - Meaning of charges
  - Interest as a charge (Section 247 TCA 1997)
  - Relief for charges
- » Abolition of withholding tax on certain interest and royalties paid between associated companies within the EU

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### **Group relief**

- » Groups/consortia – payments
  - Obligation to deduct tax
  - Meaning of “group”
- » Group/consortium relief for losses
  - Qualifying groups/consortia
  - Surrender of losses
  - Corresponding accounting periods
  - Companies joining or leaving a group
  - Restriction of group relief
  - EU losses

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### **Distributions and dividend withholding tax**

- » Meaning of “distribution”
- » Purchase by a company of its own shares
- » Dividend withholding tax