



# THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

May 2005

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## PAPER III

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### PRINCIPLES OF CORPORATE AND INTERNATIONAL TAXATION

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B - EUROPEAN COMMUNITY OPTION

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TIME ALLOWED - 3 HOURS

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Candidates should answer any **four** out of seven questions.  
Each question will carry equal marks.  
Start each answer on a fresh sheet.  
Marks are specifically allocated for good presentation.

1. "The EC Institutions have a significant impact on the direct tax systems of the EU Member States despite the fact that competence in direct taxation matters remains within the purview of the Member States."

**Focusing on the corporate sphere, you are required to discuss how the Council of Ministers, the European Commission, the European Parliament and the Court of Justice of the European Communities respectively interact with the direct tax systems of the Member States.** (25)

2. The introduction and amendment of Insurance Premium Tax in the UK triggered two significant cases involving state aid issues – *R v Commissioners of Customs and Excise, ex parte Lunn Poly Ltd and another* ("Lunn Poly"), and *GIL Insurance Ltd*, ("*GIL Insurance*").

**You are required to discuss the concept of state aid and the state aid issues raised in *Lunn Poly* and *GIL Insurance*.** (25)

3. "The direct tax cases of the ECJ pertaining to companies comprise three basic elements – discrimination, restriction and justification."

**In the light of this statement, discuss the direct tax jurisprudence of the ECJ, as it relates to companies.** (25)

4. Your client, XYZ plc, has asked for your advice on the European Convention on Human Rights (ECHR).

**You are required to write a memorandum outlining the key provisions of the ECHR that relate to the taxation of companies. You should illustrate your answer with ECHR cases.** (25)

5. "The *Cadbury Schweppes plc v Inland Revenue Commissioners*, Special Commissioners' case ("*Cadbury Schweppes*") highlights questions concerning the compatibility of the UK's CFC rules with Community law. There is a strong likelihood that such rules will be seen as incompatible with the fundamental freedoms."

**You are required to discuss the issues in the *Cadbury Schweppes* case in the light of this statement.** (25)

6. "The Secondary rules of the European Community (EC) relating to direct tax matters are becoming increasingly important for companies operating in the EC."

**You are required to discuss this statement with reference to the main items of EC Secondary legislation and appropriate jurisprudence.** (25)

7. In the cases of *Compagnie de Saint-Gobain*, *Verkooijen*, *Lenz* and *Manninen*, the ECJ has made decisions on the impact of community law on the taxation of dividends.

**You are required to write a report on the impact of these decisions when:**

- 1) a dividend is paid by a company resident in EU Member State A to a company resident in EU Member State B;
- and
- 2) a dividend is paid by a company resident in EU Member State C to a company resident in non-EU State D.

(25)