



# THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

May 2006

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## PAPER III

### 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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- You should answer any **FOUR** out of seven questions.
- Each question carries equal marks.
- Start each answer on a new sheet of paper.
- Marks are specifically allocated for presentation.

1. Are Controlled Foreign Company (or CFC) rules compatible with Community law?  
**You are required to discuss this question and illustrate your answer with cases.** (25)
  
2. "The European Community's "common rules" contained in Regulations and Directives have a major impact on companies operating in the Community's single market" (Sneddon).  
**You are required to write a Memorandum on the Community's "common rules" showing how they impact on companies resident in the UK.** (25)
  
3. Discuss the "positive" and "negative" integration roles played by the institutions of the Community in the area of direct and indirect taxes relating to companies.  
**Illustrate your answer by reference to any materials in Kees Van Raad's *Materials on International & EC Tax Law Volume 2 (2005)*.** (25)
  
4. "The *D* case has put an end to the debate on a Community Most-favoured-nation (MFN) principle, and *Manninen* has extended the notion of coherence of a Member State's tax system beyond the national borders". (Lenaerts)  
**In the light of this statement, you are required to write a report on the significance of the European Court of Justice's (ECJ) decisions in *D v Inspecteur van de Belastingdienst* ("the *D* case") and *Petri Manninen* ("*Manninen*") on cross-border investment carried out by multinationals within the Community.** (25)
  
5. **You are required to discuss either 1) OR 2) and illustrate your answer with ECJ case law.**
  - 1) **The concept of "tax avoidance" in a Community setting as it relates to companies.**
  
  - OR
  
  - 2) **"The concepts of territoriality, deterrence of tax avoidance, cohesion of the tax system and balance in the allocation of taxing powers all exist as possible justifications following the decision of the ECJ in *Marks and Spencer v David Halsey* (M&S)."** (25)
  
6. You are the tax adviser to XYZ plc, a company incorporated and resident in the UK. You have been asked to draft a Memorandum explaining the provisions of the EC Treaty which are relevant for both direct and indirect taxes. The Memorandum should contain detailed notes explaining the significance of each relevant provision. You have been asked to illustrate your Memorandum with any cases where the provisions have been interpreted by the ECJ.  
**You are required to draft the Memorandum.** (25)
  
7. The interaction between Community law and tax treaties continues to produce interesting issues which affect Member States' tax treaties and direct tax systems.  
**You are required to discuss this statement and illustrate your answer with ECJ case law.** (25)