Tolley® Exam Training

CTA ADVANCED TECHNICAL PAPER

TAXATION OF INDIVIDUALS

PRE REVISION QUESTION BANK

FA 2023 & F(No 2)A 2023

May and November 2024 Sittings

PQ620

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INTRODUCTION

This Advanced Technical Pre Revision Question Bank contains 15 exam standard questions all with answers updated to Finance Act 2023 and Finance (No 2) Act 2023. This question bank forms an important part of your preparation for the examination - question practice is the key to passing exams.

As you answer the questions you may refer to either a hard copy or on-screen version of the **CTA Tax Tables 2024** and your own personalised version of the approved online legislation.

Using this question bank

All the CTA Advanced Technical exams are **3.5 hours** in length.

We suggest you **allocate 2 minutes per mark** which allows for 10 minutes initial reading time.

10 mark question = 20 minutes
15 mark question = 30 minutes
20 mark question = 40 minutes

You should attempt each question as if you were in the real exam. Try to **avoid just reading the answers** to questions - it is all too easy to nod as you read the answer saying "yes I know that point, yes I understand that advice given" - the test is would you have actually put those points in your answer? You won't find this out unless you **type up the answers and we recommend you do this using the on-screen version of this QB**. Ensuring you type up "proper" answers also gives you a good idea of how long an exam standard answer will take you to produce.

Preparing your answers

Questions set on the Advanced Technical papers **do not require a specific format** of answer - all questions will require a direct answer (rather than a letter to a client or an email to the tax partner). Requirements will start with words like "Explain", "Discuss", "Compare" and "Calculate".

There may be scenarios where there is no single correct answer or where the answer is not definitive. You will be expected to **make recommendations** as to actions which should be taken by the subject of the question.

You are expected to produce **full and reasoned answers** sufficient to demonstrate your knowledge and application in order to gain the available marks. **Brief bullet points are unlikely to be sufficient.**

Key **presentation considerations** include spacing your answer out, cross referencing your workings and using subheadings and short paragraphs.

The CIOT do not award "presentation and higher skills" (PHS) marks on individual questions nor will they form part of the 100 marks available on a paper. Instead, when they carry out their normal review of a script that is just below a pass, **up to two bonus PHS marks per paper** can be awarded which could therefore boost a candidate from a fail to a pass.

When awarding these bonus marks, the CIOT have stated they will consider:

- The accuracy of spelling and grammar.
- Whether full sentences have been used where appropriate (in some cases appropriately detailed lists may be appropriate, for example setting out the conditions for a relief to apply).
- Whether answers flow well and are presented in a logical order.
- Whether conclusions have been reached where it is appropriate to expect a conclusion.

Reviewing your answers

It is essential to read through your answer when you have finished typing it (within the time allocated for that question). We thought it might be useful at this stage to pass on some tips about how to review your answers effectively – **before** you look at the model answer.

Remember the first thing the marker will do is read your answer through as a whole – what overall impression are you giving of your ability? A good question to ask yourself is would the reader pay money for your advice? Have you put the marker in a good mood as soon as they see your script or are they going to be dreading marking what you have handed in?

You may be able to make some small corrections at this review stage – you may find you have missed out a vital word such as “not” or you may at this stage think of another point or two to add while reading through your answer. This approach could increase your marks much more effectively than carrying on with the point you were making before you stopped to do this final review.

Reviewing the model answer

In the advanced technical papers, it is quite likely that there is no single right answer. The model answer is only one possible solution. You may well have included valid points which are not included in the model answer. Review critically both your answer and the model answer. Are there points in the model answer which you could have included in your answer to get extra marks? Are there points you have included which, with the benefit of hindsight, you should have left out?

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INCOME TAX - RATES AND THRESHOLDS

	2023/24	2022/23
Rates	%	%
Starting rate for savings income only	0	0
Basic rate for non-savings and savings income only	20	20
Higher rate for non-savings and savings income only	40	40
Additional and trust rate for non-savings and savings income	45	45
Dividend ordinary rate	8.75	8.75
Dividend upper rate	33.75	33.75
Dividend additional rate and trust rate for dividends	39.35	39.35
Thresholds	£	£
Savings income starting rate band	1 – 5,000	1 – 5,000
Basic rate band	1 – 37,700	1 – 37,700
Higher rate band	37,701 – 125,140	37,701– 150,000
Dividend allowance	1,000	2,000
Savings allowance		
– Taxpayer with basic rate income	1,000	1,000
– Taxpayer with higher rate income	500	500
– Taxpayer with additional rate income	Nil	Nil
Standard rate band for trusts	1,000	1,000
Scottish Tax Rates(1)	%	%
Starter rate	19	19
Scottish basic rate	20	20
Intermediate rate	21	21
Higher rate	42	41
Top rate	47	46
Scottish Tax Thresholds(1)	£	£
Starter rate	1 – 2,162	1 – 2,162
Scottish basic rate	2,163 – 13,118	2,163 – 13,118
Intermediate rate	13,119 – 31,092	13,119 – 31,092
Higher rate	31,093 – 125,140	31,093 – 150,000
Top rate	125,140+	150,000 +

INCOME TAX - RELIEFS

	2023/24	2022/23
	£	£
Personal allowance(2)	12,570	12,570
Married couple's allowance(3)	10,375	9,415
– Maximum income before abatement of relief - £1 for £2	34,600	31,400
– Minimum allowance	4,010	3,640
Transferable Tax allowance for married couples and civil partners(4)	1,260	1,260
Blind person's allowance	2,870	2,600
Enterprise investment scheme relief limit(5)	1,000,000	1,000,000
Venture capital trust relief limit	200,000	200,000
Seed enterprise investment scheme relief limit	200,000	100,000

Notes:
(1) Scottish taxpayers pay Scottish income tax on non-savings income.
(2) The personal allowance of any individual with adjusted net income above £100,000 is reduced by £1 for every £2 of adjusted net income above the £100,000 limit.
(3) Only available where at least one partner was born before 6 April 1935. Relief restricted to 10%.
(4) The recipient must not be liable to tax above the basic rate. The recipient is eligible for a tax reduction of 20% of the transferred amount.
(5) The limit is £2 million, where over £1 million is invested in knowledge intensive companies.

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ISA limits	**2023/24**	**2022/23**
	£	£
Maximum subscription:		
'Adult' ISAs	20,000	20,000
Junior ISAs	9,000	9,000

Pension contributions

	Annual allowance[1]	**Minimum pension age**
	£	
2022/23	40,000	55
2023/24	60,000	55

Basic amount qualifying for tax relief £3,600

Maximum tax-free lump sum £268,275

Note: (1) The annual allowance is tapered by £1 for every £2 of adjusted income above £260,000 (FA 2022: £240,000) for individuals with threshold income above £200,000. It cannot be reduced below £10,000 (FA 2022: £4,000).

Employer Supported Childcare	**2023/24**	**2022/23**
Exemption – basic rate taxpayer[2]	£55 per week	£55 per week

Note: (2) For schemes joined on or after 6 April 2011 the exempt childcare amounts for higher and additional rate taxpayers (based on the employer's earning assessment only) are £28 and £25 respectively.

ITEPA mileage rates

Car or van[3]	First 10,000 business miles	45p
	Additional business miles	25p
Motorcycles		24p
Bicycles		20p
Passenger payments		5p

Note: (3) For NIC purposes, a rate of 45p applies irrespective of mileage.

INCOME TAX - BENEFITS

Car benefits – 2023/24

Emissions	**Electric range (miles)**	**Car benefit %[4]**	
0g/km	N/A	2%	
1-50g/km	>130	2%	
1-50g/km	70-129	5%	
1-50g/km	40-69	8%	
1-50g/km	30-39	12%	
1-50g/km	<30	14%	
51-54g/km		15%	
55-59g/km		16%	
60-64g/km		17%	
65-69g/km		18%	
70-74g/km		19%	
75g/km or more		20%	+ 1% for every additional whole 5g/km above 75g/km
160g/km or more		37%	

Note: (4) 4% supplement for diesel cars excluding those that meet the Real Driving Emissions Step 2 (RDE2) standard (not to exceed maximum of 37%).

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Fuel benefit base figure	**2023/24**	**2022/23**
	£	£
	27,800	25,300

Van benefits	**2023/24**	**2022/23**
	£	£
No CO_2 emissions	Nil	Nil
CO_2 emissions > 0g/km	3,960	3,600
Fuel benefit for vans	757	688

Official rate of interest	2.25%	2%

INCOME TAX - CHARGES

Child benefit charge	**Withdrawal rate**
Adjusted net income >£50,000	1% of benefit per £100 of income between £50,000 and £60,000
Adjusted net income >£60,000	Full child benefit amount assessable in that tax year

CAPITAL ALLOWANCES

Annual investment allowance for plant and machinery (AIA)(1)	100%
WDA on plant and machinery in main pool(2)	18%
WDA on plant and machinery in special rate pool(3)	6%
WDA on patent rights and know-how	25%
WDA on structures and buildings (SBA) (4)	3%

Notes: (1) On first £1,000,000 of investment in plant & machinery (not cars) from 1 January 2019.
(2) The main pool rate applies to cars with CO_2 emissions of not more than 50g/km (prior to April 2021 not more than 110g/km).
(3) The special pool rate applies to cars with CO_2 emissions greater than 50g/km (prior to April 2021 greater than 110g/km).
(4) A 10% rate applies in respect of freeport tax site expenditure (until 30 September 2026) and on investment zone expenditure.

100% First year allowances (FYA) available to all businesses

Capital expenditure incurred by a person on research and development.
New zero-emission goods vehicles (until April 2025).
New cars which either emit 0 g/km of CO_2 (50g/km prior to April 2021) or are electric (until April 2025).
Electric vehicle charging points (until April 2025).

First year allowances (FYA) available to companies only

	Assets in main pool	Assets in special rate pool
Expenditure on new plant and machinery (other than cars) between 1 April 2023 and 31 March 2026 (5)	100%	50%
Expenditure on new plant and machinery (other than cars) in a freeport tax site (until 30 September 2026)	100%	100%
Expenditure on new plant and machinery (other than cars) in an investment zone	100%	100%

Notes: (5) 130% for expenditure between 1 April 2021 and 31 March 2023.

INCOME TAX - SIMPLIFICATION MEASURES

	2023/24	**2022/23**
	£	£
'Rent-a-room' limit	7,500	7,500
Property allowance/Trading allowance	1,000	1,000

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Flat Rate Expenses for Unincorporated Businesses

Motoring expenses	First 10,000 business miles		45p per mile
	Additional business miles		25p per mile
Business use of home	25 – 50 hours use		£10 per month
	51 – 100 hours use		£18 per month
	101+ hours use		£26 per month
Private use of business premises	No of persons living there:	1	£350 per month
		2	£500 per month
		3+	£650 per month

Cash Basis for Unincorporated Businesses

Turnover threshold to join scheme	£150,000
Turnover threshold to leave scheme	£300,000

NATIONAL INSURANCE CONTRIBUTIONS

Class 1 limits		**2023/24**			**2022/23**	
	Annual	**Monthly**	**Weekly**	**Annual**	**Monthly**	**Weekly**
Lower earnings limit (LEL)	£6,396	£533	£123	£6,396	£533	£123
Primary threshold (PT)	£12,570	£1,048	£242	£11,908	£1,048	£242
Secondary threshold (ST)	£9,100	£758	£175	£9,100	£758	£175
Upper earnings limit (UEL)	£50,270	£4,189	£967	£50,270	£4,189	£967
Upper secondary threshold for under 21 (UST)	£50,270	£4,189	£967	£50,270	£4,189	£967
Apprentice upper secondary threshold for under 25 (AUST)	£50,270	£4,189	£967	£50,270	£4,189	£967
Freeport upper secondary threshold (FUST)	£25,000	£2,083	£481	£25,000	£2,083	£481

	2023/24	2022/23
Class 1 primary contribution rates		
Earnings between PT and UEL	12%	13.25%
Earnings above UEL	2%	3.25%
Class 1 secondary contribution rates		
Earnings above ST (1)	13.8%	15.05%

Note: (1) Rate of secondary NICs between the ST and the UST, AUST & FUST is 0%.

	2023/24	**2022/23**
Employment allowance		
Per year, per employer	£5,000	£5,000
Class 1A contributions	13.8%	15.05%
Class 1B contributions	13.8%	15.05%
Class 2 contributions		
Normal rate	£3.45 pw	£3.15 pw
Small profits threshold (SPL) (2)	£6,725	£6,725 pa
Lower profits limit (LPL) (2)	£12,570	£11,908

Note: (2) From 2022/23, Class 2 NICs are only payable where profits exceed the LPL. However, where profits are between the SPL and the LPL, there will be an entitlement to contributory benefits.

Class 3 contributions	£17.45	£15.85 pw
Class 4 contributions		
Annual lower profits limit (LPL)	£12,570	£11,908
Annual upper profits limit (UPL)	£50,270	£50,270
Percentage rate between LPL and UPL	9%	9.73%
Percentage rate above UPL	2%	2.73%

OTHER PAYROLL INFORMATION

Statutory maternity/adoption pay		First 6 weeks @ 90% of AWE Next 33 weeks @ the lower of £172.48 and 90% of AWE
Statutory shared parental pay /paternity pay/parental bereavement pay		For each qualifying week, the lower of 90% of AWE and £172.48
Statutory sick pay		£109.40 per week
Student Loan	Plan 1:	9% of earnings exceeding £22,015 per year (£1,834.58 per month/ £423.36 per week)
	Plan 2:	9% of earnings exceeding £27,295 per year (£2,274.58 per month /£524.90 per week)
	Plan 4:	9% of earnings exceeding £27,660 per year (£2,305 per month /£531.92 per week)
Postgraduate Loan		6% of earnings exceeding £21,000 per year (£1,750 per month/£403.84 per week)

National living/minimum wage (April 2023 onwards)

Category of Worker	**Rate per hour**
	£
Workers aged 23 and over	10.42
21–22 year olds	10.18
18–20 year olds	7.49
16–17 year olds	5.28
Apprentices	5.28

Accommodation Offset £9.10 per day

HMRC INTEREST RATES (assumed)

Late payment interest	6.50%
Interest on underpaid corporation tax instalments	5.00%
Repayment interest	3.00%
Interest on overpaid corporation tax instalments	3.75%

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CAPITAL GAINS TAX

	2023/24	2022/23
Annual exempt amount for individuals	£6,000	£12,300

CGT rates for individuals, trusts and estates

Gains qualifying for business asset disposal(1)/investors' relief	10%	10%
Gains for individuals falling within remaining basic rate band(2)	10%	10%
Gains for individuals exceeding basic rate band and gains for trusts and estates(3)	20%	20%

Notes: (1) Formerly called entrepreneurs' relief
(2) The rate is 18% if the gain is in respect of a residential property
(3) The rate is 28% if the gain is in respect of a residential property

Business Asset Disposal relief	2023/24	2022/23
Relevant gains (lifetime maximum) (4)	£1 million	£1 million

Investors' relief

Relevant gains (lifetime maximum)	£10 million	£10 million

Note: (4) For qualifying disposals made before 11 March 2020 the lifetime limit was £10 million.

Retail Prices Index

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1982	–	–	79.44	81.04	81.62	81.85	81.88	81.90	81.85	82.26	82.66	82.51
1983	82.61	82.97	83.12	84.28	84.64	84.84	85.30	85.68	86.06	86.36	86.67	86.89
1984	86.84	87.20	87.48	88.64	88.97	89.20	89.10	89.94	90.11	90.67	90.95	90.87
1985	91.20	91.94	92.80	94.78	95.21	95.41	95.23	95.49	95.44	95.59	95.92	96.05
1986	96.25	96.60	96.73	97.67	97.85	97.79	97.52	97.82	98.30	98.45	99.29	99.62
1987	100.0	100.4	100.6	101.8	101.9	101.9	101.8	102.1	102.4	102.9	103.4	103.3
1988	103.3	103.7	104.1	105.8	106.2	106.6	106.7	107.9	108.4	109.5	110.0	110.3
1989	111.0	111.8	112.3	114.3	115.0	115.4	115.5	115.8	116.6	117.5	118.5	118.8
1990	119.5	120.2	121.4	125.1	126.2	126.7	126.8	128.1	129.3	130.3	130.0	129.9
1991	130.2	130.9	131.4	133.1	133.5	134.1	133.8	134.1	134.6	135.1	135.6	135.7
1992	135.6	136.3	136.7	138.8	139.3	139.3	138.8	138.9	139.4	139.9	139.7	139.2
1993	137.9	138.8	139.3	140.6	141.1	141.0	140.7	141.3	141.9	141.8	141.6	141.9
1994	141.3	142.1	142.5	144.2	144.7	144.7	144.0	144.7	145.0	145.2	145.3	146.0
1995	146.0	146.9	147.5	149.0	149.6	149.8	149.1	149.9	150.6	149.8	149.8	150.7
1996	150.2	150.9	151.5	152.6	152.9	153.0	152.4	153.1	153.8	153.8	153.9	154.4
1997	154.4	155.0	155.4	156.3	156.9	157.5	157.5	158.5	159.3	159.5	159.6	160.0
1998	159.5	160.3	160.8	162.6	163.5	163.4	163.0	163.7	164.4	164.5	164.4	164.4
1999	163.4	163.7	164.1	165.2	165.6	165.6	165.1	165.5	166.2	166.5	166.7	167.3
2000	166.6	167.5	168.4	170.1	170.7	171.1	170.5	170.5	171.7	171.6	172.1	172.2
2001	171.1	172.0	172.2	173.1	174.2	174.4	173.3	174.0	174.6	174.3	173.6	173.4
2002	173.3	173.8	174.5	175.7	176.2	176.2	175.9	176.4	177.6	177.9	178.2	178.5
2003	178.4	179.3	179.9	181.2	181.5	181.3	181.3	181.6	182.5	182.6	182.7	183.5
2004	183.1	183.8	184.6	185.7	186.5	186.8	186.8	187.4	188.1	188.6	189.0	189.9
2005	188.9	189.6	190.5	191.6	192.0	192.2	192.2	192.6	193.1	193.3	193.6	194.1
2006	193.4	194.2	195.0	196.5	197.7	198.5	198.5	199.2	200.1	200.4	201.1	202.7
2007	201.6	203.1	204.4	205.4	206.2	207.3	206.1	207.3	208.0	208.9	209.7	210.9
2008	209.8	211.4	212.1	214.0	215.1	216.8	216.5	217.2	218.4	217.7	216.0	212.9
2009	210.1	211.4	211.3	211.5	212.8	213.4	213.4	214.4	215.3	216.0	216.6	218.0
2010	217.9	219.2	220.7	222.8	223.6	224.1	223.6	224.5	225.3	225.8	226.8	228.4
2011	229.0	231.3	232.5	234.4	235.2	235.2	234.7	236.1	237.9	238.0	238.5	239.4
2012	238.0	239.9	240.8	242.5	242.4	241.8	242.1	243.0	244.2	245.6	245.6	246.8
2013	245.8	247.6	248.7	249.5	250.0	249.7	249.7	251.0	251.9	251.9	252.1	253.4
2014	252.6	254.2	254.8	255.7	255.9	256.3	256.0	257.0	257.6	257.7	257.1	257.5
2015	255.4	256.7	257.1	258.0	258.5	258.9	258.6	259.8	259.6	259.5	259.8	260.6
2016	258.8	260.0	261.1	261.4	262.1	263.1	263.4	264.4	264.9	264.8	265.5	267.1
2017	265.5	268.4	269.3	270.6	271.7	272.3	272.9	274.7	275.1	275.3	275.8	278.1

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Lease percentage table

Years	Percentage	Years	Percentage	Years	Percentage	Years	Percentage
50+	100.000	37	93.497	24	79.622	11	50.038
49	99.657	36	92.761	23	78.055	10	46.695
48	99.289	35	91.981	22	76.399	9	43.154
47	98.902	34	91.156	21	74.635	8	39.399
46	98.490	33	90.280	20	72.770	7	35.414
45	98.059	32	89.354	19	70.791	6	31.195
44	97.595	31	88.371	18	68.697	5	26.722
43	97.107	30	87.330	17	66.470	4	21.983
42	96.593	29	86.226	16	64.116	3	16.959
41	96.041	28	85.053	15	61.617	2	11.629
40	95.457	27	83.816	14	58.971	1	5.983
39	94.842	26	82.496	13	56.167	0	0.000
38	94.189	25	81.100	12	53.191		

CORPORATION TAX

Financial year	**2023**	**2022**
Main rate	25%	19%
Standard small profits rate	19%	N/A
Augmented profit limit for standard small profits rate	£50,000	N/A
Augmented profit limit for marginal relief	£250,000	N/A
Standard marginal relief fraction	3/200	N/A
Marginal rate	26.5%	N/A
Patent rate	10%	10%

EU definition of small and medium sized enterprises

	Small (2)	Medium (2)	Extended definition for R&D expenditure
Employees(1)	< 50	< 250	<500
Turnover(1)	≤ €10m	≤ €50m	≤ €100m
Balance sheet assets(1)	≤ €10m	≤ €43m	≤ €86m

Notes: (1) Must meet employees criteria and either turnover or balance sheet assets criteria.
(2) Thresholds apply for transfer pricing and distributions received by small companies.

Research and development expenditure

Financial year	**2023**	**2022**
Total relief for Small & medium enterprises (SMEs)	186%	230%
R&D tax credit for SME losses	10%	14.5%
Large companies – RDEC	20%	13%

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VALUE ADDED TAX

	Standard rate	VAT fraction
Rate	20%	1/6

Limits

	£
Annual registration limit	85,000
De-registration limit	83,000

Thresholds	**Cash accounting**	**Annual accounting**
	£	£
Turnover threshold to join scheme	1,350,000	1,350,000
Turnover threshold to leave scheme	1,600,000	1,600,000

ADVISORY FUEL RATES (as at 1 March 2023)

Engine size	Petrol	LPG	Engine size	Diesel
1400cc or less	13p	10p	1600cc or less	13p
1401cc to 2000cc	15p	11p	1601cc to 2000cc	15p
Over 2000cc	23p	17p	Over 2000cc	20p

Electricity rate 9p

OTHER INDIRECT TAXES

	2023/24	2022/23
Insurance premium tax(1)		
Standard rate	12%	12%
Higher rate	20%	20%

Tobacco products duty	**From 15.03.2023**	**From 27.10.2021**
Cigarettes	16.5% x retail price + £294.72 per thousand cigarettes (or £393.45 per thousand cigarettes (2))	16.5% x retail price + £262.90 per thousand cigarettes (or £347.86 per thousand cigarettes (2))
Cigars	£367.61 per kg	£327.92 per kg
Hand-rolling tobacco	£351.03 per kg	£302.34 per kg
Other smoking/chewing tobacco	£161.62 per kg	£144.17 per kg
Tobacco for heating	£302.93 per kg	£270.22 per kg

Notes: (1) Premium is tax inclusive ($^3/_{28}$ for 12% rate and $^1/_6$ for 20% rate).
(2) The £393.45/£347.86 per thousand cigarettes is a minimum excise duty (if higher than the first calculation)

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INHERITANCE TAX

Death rate	40%[3]	**Lifetime rate**	20%

Note: (3) 36% rate applies where 10% or more of the deceased person's net chargeable estate is left to charity.

Nil rate bands

6 April 1996 – 5 April 1997	£200,000	6 April 2003 – 5 April 2004	£255,000
6 April 1997 – 5 April 1998	£215,000	6 April 2004 – 5 April 2005	£263,000
6 April 1998 – 5 April 1999	£223,000	6 April 2005 – 5 April 2006	£275,000
6 April 1999 – 5 April 2000	£231,000	6 April 2006 – 5 April 2007	£285,000
6 April 2000 – 5 April 2001	£234,000	6 April 2007 – 5 April 2008	£300,000
6 April 2001 – 5 April 2002	£242,000	6 April 2008 – 5 April 2009	£312,000
6 April 2002 – 5 April 2003	£250,000	6 April 2009 – 5 April 2026	£325,000

Residence nil rate bands[4]

6 April 2017 – 5 April 2018	£100,000	6 April 2019 – 5 April 2020	£150,000
6 April 2018 – 5 April 2019	£125,000	6 April 2020 – 5 April 2026	£175,000

Note: (4) An additional nil rate band is available where a main residence is passed on death to a direct descendant. Tapered withdrawal for estates > £2million.

Taper relief

Death within 3 years of gift	Nil%
Between 3 and 4 years	20%
Between 4 and 5 years	40%
Between 5 and 6 years	60%
Between 6 and 7 years	80%

Quick Succession relief

Period between transfers less than one year	100%
Between 1 and 2 years	80%
Between 2 and 3 years	60%
Between 3 and 4 years	40%
Between 4 and 5 years	20%

Lifetime exemptions

Annual exemption		£3,000
Small gifts		£250
Wedding gifts	Child	£5,000
	Grandchild or remoter issue or other party to marriage	£2,500
	Other	£1,000

ANNUAL TAX ON ENVELOPED DWELLINGS (ATED)

Residential property value	**From 1.4.23**	**From 1.4.22**
>£0.5m - ≤ 1m	£4,150	£3,800
> £1m - ≤ 2m	£8,450	£7,700
> £2m – ≤ 5m	£28,650	£26,050
> £5m – ≤ 10m	£67,050	£60,900
> £10m – ≤ 20m	£134,550	£122,250
> £20m	£269,450	£244,750

STAMP DUTY/SDRT

Stamp duty[1]	- On shares transferred by physical stock transfer form	0.5%
Stamp duty reserve tax[2]	- On agreements to transfer shares[2]	0.5%
	- On shares transferred to depositary receipt schemes	1.5%

Notes: (1) Does not apply to UK securities traded on a recognised growth market (eg AIM).
(2) Does not apply to units in UK unit trust schemes or shares in UK OEICS bought from fund managers.

CTA EXAMINATIONS

2024

TAX TABLES

STAMP DUTY LAND TAX

Qualifying purchases in a Freeport receive full SDLT relief

Stamp Duty Land Tax on purchase price / lease premium / transfer value – England & NI

Basic Rate %(3)(4)(5)(6)	Residential(3)(4)(5)(6)	Rate %	Non-Residential
0	£0 - £250,000	0	£0 - £150,000
5	£250,001 - £925,000	2	£150,001 - £250,000
10	£925,001 - £1,500,000	5	£250,001 +
12	£1,500,001+		

Notes: (3) The basic rates are increased by 3% (the 'higher rates') where the purchase is of an additional residential property for individuals. Companies and trusts pay the additional 3% on all purchases of residential properties, subject to Note 4 below.

(4) Companies (and certain other entities) pay 15% on purchases of residential property valued > £500,000 (subject to exceptions).

(5) First-time buyers purchasing a single dwelling as their only/main residence may benefit from a reduced rate. (This includes qualifying shared ownership properties.) SDLT will not be due on properties up to £425,000. For homes between £425,000 and £625,000, SDLT will be payable at 5% on the amount above the £425,000 threshold. Homes bought for more than £625,000 will incur the rates as per column 1 in above table.

(6) Non-resident individuals and companies will pay an additional 2% surcharge for purchases of residential property. This is in addition to the basic rate, the higher rate (where applicable, in Note 3), and the 15% rate (where applicable, in Note 4).

New leases – Stamp Duty Land Tax on lease rentals – England & NI

Rate (%)	Net present value of rent	
	Residential	**Non-residential**
0	Up to £250,000	Up to £150,000
1	Excess over £250,000	£150,001-£5m
2	N/A	Over £5m

Land and Buildings Transaction Tax (LBTT) on purchase price – Scotland

Basic Rate %(1)(2)(3)	Residential	Rate %(1)	Non-Residential
0	up to £145,000	0	£0 - £150,000
2	£145,001 - £250,000	1	£150,001 - £250,000
5	£250,001 - £325,000	5	£250,001 +
10	£325,001 - £750,000		
12	£750,001 +		

Notes: (1) Rates are charged on the portion of consideration that falls in each band. The same tax is payable for a premium granted for a land transaction, except for residential leases which are generally exempt. Special rules apply to a premium for non-residential property where the rent exceeds £1,000 a year.

(2) The 'Additional Dwelling Supplement' of 6% of the relevant consideration applies broadly to purchases of an additional dwelling by individuals & trusts (over which the beneficiary has substantial rights) & to purchases of a dwelling by certain businesses, companies & other trusts.

(3) There is a relief for first-time buyers where a 0% rate is applied to the first £175,000 of the purchase consideration.

New leases – Land and Buildings Transaction Tax (LBTT) on lease rentals - Scotland

Rate (%)	Net present value of rent(4)
	Non-residential
Zero	Up to £150,000
1%	£150,001 to £2,000,000
2%	£2,000,001+

Note: (4) Residential leases are generally exempt

QUESTIONS

1. On 4 January 2024, Roofix Ltd, was put into liquidation. Sheena Steeple owned 10,000 ordinary £1 shares in Roofix Ltd. 5,000 of these shares were acquired in 1993 on her 21st birthday as a gift from her mother when their value was £2,000. No gift relief was claimed at that time. Sheena subscribed for the balance of 5,000 shares in 2009 when Roofix Ltd raised capital by means of a new share issue. These shares cost £8,000. The liquidator has informed her that she will receive no proceeds following the liquidation of Roofix Ltd.

   Sheena also stood as guarantor on a loan of £15,000 made to Roofix Ltd by Bodgit Bank to purchase machinery needed by the business. Under the terms of the guarantee she was liable to pay any outstanding interest payments on the loan. She has therefore paid the sum of £5,000.

   In addition, Sheena loaned Roofix Ltd £7,500 in 2020 to allow repairs to be carried out on Roofix Ltd's warehouse, and this loan will also not be repaid.

   As it became clear that Roofix Ltd was running into difficulty, Sheena sold some of her other assets to raise capital as follows:

   1) In May 2023 Sheena sold a painting to her sister. She had purchased this in the Far East in 2007 for £9,000, but her sister would only give her the current market value of the painting which has been agreed with a specialist dealer as £3,000.

   2) On 10 June 2023 Sheena sold her holding of 6,000 £1 ordinary shares in Windowbox Ltd, a UK trading company, to a third party for £87,000. There are 100,000 shares in issue. She had purchased the shares in 2010 for £58,000.

   3) In July 2023 Sheena sold her vintage sports car for £65,000, which she had bought in 1995 for £10,000.

   Sheena's income for the year ended 5 April 2024 comprised her director's fees from Roofix Ltd of £20,000 (from which PAYE of £2,600 has been deducted) together with net taxable income from letting a furnished holiday cottage of £4,000. She had only commenced as a director of Roofix Ltd in April 2023 when she had returned to work after raising her family.

   Sheena's husband, Bill also holds 10,000 shares in Roofix Ltd, which were originally acquired by Sheena as part of the subscription in 2009. Sheena subscribed £16,000 for these 10,000 shares (in addition to the 5,000 shares which she retained) and transferred them to Bill in January 2014 when Roofix Ltd was doing very well and the holding of 10,000 shares was worth £50,000.

   Aged 61, Bill is somewhat older than Sheena and his only income for the year ended 5 April 2024 was a company pension of £15,000 from which tax of £486 has been deducted. In the year to 5 April 2023 his total earnings were £60,000 with PAYE deducted of £11,500.

   In 2023/24 Bill realised other capital gains of £5,000, after deducting his annual exempt amount.

Requirement:

1) **Calculate, with explanations where necessary, Sheena's income tax and capital gains tax liability for the year ended 5 April 2024.** (17)

2) **Explain Bill's income tax and capital gains tax position for 2023/24 and explain how the loss on the shares in Roofix Ltd can be used.** (3)

Total (20)

2. TruTeck Ltd (TL) has always traded from within the UK, but recently decided to take advantage of new trading opportunities by setting up a subsidiary in Winterland (a country situated outside the EEA), TruTeck Winterland Ltd (TW).

TW is going to need support from the UK based workforce of TL in the short-term. TL is offering key staff, currently employed by TL in the UK, secondments to work for TW in Winterland. Whilst in Winterland these staff will help train the staff of TW. After the secondments the staff will return to their UK duties.

TL is proposing that:

1) Staff will be seconded to TW for 18 months at a time. Start dates for each secondment will be 1 January or 1 July.

2) Seconded staff will work full-time for TW in Winterland, have no UK duties and will be paid in Winterland Dollars (W$) by TW.

3) All benefits and expenses of the Winterland secondment, as listed below, will be arranged and paid for by TW.

4) Expenses of travel will include the costs of travel between the UK and Winterland at the start and end of the 18 month secondment and also 1 trip per month between the UK and Winterland, either for seconded staff or their relatives.

5) Winterland has no public health system, so private medical insurance will be provided throughout the secondment.

6) A rented apartment will be provided for the use of each seconded employee and their family throughout the secondment.

It is anticipated that employees already owning property in the UK may rent out their UK properties whilst on secondment.

TL has confirmed that all of the staff to be seconded are currently classified as resident within the UK, and have been for some time. They are all domiciled within the UK.

Winterland has no double tax treaty with the UK and has no reciprocal social security agreement with the UK.

Requirement:

1) Discuss the UK tax and national insurance implications of the proposed overseas secondment. (14)

2) Comment on the UK tax implications of employees receiving rental income on UK property whilst on secondment and future disposals of those properties following their return to the UK. (6)

Total (20)

In each case, calculations are not required.

3. Mr and Mrs Moore have been granted options to purchase shares by their respective employers.

Mr Moore is employed by ORC plc, an AIM listed company. He has been granted non-tax advantaged options to buy up to 10,000 shares at a price of £1.50 per share, which he will exercise in three years' time at which point he hopes that the share price will have increased to £2.00 per share. Mr Moore is planning to sell the shares when his daughter goes to university in five years' time, when he hopes that the share price will be £3.00 per share.

Mrs Moore works five hours per day (25 hours a week) at Scrumptious Chocolates Ltd, a small unlisted company that makes handmade chocolates. She has been granted options under an EMI option scheme over shares that represent 2% of the company. The options may only be exercised on an agreed sale of the company.

The directors of Scrumptious Chocolates Ltd have set the option price to be £1.00 per share. The value agreed with HM Revenue & Customs is £1.60 per share. The directors are planning to sell Scrumptious Chocolates Ltd in two or three years' time when they hope that the value of the company will be £2.00 per share.

Mrs Moore also runs her own business running drama workshops for children. She currently runs weekend workshops which are proving very popular and she would like to expand her business to run workshops during school hours. To do this, she plans to change her work pattern at Scrumptious Chocolates Ltd so that she will work three eight-hour days, which will allow her to run workshops in schools on the other two weekdays. The management at Scrumptious Chocolates Ltd are aware of Mrs Moore's business although she has not yet asked to change her hours.

Mr and Mrs Moore are both higher rate taxpayers and always use their capital gains tax annual exempt amount against gains on their investment portfolio.

Requirement:

Set out the income tax, capital gains tax and national insurance implications for Mr and Mrs Moore in relation to the share options. You are not required to calculate any potential tax liabilities. (15)

4. Mr Walker farms an 85 acre mixed farm in Wiltshire, most of which he has owned for the past 26 years. The farm includes a farmhouse, which is Mr Walker's main residence, some agricultural buildings and 75 acres of farmland which he farms himself (50 acres is arable land which he uses to grow crops and the remaining 25 acres is grazing land which he uses to raise livestock).

In addition, his farm includes a further 10 acres of agricultural land which was purchased five years ago and has been let to a third party who cultivates and grazes the land on an annually renewable licence. This 10 acres of land is adjacent to his farm and also adjoins a new development of residential property in the local village. He purchased the land with a view to realising the future potential development value.

Following the relaxation of planning policy in the area, Mr Walker has been approached by a property development company looking to develop his land for both commercial and residential use. The proposal is to develop the land in two phases. The first phase will involve the construction of a residential housing development on the 10 acres of land currently subject to the renewable licence, on the 20 acres of the arable land and on the 10 acres of the grazing land. After completion of the residential phase, which is estimated to be in around two to three years, the next phase is to build a commercial business park on the remaining land. The farmhouse will then be demolished.

Outline planning permission has been granted and the developer has approached Mr Walker with three proposals for the sale of the farm:

1) An outright sale of the whole farm for a fixed sum to be agreed in advance.

2) Sale of the initial 40 acres of land required for the residential development for a fixed sum agreed in advance, followed by a sale 24 months later of the remaining 45 acres of land and property.

3) An outright sale of the whole plot for a lower fixed sum, followed by a share of sales overage, being an amount above an agreed sales figure on each house sale.

Tutorial Note:

An 'overage' is a sum of money in addition to the original sale price which a seller of land may be entitled to receive following completion if and when the buyer complies with agreed conditions.

Mr Walker is keen to proceed with the sale of the farm and has asked your advice on the tax implications of the three proposals.

Requirement:

Explain the capital gains tax and income tax implications of each of the three proposals for the sale of the farm. (20)

5. Gianlucca Balducci is an Italian domiciled individual.

He came to the UK to take up permanent employment on 1 September 2020. His only previous visit to the UK was a full-time extended secondment to work in the UK subsidiary of his Italian employer from 3 September 2013 to 23 December 2017. During this period he elected to use the remittance basis.

Mr Balducci's P60 from his UK employer shows gross salary for 2023/24 of £65,000 with tax deducted under PAYE of £19,507. His P11D shows that he received benefits worth £11,549 in the year.

He also received interest of £1,225 on his UK bank account and received dividends from UK companies of £2,000.

During 2023/24 he decided that, as he wanted to stay in the UK until retirement, he would sell the flat he owns in Rome. He has never lived in this flat; it has always been rented to tenants. The flat was sold for 495,000 Euros on 31 March 2024. The gain on the flat was 215,000 Euros and net rental income for 2023/24 was 33,600 Euros.

Mr Balducci had one foreign bank account which is held at a branch in Italy. On 5 April 2019 he transferred 60,000 Euros from this account to a new bank account in Jersey. He nominated as much as possible of the transfer to be capital. He then transferred the balance on the Jersey account to his UK bank account on 1 July 2023 to fund a prospective property purchase. Immediately before the cleansing transfer, the balance on the Italian account was 228,848 Euros which comprised:

Tax Year	Euros	
2017/18	106,100	Italian employment income 24,555 Euros (from January 2018). Bank interest of 345 Euros (no Italian tax was deducted at source). Inheritance of 50,000 Euros. Rental income of 31,200 Euros.
2018/19	122,748	Italian employment income 25,750 Euros Bank interest of 875 Euros (no Italian tax was deducted at source). Rental income of 11,200 Euros. Proceeds of 84,923 Euros from the sale of Italian shares acquired in 2001 (gain of 67,596 Euros).
	228,848	
	(60,000)	Transfer to new Jersey account on 5 April 2019
	168,848	

He received total interest on this account of 2,400 Euros for the 2023/24 tax year, which was paid gross.

The exchange rate should be assumed to be 1.2 Euros to £1.00 for all relevant years

Requirement:

Calculate the UK income tax and capital gains tax payable by Mr Balducci for 2023/24, assuming that he makes any beneficial claims or elections. You should explain any claims or elections that are made and can ignore the effect of any double taxation relief that may be available. (20)

6. Ethel and Florence are sisters each owning 100 ordinary £1 shares in Meadows Investments Ltd, an investment company. Their holdings represent the entire issued share capital of the company. The shares were subscribed for at par in May 2005.

On Ethel's retirement, she and her husband Edward sold their house in the UK and bought a cottage on the Mediterranean. They emigrated on 31 March 2021. On 30 April 2021, Ethel sold her shares in Meadows Investments Ltd to Florence at their market value of £1,300,000.

Edward fell ill and needed medical treatment in the UK so on 3 July 2023 Ethel and Edward let out their overseas cottage and bought a house in the UK. Ethel and Edward had undertaken the following capital transactions:

1) 500 shares in a listed Australian mining company were acquired on 30 June 2021 by Ethel and sold at a gain of £20,000 on 30 June 2022.

2) Shares from a UK portfolio held since 2018 were sold by Ethel on 10 April 2021 at a loss of £70,000. These were replaced by new shares on 15 May 2021 but a further loss of £15,000 arose on disposal on 30 November 2021.

3) Edward transferred a holiday cottage in the UK to Ethel on 30 September 2013 The property had been acquired by Edward on 30 September 2010 for £250,000. Ethel sold the cottage on 30 September 2021 for £300,000. No main residence election had been made in respect of the cottage.

4) To fund the purchase of their new UK home, Ethel sold the remainder of her portfolio of listed shares on 30 July 2023, realising net gains of £80,000.

On returning to the UK, Ethel explained to Florence that it was only Edward's health issues which brought about their return. The Mediterranean climate also appeals to Florence, who is single and is now considering a move overseas, although she will visit her sister every few months. Florence has advised that she will not be disposing of her shares in Meadows Investments Ltd as these are required to provide her with an income for her lifetime.

Florence does however own a commercial property in Wales which was transferred to her from her aunt's discretionary trust in 2019. The property was valued at £120,000 in 2019 and a Capital Gain of £70,000 was held over under s.260 TCGA 1992. She also has a residential property in York which she bought in 2018 for £180,000. The York property has never been her main residence.

Florence is interested in how her residency position would influence Capital Gains Tax on her assets and how HM Revenue & Customs would determine whether she will be treated as ceasing to be UK resident for tax purposes.

Requirement:

Discuss the Capital Gains Tax implications of the above matters for Ethel and Florence. (20)

7. Mrs Jane Lindsay is employed by Lovett Timber Ltd (Lovett) as a salesperson. She is UK resident and domiciled. She does not own any shares in Lovett and is not a director. She has provided you with the following information for her 2023/24 tax return.

As well as a basic salary of £160,000, she is entitled to a bonus based on the profits of Lovett each year. Under the terms of her contract, she must still be employed two months after the award date. PAYE of £75,000 was deducted in 2023/24. She has received the following bonuses:

Lovett's year end	Amount £	Date of award	Date of receipt
31 December 2022	40,000	1 March 2023	1 May 2023
31 December 2023	29,000	1 March 2024	1 May 2024

Mrs Lindsay is not provided with a company car, but does use her own car for business travel. In 2023/24 she drove 12,000 business miles and was reimbursed at Lovett's flat rate of 30p per mile. She is provided with a parking space at Lovett's head office car park. In 2023 Lovett also rewarded her at Christmas with £300 of vouchers for a high street store.

She also receives private medical insurance cover for her and her family. This would have cost £1,200 if she had obtained the cover herself, but Lovett has a discount rate for their employees and the cost to Lovett was £1,000. She was given an interest free loan of £38,000 on 1 March 2023. On 1 February 2024 she repaid £23,200 of the loan. The remainder of the loan was outstanding on 5 April 2024.

During 2023/24, she received bank interest of £1,500 and dividends of £15,500. The dividends included £1,500 from shares in a qualifying VCT, which she purchased from a private investor two years ago for £30,000. She also cashed in an offshore single premium bond making a gain of £25,000. In December 2023 she invested £5,000 in Junetown Ltd, a qualifying Seed Enterprise Investment Scheme (SEIS) company.

Mrs Lindsay disposed of her shares in Abacus Ltd on 15 February 2024. She had subscribed for 10,000 shares in January 2020 at a cost of £60,000. Abacus Ltd has not performed well so she decided to sell the shares for £20,000 to a private investor. Abacus Ltd is an Enterprise Investment Scheme (EIS) qualifying company and she received full income tax relief of £12,000 in the year of purchase.

Mrs Lindsay made donations under payroll giving of £100 per month and also made a cash donation under the gift aid scheme of £5,000 to a local charity. In addition, she gave £3,500 to a charity registered in France. In March 2024 she also decided to make an additional donation to a local charity of the shares she owned in Homefind plc, a quoted trading company based in the UK. These shares had a market value of £10,000 in March 2024, but they have since increased in value and are currently worth £12,000.

Requirement:

1) **Calculate Mrs Lindsay's tax payable or repayable for 2023/24. You should take advantage of any reliefs and allowances available and provide explanations where appropriate.** (17)

2) **Outline what, if any, National Insurance Contributions will be payable by Mrs Lindsay and Lovett Timber Ltd as a result of the employment income and benefits provided in the year. Calculations are NOT required.** (3)

Total (20)

8. Kevin Marshall has recently received a job offer to work as a sales director for Extra Tools Ltd with an annual salary of £140,000. Whilst he is happy with the salary, he is concerned that he would have to incur a substantial amount of expenses in order to perform his duties, not all of which would be reimbursed by Extra Tools Ltd. Before accepting the offer he would like to ascertain the tax treatment of the expenses and has provided the following details.

<u>Travel Expenses</u>
Mr Marshall would be based in Extra Tools Ltd's head office in Redtown. After six months he would be seconded to Extra Tools Ltd's regional office in Bluetown, for one day per week, over a period of 36 months.

Mr Marshall would be required to travel in his own car to visit customers during his working day. He would mainly visit the office first but on occasions would travel directly to the client. Extra Tools Ltd would pay Mr Marshall a mileage allowance for journeys to visit clients at the rate of 40p per mile.

From time to time, he would have to pay for the cost of overnight accommodation when undertaking business travel. If he has to stay away from home for more than one night, the cost of the full stay would be reimbursed by Extra Tools Ltd.

He would also be required to undertake training and would attend a college one day a week. He would travel there directly from home and the journey is five miles further than the journey to the office in Redtown.

<u>Professional Fees</u>
Mr Marshall would pay annual subscriptions to The Institute of Directors and to a rugby club, neither of which would be reimbursed by Extra Tools Ltd. He would meet customers and conduct business at the rugby club.

<u>Business Entertainment</u>
Mr Marshall would be expected to incur expenses entertaining customers. Part of this cost would be refunded by Extra Tools Ltd, but he would have to suffer some costs without reimbursement.

<u>Household Expenses</u>
Rather than staying on after hours in the office Mr Marshall would undertake some paperwork at home in the evenings. He would like therefore confirmation of whether he can claim a tax deduction for a proportion of his household expenses such as utility costs. Mr Marshall would also use his home broadband when working from home.

Extra Tools Ltd has confirmed that it would pay the cost of his home telephone by contracting with and paying the supplier directly (the phone would not be used exclusively for business and private usage would not be restricted). Extra Tools Ltd has also advised that it would meet the cost of any tax liability arising from this under a PAYE Settlement Agreement (PSA).

<u>Other Expenses</u>
If Mr Marshall accepts the job he would be required to pay a fee to Sales People Ltd, an employment agency who recommended the job to him.

Requirement:

Outline the tax treatment of the expenses described above and the effect of the PSA. You should also briefly explain the National Insurance treatment of each reimbursed item. Calculations are not required. (15)

9. Sue McDonnel is a founder shareholder of Phips Ltd (Phips), an unquoted trading company. She became a director of Phips in August 2014.

She holds 355 £1 Ordinary shares which represents 20% of the ordinary share capital of Phips. These were acquired as follows:

Date	Shares acquired	Amount paid £	Notes on acquisition history
01/06/2011	120	15,000	Subscription under the Enterprise Investment Scheme (EIS) on which Income Tax relief was given. Full Capital Gains Tax deferral was claimed in relation to an earlier gain arising on the sale of a non-residential investment property.
01/05/2013	40	Nil	1 for 3 bonus issue.
01/09/2017	60	80,000	Purchased from a third party investor at arm's length.
01/12/2019	80	8,000	Exercise of Enterprise Management Incentive scheme share options. Exercise price of £100 per share. Market value at date of grant was £350 per share. The shares were unrestricted and the market value on exercise was £2,200 per share.
01/01/2023	55	Nil	Gifted by Mrs McDonnel's husband who took early retirement from Phips in June 2022. He originally acquired 100 shares at £1,000 per share in April 2016 and 100 at £2,200 per share in December 2016, which both represented full market value. He has retained the balance of 145 shares.

An offer has been made by Driver plc, a UK subsidiary of a large US corporation, to acquire the whole of Phips Ltd. The offer price is £2,250 per share which will be paid as follows:

£1,000 per share payable in cash immediately;

£500 payable in cash on the first anniversary of the sale;

£250 payable in cash on the second anniversary of the sale; and

£500 to be satisfied by the issue of new shares in Driver plc immediately.

Mrs McDonnel also owns a large production facility which was acquired in April 2012. Between April 2012 and April 2014, the whole of the property was let at full rent to the previous owners. Since April 2014 three quarters of the property has been let to Phips at half market rent and the rest has been let at a commercial rent to a third party. As part of the acquisition of the shares of Phips, Driver plc has indicated that they would wish to purchase the property and a capital gain will arise.

Mr and Mrs McDonnel are both higher rate taxpayers and have made no other capital gains in the year and have no brought forward capital losses.

Requirement:

1) **Prepare a detailed computation of the Capital Gains Tax liabilities for Mr and Mrs McDonnel on the proposed disposal of their shares on the assumption that they undertake no planning.** (10)

2) **Discuss any planning opportunities available to maximise reliefs and allowances on the sale of the shares in Phips Ltd.** (3)

3) **Explain the potential for Business Asset Disposal Relief on the proposed sale of the business premises.** (7)

Total (20)

Assume that both Mr and Mrs McDonnel have not previously used any of their lifetime limit for Business Asset Disposal Relief

10. Mr Sharma has made a number of transactions associated with investments and proposed investments in companies, each of which is a 'qualifying company' under the Enterprise Investment Scheme ('EIS').

Mr Sharma disposed of an investment property on 31 March 2024 making a capital gain of £400,000 and would like to defer the gain if possible. Mr Sharma is UK resident and domiciled and pays Income Tax at the additional rates.

Vespasian Ltd

On 4 July 2022 Mr Sharma subscribed £100,000 for 10% of the company's ordinary share capital and received Income Tax relief of £30,000. Vespasian Ltd needed to raise capital to buy new machinery, so on 30 April 2024 Mr Sharma subscribed £200,000 for further shares which gave him 35% of the company's ordinary share capital.

Claudius Ltd

Mr Sharma's business partner already owns 25% of the ordinary share capital of Claudius Ltd. Mr Sharma intends to subscribe £100,000 in 2024/25 which will give him 20% of the equity of the company.

Constantine Ltd

On 1 April 2021, Mr Sharma subscribed £75,000 for 10% of the ordinary share capital in Constantine Ltd, in respect of which he claimed Income Tax relief of £22,500. His brother is the company's major shareholder. He subscribed a further £75,000 on 1 May 2023 giving him 20% of the share capital and a further £75,000 on 1 May 2024 bringing his shareholding to 30% of the company's ordinary share capital. On 1 June 2022 he became a director of Constantine Ltd and began working part-time for the company for which he is paid a commercial salary.

Trajan Ltd

Mr Sharma received Income Tax relief of £30,000 for 2022/23 in respect of the issue, on 30 June 2022 of 100,000 £1 ordinary shares in Trajan Ltd subscribed for at par. On 30 April 2024 the company went into liquidation and no return of capital to the investors is expected.

Hadrian Ltd

Mr Sharma subscribed £250,000 in respect of 500,000 50p ordinary shares in Hadrian Ltd, issued on 1 December 2021 against which Capital Gains Tax deferral relief was claimed in respect of an earlier disposal. On 10 March 2024 Mr Sharma borrowed £125,000 from the company, and following your firm's advice, HM Revenue & Customs were notified on 20 April 2024 of a chargeable event as required by para 16 Sch 5B TCGA 1992.

Requirement:

Discuss the Income Tax and Capital Gains Tax consequences of the above matters and advise on any reliefs and planning which may be relevant. You should include statutory references where relevant. (20)

11. Mr Toogood, aged 58, requires advice regarding a major issue that has arisen between him and his three fellow directors at TipTop Furniture Ltd (TF Ltd), a furniture manufacturing company where he has been a director and shareholder for the last four years.

Mr Toogood has had a fundamental disagreement with the other directors regarding the expansion of TF Ltd's business into Europe, and he now wishes to sever his ties with TF Ltd completely.

This involves not only giving up his directorship of TF Ltd but also disposing of his 25% shareholding. He owns 100 ordinary shares that are currently valued at £750 per share. He acquired his holding four years ago when he subscribed for the shares for their nominal value of £100 per share. He was not able to claim any tax reliefs in respect of the subscription.

Mr Toogood's son Trevor is employed at TF Ltd and has indicated that he is keen to purchase 50% of his father's shareholding, but he can only afford to pay £500 per share, a value Mr Toogood is happy to accept.

It is understood that TF Ltd itself is willing to repurchase the balance of Mr Toogood's holding at a price of £750 per share, and as this will facilitate his exit from the company he is willing to accept this offer as well.

Additionally, TF Ltd is willing to pay a lump sum of £20,000 which is equivalent to six months salary if Mr Toogood agrees to resign his directorship within the next 28 days. He would like assurance that this sum will be received tax-free as, in his view, it is effectively a redundancy payment.

It has also been agreed his company car will be transferred to him. The car is currently valued at £15,000.

Mr Toogood is in receipt of other earnings of £50,000 annually and has investment income in excess of £200,000 per annum. Every year he makes capital disposals from his quoted share portfolio which utilise his annual Capital Gains Tax exempt amount.

Requirement:

Outline the Income Tax and Capital Gains Tax consequences of the various aspects of the proposed transactions with illustrative computations where relevant. You should also indicate what further information you require Mr Toogood to provide. (20)

12. Mr Hans Orff, has been UK resident since 2015/16 but has never been domiciled in the UK.

Hans has four foreign bank accounts:

Account A – Set up prior to becoming UK resident with capital of £500,000. The only transaction since then occurred on 1 October 2023 when Hans paid £300,000 to his UK solicitors, towards a house purchase.

Account B – Set up in April 2017 with capital of £1,000. The account produces around £10 of income per year. Based on earlier tax advice, he has claimed the remittance basis for the years 2015/16 to 2022/23 and has nominated £1 of the interest on Account B for the purposes of S.809C ITA 2007.

Account C – Opened on 1 May 2023 with the proceeds of the sale of a foreign property for £1 million, of which £200,000 represents the capital gain. Hans acquired the property in 2006. On 9 October 2023 Hans withdrew £500,000 from the account to assist with his UK house purchase.

Account D – Contains various amounts of foreign income which have arisen in 2023/24. During a trip to Holland in September 2023, Hans bought a painting for his new house costing £200,000 which he paid for from this account. The painting was shipped to the UK and arrived on 30 September 2023, at which time the account contained:

1) £50,000 of 'relevant foreign earnings' net of foreign tax of £10,000;

2) £100,000 of foreign property income (untaxed);

3) £25,000 of foreign interest net of foreign tax of £5,000; and

4) £50,000 of other foreign capital gains (untaxed) from share disposals.

Hans expects to pay his Remittance Basis Charge for 2023/24 from Account D on 31 January 2025.

Hans has UK income such that he is already liable to tax at the 45% additional rate.

Requirement:

1) **Explain and calculate the UK tax liabilities arising from the payments and withdrawals from accounts A, C and D.** (14)

2) **Suggest how future withdrawals may be managed to mitigate any future UK tax liabilities.** (2)

3) **Briefly discuss the nomination of income/gains in Hans' 2023/24 tax return (as required by S.809C(2) ITA 2007), in the light of the previous advice Hans received.** (4)

Total (20)

13. Simon began employment as the sales director of Energen Ltd, an unquoted trading company, in February 2023. Simon receives a salary of £110,000 per annum and in November 2023 was awarded a cash bonus of £25,000, following strong sales figures during the year to 31 October 2023.

Prior to joining Energen Ltd, Simon had been self-employed but his business had been unsuccessful. To assist in repaying a bank loan and overdraft, Energen Ltd advanced interest free loans to Simon in the sums of £17,000 and £3,000 on 5 May 2023. Repayments made to Energen Ltd prior to 5 April 2024 amounted to £2,200 on the larger loan and £550 on the smaller loan.

Simon agreed to move permanently to an office of Energen Ltd in Scotland from 1 November 2023 and was given the use of a flat owned by Energen Ltd. The flat cost £85,000 10 years ago and has an annual value of £600. The flat was valued at £175,000 at the time it was occupied by Simon. The flat was furnished by Energen Ltd at a cost of £9,000. Simon was required to pay £100 per month towards the cost of the accommodation.

From 1 May 2023 Simon was supplied with a car with a list price of £36,000. As a condition of supplying the vehicle, Simon agreed to contribute £6,000 to the capital cost. The car has CO_2 emissions level of 112 g/km. Private petrol is also supplied by Energen Ltd. Simon contributed £200 towards insuring the vehicle, to allow his wife to have occasional use. During the winter of 2024 the car was off the road for two weeks for repairs, following an accident. Simon used his own car in this period and Energen Ltd paid him mileage allowances of £1,090, representing 2,180 business miles at a rate of 50 pence per mile.

Energen Ltd met home gas and electric bills on behalf of Simon totalling £953 in the year.

In May 2023, Simon was granted a non-tax advantaged option to acquire 1,000 Energen Ltd shares at £1.50 per share from an Employee Benefit Trust funded by Energen Ltd and which regularly buys and sells shares from employees. The option could be exercised at any time in the next 10 years. The market value of the shares at the time the option was granted was £1.70 per share. Simon exercised the option in March 2024 when the market value of the shares was £2.70.

Various training courses were undertaken by Simon. Energen Ltd sent Simon on an advanced sales course at a cost of £925, met by Energen Ltd. He also attended a further course on computer skills, to assist in sales reporting, and the £300 cost of this course was met personally.

Requirement:

1) **Calculate the taxable employment income of Simon for 2023/24.** (11)

2) **Explain briefly the basis of liabilities to Class 1 and Class 1A National Insurance for both Energen Ltd and Simon, in respect of the above income and benefits.** (4)

Total (15)

14. Richard Van Drake is 28 and is domiciled in Ruritania. He first came to the UK on 1 July 2016 to take up full-time employment and has been resident for UK tax purposes since his arrival. He intends to return to Ruritania in 2024/25. He has had two properties in the UK for many years. One he lets out and the other he lives in.

On 15 August 2022, Mr Van Drake sold a residential investment property in Ruritania for £1 million. In September 2022 he then used £200,000 of the sale proceeds to renovate his UK rental property.

Mr Van Drake used the remaining sale proceeds of £800,000 to purchase a replacement investment property in Ruritania on 5 October 2022. This property has been let since it was purchased and the rental income and expenses are paid into/from a foreign interest bearing bank account that was opened for the purpose. Mr Van Drake does not have any other interest bearing foreign bank accounts.

Mr Van Drake has not claimed the remittance basis in any of the years 2016/17 to 2021/22 inclusive.

There is no Double Taxation Agreement between the UK and Ruritania.

Mr Van Drake's worldwide income and gains for 2023/24 and 2022/23 was as follows:

	2023/24	2022/23
	£	£
UK salary	36,000	35,350
Tax deducted through PAYE	5,312	4,379
UK rental income	12,000	10,000
UK bank interest received	2,500	2,000
Foreign rental income (net of expenses but before foreign taxes)	8,000	5,000
Foreign tax paid by assessment on the rental income	2,100	1,032
Foreign bank interest (untaxed)	400	200
Remittance of foreign income	4,500	4,000
Proceeds from sale of foreign property	Nil	1,000,000
Gains on property disposal	Nil	400,000
Foreign tax paid on gains	Nil	Nil
Remittance of sale proceeds	Nil	200,000

Requirement:

1) **Calculate Mr Van Drake's liability to UK Income and Capital Gains Tax for 2022/23 and 2023/24 assuming that any beneficial claims are made.** (14)

2) **Explain how your answer to 1) would change if Mr Van Drake had realised the foreign gains of £400,000 and remitted foreign proceeds of £200,000 in 2023/24 instead of 2022/23. Calculations are NOT required and you should assume that all income details remain the same.** (6)

Total (20)

15. John and Sarah Parker, who are both higher rate taxpayers, own two properties which they are considering selling. They do not expect to have any other capital gains in the near future.

<u>London Flat</u>

Sarah bought her London flat in November 2009 for £200,000 and lived there alone until John moved in when they married in November 2012. He had previously been living in a rented flat. In November 2013 Sarah transferred the property into their joint names, when it was worth £220,000, just before they moved to New Zealand, so Sarah could take up a temporary work placement with her employer. They remained in New Zealand until November 2017. Whilst they were away, Sarah's employer relocated to Yorkshire, 200 miles from London, and they did not return to their former home. The property has been continuously let since November 2013. It has recently been valued at £800,000.

<u>Corner House, Yorkshire</u>

On their return to the UK in November 2017, John and Sarah bought a new home in Yorkshire where they have lived ever since. The property has a good sized garden of about 0.25 hectare. A local developer has approached them with an attractive offer to purchase part of the garden for development next year. John and Sarah would not want to stay in the house with a smaller garden and have therefore spoken to an estate agent about selling the house with a smaller garden. They have been told it should sell very quickly.

Requirement:

Explain, with supporting calculations as appropriate, the Capital Gains Tax consequences for John and Sarah Parker of the disposal of their two properties. (13)

Assume you are writing in November 2024.

ANSWERS

1. SHEENA STEEPLE

CAPITAL GAINS TAX (CGT)

Shares in Roofix Ltd

As the company is insolvent and in liquidation, Sheena should make a claim under s.24(1A) TCGA 1992 that the shares are now of negligible value.

She will therefore be treated as disposing of the shares at the date specified in the claim (probably 4 January 2024 – the commencement of liquidation) and reacquiring those shares at market value on that date which is effectively nil.

With regard to the subscribed shares, the loss of £8,000 qualifies for income tax relief under s.131 ITA 2007 as the shares have been subscribed for in cash and the company is a qualifying trading company as defined by s.137 ITA 2007.

While the restriction on the set off of losses under s.24A ITA 2007 potentially applies to loss claims under s.131, no restriction applies as the loss does not exceed £50,000.

Sheena could claim the loss against income of 2023/24 or 2022/23. She only returned to work in April 2023, so a claim for 2022/23 is unlikely to be beneficial as the Personal Allowance would have covered her property income.

She did not personally subscribe for the gifted shares, so no income tax relief is due under s.131 ITA 2007. Therefore, an allowable capital loss arises of £2,000 which is available to offset any capital gains.

Loan Guarantee

Payment of interest under a loan guarantee may qualify as a capital loss under s.253(4) TCGA 1992.

To qualify for relief, the payment must be made under a formal guarantee following the loan becoming irrecoverable. The liquidator would need to confirm formally that the loan was irrecoverable.

The loan must have been made initially for a qualifying trading purpose – the purchase of machinery would qualify.

A capital loss of £5,000 therefore arises.

Director's Loan Account

As the loan was originally made to the company for a qualifying purpose, the loss of the Director's Loan Account balance gives rise to an allowable capital loss of £7,500.

Painting

The painting is a non-wasting chattel which has been sold at a marginal loss.

	£
Proceeds (deemed)	6,000
Less: Cost	(9,000)
Loss	(3,000)

As this is a loss on a disposal to a connected person (sister) it is ringfenced and can only be offset against current year or future gains on disposals by Sheena to her sister.

Shares in Windowbox Ltd

	£
Proceeds	87,000
Less: Cost	(58,000)
Gain	29,000

No Business Asset Disposal Relief is available as there is no indication that Sheena is an officer or employee of the company.
No Investor's Relief is available as Sheena did not subscribe for these shares on/after 17 March 2016.

Vintage sports car

If the car had been constructed or adapted for the carriage of passengers, it will be exempt under s.263 TCGA 1992.

Otherwise the gain will be exempt under s.44 TCGA 1992 as it is a wasting chattel (it is machinery and by definition has a predictable life of less than 50 years).

Gains summary

	£
Windowbox Ltd	29,000
Less:	
Loss on shares in Roofix Ltd	(2,000)
Loss on loan guarantee	(5,000)
Loss on directors' loan	(7,500)
Chargeable gains	14,500
Less: annual exempt amount	(6,000)
Taxable gain	8,500
CGT due @ 10% (basic rate taxpayer)	850

The loss on the painting (£3,000) is carried forward and can be offset against gains on future disposals to Sheena's sister.

INCOME TAX

	£
Director's fees	20,000
Property income	4,000
	24,000
Less: Loss under s.131 ITA 2007	(8,000)
Net income	16,000
Less: personal allowance	(12,570)
Taxable income	3,430

Tax	
Income tax due @ 20%	686
CGT due	850
Total tax due	1,536
Less: tax paid	(2,600)
Tax repayable	(1,064)

Bill's Position

As Bill received his shares as a result of an inter-spousal transfer and the shares were subscribed for by Sheena in cash, then by virtue of s.135(3) ITA 2007, Bill can also claim relief under s.131 ITA 2007 following a negligible value claim.

He can offset the capital loss of £16,000 arising on the Roofix Ltd shares against his income of 2023/24 or 2022/23.

As part of his income was charged at the higher rate of 40% in 2022/23, he will be better off claiming the loss against his 2022/23 income. This will generate a repayment of income tax due to the PAYE deducted.

He will not use any of the loss against the 2023/24 capital gains so these will be subject to tax at 10% giving rise to a liability of £500 (£5,000 x 10%).

He will have no further liability on his pension income in 2023/24 as this has been correctly taxed at source.

MARKING GUIDE

TOPIC	MARKS
Part 1)	
Shares in Roofix Ltd:	
– Make claim under S.24	½
– Effect of claim	1
– S.131 relief for loss on subscribed shares	1
– Mention of restriction / £50,000 rule	½
– Effect of S.131	1
– Capital loss relief on gifted shares	½
Loan guarantee:	
– Payment of interest – capital loss	1
– Conditions	1
– £5,000 capital loss	½
Director's loan account:	
– Qualifying purpose	1
– £7,500 capital loss	½
Painting:	
– Non-wasting chattel	½
– Allowable loss calc	½
– Allowable loss - ringfenced	½
Shares in Windowbox Ltd:	
– Calculation	½
– No BADR or IR	½
Sports car:	
– Wasting chattel	½
– Exempt	½
Calculation of CGT:	
– Taxable gain	1
– Tax @ 10%	1
Income tax:	
– Aggregate income	½
– S.131 relief	½
– PA	½
– Tax	1
Overall repayment	1
Part 2)	
Acquired shares from wife so can claim S.131	1
Possible claims 23/24 or 22/23	1
Advise 22/23 – 40%	½
Don't offset against gains – tax at 10%	½
No further tax on pension income	½
TOTAL (MAX)	**20**

Examiner's report:
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Almost without exception candidates supplied little background about the negligible value claim i.e. the mechanics of such a claim.

A significant number of candidates framed their responses to the question of the negligible value claim by reference to EIS relief. Instead of describing the conditions which allow an income tax loss claim in respect of an investment in a close trading company, reference was made to an “EIS company”. Candidates seemed to be unaware that EIS relief is a very specific relief and not a general concept.

Additionally, candidates seemed unaware of the reliefs available to individuals who had invested in trading companies either in the form of a loan, loan guarantee or as a shareholder and lost that investment.

Those candidates who did know that income tax relief was available following the loss on shares did not draw a distinction between shares subscribed for and shares received via gift. A significant number of candidates were however prepared to give income tax relief to Bill without allowing the same relief to Sheena despite the fact that it was in fact Sheena who had made the original investment in the company.

No candidate calculated Sheena’s overall tax position correctly. A handful of candidates were able to calculate the income tax position but nobody calculated the Capital Gains Tax position without error.

On the whole the marks for the question were earned from basic Capital Gains tax knowledge such as the exemption for cars and the rules surrounding chattels.

2. TRUTECK LTD

1) The UK Income Tax and National Insurance implications of being seconded overseas

Income Tax

The liability to UK income tax in respect of the individual's income in a tax year depends upon whether the individual is resident in the UK or not for tax purposes and whether the income derives from the UK or is overseas income.

Tax years before the tax year in which the secondment takes place

As the employees are UK resident and domiciled, they will be liable for UK income tax on their worldwide income as it arises.

Tax years in which the secondment falls

The UK tax legislation has a Statutory Residence Test which determines the individual's residence status for the tax year.

In general, an individual's residence status is determined for a tax year as a whole. However, in certain circumstances, the legislation allows split-year treatment, whereby the tax year may be split into a UK part and an overseas part. The individual will be treated as UK resident in the UK part of the tax year and non-UK resident during the overseas part of the tax year.

The application of these rules will differ depending upon whether the secondment starts on 1 January or 1 July.

18 month secondment starting on 1 January

This secondment will span three different tax years and we will consider each in turn.

For the tax year in which the secondment starts, the employee will be treated as UK resident under the automatic residence test. This is because the employee will have been present in the UK for at least 183 days. The employee will also be UK resident because they work full-time in the UK, and because they have a home in the UK (however only one test needs to be satisfied in order to be UK resident).

In the second tax year the employee will be treated as non-UK resident because they will satisfy the "work abroad" test. Broadly the work abroad test is met where:

- The individual works abroad for an average of at least 35 hours a week for the whole of the tax year; and
- They have no significant break in that overseas work (being 31 days or more without an overseas workday); and
- They are present in the UK for fewer than 91 days in the tax year of which fewer than 31 days are spent working in the UK.

In the third tax year the employee will regain UK residence status. This is because they will again satisfy at least one of the 183 day test, the UK work test and the home test. It is likely that they will, in fact, satisfy all three.

The years of departure and return will be split into UK and overseas parts if one of the Cases set out in the legislation apply.

For the year of departure, the potential Case is Case 1 which applies when the employee is UK resident under the statutory residence test and:

- The employee satisfies the 'overseas work criteria' between the date of departure and the end of the tax year; and

- The employee is non-UK resident in the following year under the 'work abroad' rules.

The 'overseas work criteria' are broadly as outlined above – ie, the employee works abroad for an average of at least 35 hours a week, and days spent in the UK are within the permitted limits (being fewer than 91 days of which fewer than 31 days are spent working). These limits are scaled down in the year of departure.

Where the Case 1 conditions are met, the employee will be UK resident up to the date they start working overseas and non-UK resident from the first overseas workday.

On completion of the secondment, the tax year of return can be split under Case 6.

Case 6 applies where:

- The individual is non-resident in the previous year under the 'work abroad' rules (as outlined above);

- The individual was UK resident in at least one of the four tax years immediately preceding that year; and

- The employee satisfies the 'overseas work criteria' between the start of the tax year and the final overseas workday.

Where the Case 6 conditions are met, the employee will resume UK residence from the day after their final overseas workday.

Consequently, if the 18 month secondment starts on 1 January, the employee will be non-UK resident throughout the period of secondment (being from the date of the first overseas workday until the overseas secondment finishes).

This would mean that, during the period of the secondment, the employee will only pay UK income tax on their UK income. All employment income and expenses paid whilst on secondment will be foreign income (being income paid in return for duties performed outside the UK). This foreign income would not be taxable in the UK.

<u>18 month secondment starting on 1 July</u>

A secondment starting on 1 July 2025 will last until 31 December 2026. It is assumed that on their return the employee will resume full-time work in the UK and re-occupy their home.

This secondment spans two tax years. In both tax years the employee will remain resident in the UK. This is because they will satisfy either the home test or the UK work test.

Split year treatment will not be available. Case 1 will not apply because the employee will not be non-UK resident in the following year (2026/27 in this instance) under the 'work abroad' rules. This is because the UK days/workdays will exceed the permitted limits and there will have been a significant break in the overseas work.

Consequently, the employee will remain resident in the UK throughout the 18 month period of the secondment. As a result, income from the employment with TW will be subject to income tax in the UK. If the income is also taxable overseas, double tax relief may have to be calculated. This reduces the UK income tax liability by the lower of the UK and the foreign tax paid on the income.

Benefits and employment expenses

Certain benefits and employment expenses may be exempt from UK tax or a deduction may be claimed. These include:

- Costs of travelling to and returning from an overseas location where the duties are to be performed wholly outside the UK. This applies if the employee bears the cost themselves or if the employer bears the cost (as is the case with TW).

- Board and lodging outside the UK where the cost is borne by the employer. As TW pays rent for an apartment for seconded employees, the cost of this will not constitute a taxable benefit.

- Overseas medical expenses.

- Costs of journeys to and from the overseas location by a spouse, civil partner or minor child. Such costs do not give rise to a taxable benefit as long as:

  – The employer pays or reimburses the cost of the travel;

  – The employee is abroad for at least 60 consecutive days;

  – Journeys are restricted to two return journeys by the same person in a tax year.

  TW intends to pay for one return visit per month for either employees or their relatives. Only up to two of these journeys per tax year by relatives can therefore be tax free and only if made by a spouse, civil partner or minor child of the employee (not by relatives in general).

Other UK income

Other UK income would remain potentially taxable during the secondment, whether the employee is considered UK resident or not. For example, UK savings and dividend income and UK property income would remain taxable in the UK.

The UK personal allowance is not usually available to non-UK residents. However it continues to be available to the employees provided they are UK or EEA Nationals.

How UK income would be taxed during an overseas assignment would depend on the individual's residence status.

In the year in which the employee is non-UK resident for the whole tax year, the non-resident employee could treat UK savings and dividend income as 'disregarded income'. This means that there would be no UK tax liability on such income. However the UK personal allowance would then be lost.

National Insurance Contributions (NICs)

As Winterland has no reciprocal social security arrangement with the UK, for the first 52 contribution weeks of any overseas employment the employee and employer will usually remain liable to Class 1 primary and secondary NICs.

This depends on meeting three conditions:

- The employer having a place of business in the UK,
- The employee being ordinarily resident in the UK for NICs purposes (meaning they normally live in the UK apart from occasional or temporary absences, and have a settled and regular mode of life in the UK); and
- The employee being resident in the UK immediately before the secondment began.

Travel expenses relating to the overseas employment and the provision of medical insurance whilst abroad are excluded from the Class 1A NICs charge for employers.

Tutorial Note:

In relation to the overseas travel expenses the answer has assumed that the temporary workplace rules would not apply. This would depend upon whether the secondment would be considered to be a new employment or a continuous employment. Credit would have been available for a consideration of this issue.

2) The UK tax implications of continuing to own UK property if seconded overseas.

If the property is let out during the owner's absence, this will give rise to property income.

If the individual is non-UK resident (say under a secondment that starts on 1 January), UK property income would be dealt with under the Non-Resident Landlords' Scheme. This means that non-resident landlords would receive their rent net of 20% basic rate tax deducted at source by either the tenant or an appointed agent. The tax withheld is available to set against the UK tax liability on the annual rental profits.

A non-resident landlord can apply to HMRC to receive the rent gross. Such an application will be successful if the landlord has a good self-assessment history or they will not have a liability to tax (eg. if the net rental income is covered by the personal allowance). However, this will oblige the non-resident landlord to comply with all self-assessment obligations.

If classified as UK resident (say under a secondment that starts on 1 July), the rental income will be taxable on the individual as normal.

Rental income is taxable after a deduction for rental expenses. Relief for mortgage interest will be given by way of a tax reducer at 20%.

If the property is sold in the future, private residence relief (PRR) will exempt any gains which arise during periods when the individual occupied the property as their private residence. Therefore, gains arising during periods of absence will be taxable.

Certain periods of absence can be classified as deemed occupation. For example, the last nine months of ownership are always treated as deemed occupation.

Deemed occupation also includes any period of absence, no matter how long, during which the individual was employed abroad. This particular period needs to be preceded and followed by actual occupation of the property.

If a property is sold without the employee returning to the property, there may be a capital gains tax liability. However, the requirement to reoccupy the property after a period of absence does not apply where an individual who has worked abroad is unable to resume occupation because the terms of the employment require them to work elsewhere. So, it is still possible that any period of absence would be covered by the deemed occupation rules and that no gain would be taxable.

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Part 1</u>	
Liability dependent on residence	1
Tax years before secondment – taxed on worldwide income	1
<u>Secondment on 1 January:</u>	
Residence status	
– Year 1	1
– Year 2	1
– Year 3	½
Split year treatment	1
Position re income and expenses	1
<u>Secondment on 1 July:</u>	
Residence status	1
Split year treatment	1
Re income	1
Re expenses	1
DTR	½
Savings and dividend income	½
Personal allowance	1
National Insurance – First 52 weeks charged to Class 1	1
Class 1A excluded	½
<u>Part 2</u>	
Let property – rental income	½
Non-resident landlords' scheme – net of 20% tax	1
Qualify to receive rent gross	½
Rents taxed after deductible expenses	½
Relief for interest	½
<u>PRR:</u>	
No PRR for periods of absence	½
Last nine months of ownership	½
Deemed occupation – any period employed abroad	½
Condition of actual occupation before and after	½
Unable to re-occupy as working elsewhere	½
No gain taxable	½
TOTAL	**20**

Examiner's report:
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The section on benefits was particularly poorly answered. Candidates often seemed to be guessing whether a benefit was taxable or not and did not justify their answer. Language used to discuss whether benefits were taxable or not was often very imprecise. In contrast, the treatment of NICs was dealt with particularly well, with most candidates being aware of the rules where there is no reciprocal social security agreement with the UK.

3. MR AND MRS MOORE

The tax consequences of Mr Moore being granted non-tax advantaged share options

The options are being granted by reason of Mr Moore's employment. There is no charge to income tax or national insurance contributions (NICs) on the grant of the options. There is, however, a charge when the options are exercised.

The income tax charge on exercise is based on the difference between the open market value of the shares at the time of exercise (£2.00/share), less the cost of the shares (the exercise price of £1.50/share).

As the shares are listed on the AIM, they will be regarded as being subject to trading arrangements and as such classed as readily convertible assets within s.702 ITEPA 2003. Consequently, Class 1 NICs will be due on the difference between the market value at exercise and the amount paid for the shares. If Mr Moore is required under the terms of the share option agreement to pay the employer's Class 1 NICs, this amount is deducted from the amount chargeable to income tax.

As the shares are readily convertible assets, PAYE must be operated. If PAYE exceeds cash pay for the pay period, pay is reduced to zero. The employer will then meet the liability and duly seek recovery from the Mr Moore.

Mr Moore is required to reimburse the employer for the tax deducted no more than 90 days after the end of the tax year in which the charge arises. Any amounts not reimbursed become a taxable benefit to be reported on form P11D. Tax not recovered is also treated as earnings for Class 1 NICs for the earnings period in which that 90th day falls.

When Mr Moore sells his shares the transaction will be subject to capital gains tax (CGT). The base cost of the shares will be the aggregate of the exercise price, the amount charged to income tax at exercise and any employer's NICs paid by Mr Moore. Business Asset Disposal Relief will not be available as it is assumed that the company is not his personal company. CGT will therefore be payable at 20% on any gain.

The tax consequences of Mrs Moore being granted EMI share options

There are no immediate income tax or NIC consequences of Mrs Moore being awarded the EMI options.

As the options have been issued at a discount, ie the exercise price is less than the market value of the shares on the date of grant, - income tax is payable on the exercise of the option. This charge is calculated as the difference between the lower of the market value at the date of grant and the market value at the date of exercise, less the exercise price. Assuming the share price increases as is expected, the amount subject to income tax is £0.60 per share, - i.e. the difference between the market value of the shares at grant, £1.60 per share and the exercise price of £1.00 per share.

As there are arrangements in place at exercise to sell the shares they will be readily convertible assets and Class 1 NICs and PAYE applied.

The base cost of the shares on the subsequent disposal is calculated in the same way as for Mr Moore's non-tax advantaged share options outlined above, being the aggregate of the exercise price and the amount charged to income tax at exercise. Provided there is at least two years between the grant of the option and the sale of the shares, business asset disposal relief will be available on the sale of the shares. There is no requirement for Mrs Moore to hold 5% of the company. Consequently, CGT at 10% will be payable on the gain.

The requirements for eligible employees are set out in Sch 5 ITEPA 2003 which states that for Mrs Moore to be eligible for the EMI scheme she would have to work at least 25 hours a week or spend at least 75% of her working time at Scrumptious Chocolates Ltd.

Mrs Moore's current arrangement of 25 hours a week meets these requirements. However, if she changes her hours to work three 8 hour days this would amount to 24 hours a week and the first requirement would not be met. For the second requirement to be met her self-employed business would have to take up not more than eight hours per week.

Ceasing to satisfy the working hours requirement is a disqualifying event and the tax advantaged status of the options would only be retained if Mrs Moore exercised her options within 90 days of failing to meet the eligibility requirements. As these options can only be exercised on the agreed sale of Scrumptious Chocolates Ltd which will not be for two or three years, it is likely that the EMI status of these options would be lost if Mrs Moore failed to meet the eligibility requirements after the options have been granted.

This would mean that on exercise, the income tax charge would consist of two elements. First, the tax charge under the normal EMI and second the increase in share value between the date of the disqualifying event and the date of exercise.

CIOT MARKING GUIDE

TOPIC	MARKS
Mr Moore	
No income tax or NICs on the grant of the option	½
Income tax at the exercise of the option/explanation of taxable amount	1
Class 1 NIC as the shares are readily convertible assets	1
Explanation of NICable amount/employers NIC point	1
Can reduce net pay to nil	1
Taxable benefit if PAYE not recovered from Mr Moore and Class 1 NICs	1
CGT on the sale of shares	½
Calculation of base cost	½
Comment on BADR and rate	1
Mrs Moore	
No income tax or NICs on the grant of the option	½
Income tax at exercise as issued at discount/explanation of taxable amount	1
Class 1 NIC as shares are readily convertible assets	1
CGT on sale/explanation of base cost	1
Comment on BADR & rate	1½
Effect of changing working hours on eligibility	1
Implications of disqualifying event	1½
TOTAL	**15**

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Most candidates identified correctly the tax charge that would be payable on the exercise of the non-tax advantaged options and also that there would be no tax charge on the grant. Most candidates also identified that, as a readily convertible asset, Class 1 National Insurance would be payable and PAYE would be operated at exercise.

The majority of candidates correctly calculated the capital gain that would be payable when the shares are sold however a significant number commented that the gain would be covered by the annual exempt amount and that tax may be paid at 10% when the information given in the question meant that the capital gain would be taxed at 20%.

Candidates found the EMI scheme trickier than the non-tax advantaged scheme with some going into detail about the conditions that the company must meet to offer an EMI scheme. This was not required.

Good candidates identified that, as there are arrangements in place to sell the shares when they are exercised, they would be readily convertible assets and as such Class 1 National Insurance and PAYE would be applied.

Most candidates commented it was likely that Mrs Moore would cease to be an eligible employee if she changed her working hours as suggested. Good candidates commented that if this happened she would have 90 days to exercise her options, which, given the attaching conditions, meant that the EMI status is likely to be lost.

4. MR WALKER

Proposal 1

Under this proposal the proceeds of sale would be treated as a capital receipt and the capital gain (subject to any exemptions and anti-avoidance legislation) will be chargeable to capital gains tax (CGT). The disposal proceeds will need to be apportioned between the three main assets included in the sale which are identified as:

- The farmhouse,
- The land which has been actively farmed by Mr Walker, including the agricultural buildings, and
- The additional land which Mr Walker purchased and has let on a renewable licence.

As Mr Walker is occupying the farmhouse as his main residence, and provided no part is used exclusively for business, it will qualify for private residence relief and therefore the gain on this element of the proceeds will be exempt.

The exemption extends the relief available on the farmhouse to land and any outbuildings within the 'permitted area', which is a half hectare curtilage, or a larger area if it is required for the reasonable enjoyment of the dwelling. The relief is only available where use is principally domestic rather than agricultural, such as the garden, immediate grounds and any domestic outbuildings.

The gain on the land and buildings which Mr Walker has actively farmed will be subject to CGT but should also qualify for Business Asset Disposal Relief (BADR), which reduces the tax rate chargeable on gains of to 10% on a lifetime limit of £1 million.

To qualify for this relief Mr Walker needs to have made a material disposal of business assets. Business assets in this case means an asset used in his business at the time it ceased to be carried on. The business must have been owned by Mr Walker for at least two years prior to cessation. The disposal of the whole farm would inevitably mean a cessation of the farming business, which he has owned for the past 26 years. Therefore, the gains on the land and any agricultural outbuildings should qualify for BADR.

However, the land which is currently let on an annual licence has not been used in Mr Walker's farming business and will therefore not qualify for BADR. Without a claim to BADR, the CGT rate applicable on the chargeable gain, after deducting the annual exempt amount of £6,000, will be 20% (some of the gain will be taxed at 10% if his taxable income falls below the higher rate threshold).

However, this assumes that the anti-avoidance legislation of Section 517B Income Tax Act 2007 does not apply. This section will apply in cases where a gain of a capital nature is obtained from the disposal of land, if the land was acquired with the main purpose or one of the main purposes of realising a profit or gain from its disposal.

As the original intention had been to realise the future development potential of the land subject to the licence, Section 517B may be invoked by HM Revenue and Customs (HMRC). This will result in the gain being treated as income arising when the gain is realised. Depending on other taxable income, some or all of this gain may be charged to income tax at the higher (40%) or additional (45%) rates of income tax.

Proposal 2

This is similar to Proposal 1 in that the proceeds of sale would again be treated as a capital receipt and the capital gain (again subject to any exemptions and anti-avoidance legislation) would be chargeable to CGT.

The disposal proceeds will need to be apportioned between the two main assets included in the first sale being:

- 30 acres of farmland which Mr Walker has actively farmed and
- The land subject to the renewable licence

and the remaining assets included in the final sale being:

- The remaining 45 acres of farmland and agricultural buildings and
- The farmhouse and outbuildings

The gain on the land which Mr Walker has farmed will be subject to CGT. However, if he continues farming activities on the remaining land, the gain on the first disposal will not qualify for BADR as there is no disposal of the business.

He would either need to dispose of, or cease completely, one or both of his farming activities and not simply dispose of the individual parcels of land. These are business assets rather than discrete businesses and any gain on the sale of the land would be subject to CGT at 10% or 20% as appropriate.

As Mr Walker would be ceasing his farming business on the second disposal, a claim for BADR should be available in respect of the gain on that land.

In this situation, Mr Walker would again be at risk of Section 517B being invoked in which case the gain arising on the sale of the land subject to the licence would be charged to income tax rather than CGT.

Provided Mr Walker has continued to occupy the farmhouse as his main residence, the gain on this element will be covered by private residence relief.

Proposal 3

One of the common applications of Section 517B involves ‘slice of the action’ schemes.

These schemes involve the landowner selling land to a developer in return for a fixed sum, followed by future contingent payments based on the success of the development. The slice of the action contract will fall under the transactions in land rules in Section 517B ITA 2007 because the land is being developed with the main purpose or one of the main purposes of realising a profit on the disposal of the developed land.

Therefore, while the initial fixed sum Mr Walker receives will be treated as capital and taxed in the same way as Proposal 1, the additional contingent payments will be subject to income tax. However, Section 517B cannot apply to any such payments in respect of the disposal of his main residence, which is exempt from CGT under the private residence relief rules.

There is no formal clearance procedure. However, it may be advisable to apply to HMRC under their non-statutory clearance procedures. This will mean that the correct treatment of the transaction can be agreed with HMRC in advance of the filing date for the return.

CIOT MARKING GUIDE

TOPIC	MARKS
Proposal 1:	
Farmhouse – PRR applies	½
PRR curtilage	1
Gain on land actively farmed – valid BADR claim	1
Material disposal/Business assets	1
Cessation of farming activities	1
Grazing land – capital receipt	1
Non BADR qualifying – not used in trade	½
CGT annual exempt amount	½
Marginal rates of CGT without BADR	1
Anti-avoidance S.517B – gains treated as income	1
Main purpose	1
Proposal 2:	
No BADR claim on initial disposal	1
Need to dispose of or cease, business for valid BADR claim	1
Marginal rates of CGT apply	½
BADR available on second disposal	1
PRR available if still occupies farmhouse	1
Potential S.517B issue re grazing land	1
Proposal 3:	
Initial receipt taxed as capital	1
CGT treatment per option 1	1
S.517B applies on contingent payments	1
Private residence eligible for PRR exempt from S.517B	1
Non-statutory clearance advisable	1
TOTAL	**20**

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This related to the disposal of land, some of which had been used in a trade, some held for investment and a private residence. There was also potential anti-avoidance relating to transactions in land and 'slice of the action' arrangements.

Most candidates recognised that private residence relief would be available but a significant number did not discuss Business Asset Disposal Relief on the trading land and that it would not be available on the land held as an investment.

Under the second proposal it was assumed that he would continue farming, but marks were awarded where candidates reasoned that he would cease trading on the initial sale, or that the two transactions were part of the same sale contract.

The third proposal related to 'slice of the action' arrangements and income tax, but marks were awarded where candidates treated this as a chose in action and cited Marren v Ingles.

5. MR BALDUCCI

Assume the remittance basis is NOT claimed:

Income tax calculation 2023/24

	Non savings	Interest	Dividends
	£	£	£
Employment income (65,000 + 11,549)	76,549		
Rental from flat in Rome (€33,600/1.2)	28,000		
UK bank interest		1,225	
Italian bank interest (€2,400/1.2)		2,000	
UK dividends			2,000
	104,549	3,225	2,000
Less: Personal allowance (W1)	(7,683)		
	96,866	3,225	2,000
Tax			
£37,700 x 20%			7,540
£59,166 x 40%			23,666
£500 x 0%			Nil
£2,725 x 40%			1,090
£1,000 x 0%			Nil
£1,000 x 33.75%			338
			32,634
Less: Tax credits			
PAYE			(19,507)
Income tax payable			13,127

W1) Personal allowance

Restricted as net income > £100,000.

	£	£
Full PA		12,570
Net income: (104,549 + 3,225 + 2,000)	109,774	
Restriction:		
(109,774 – 100,000) / 2		(4,887)
PA given		7,683

Capital gains tax calculation 2023/24

			Residential property
		€	£
Gains arising in the year:	Flat	215,000	179,167
Less: Annual exempt amount			(6,000)
Taxable gain			173,167
Capital gains tax at 28%			48,487
Total tax: £13,127 + £48,487			61,614

Remittance basis for non-domiciliaries

Mr Balducci does not qualify under S.809D ITA 2007 as his unremitted foreign income and gains exceeds £2,000. Therefore if Mr Balducci wants to access the remittance basis, a claim will need to be made under S.809B ITA 2007.

If he makes a claim, no personal allowance or CGT exempt amount will be available.

Mr Balducci was previously resident in the UK so we need to check his residence position for prior years to see if the remittance basis charge (RBC) applies.

	Tax year	UK resident at any time in the tax year	Tax years in which resident
9	2014/15	Yes	7
8	2015/16	Yes	6
7	2016/17	Yes	5
6	2017/18	Yes – present in UK more than 183 days	4
5	2018/19	No	
4	2019/20	No	-
3	2020/21	Yes – present in UK more than 183 days	3
2	2021/22	Yes	2
1	2022/23	Yes	1

As Mr Balducci has been resident for 7 of the 9 tax years before 2023/24, if he elects for the remittance basis to apply he will pay the RBC of £30,000. As he was not resident in the UK before 2013/14 he will not meet the 12 year residency test.

Under s.809C ITA 2007 Mr Balducci will need to nominate some of his income and gains to which the remittance basis charge applies. This should be a nominal amount which is never remitted to avoid triggering s. 809 ITA 2007, which deems all unremitted income and gains as being part of a single mixed fund.

He should pay the £30,000 charge from his Italian bank account directly to HMRC and this will not be treated as a remittance.

Assume the remittance basis IS claimed:

Income tax calculation 2023/24:

	Non savings £	Interest £	Dividends £
Employment income	76,549		
UK bank interest		1,225	
UK dividends			2,000
	76,549	1,225	2,000
Less: Personal allowance (N/A)	(Nil)		
	76,549	1,225	2,000
Tax			
£37,700 x 20%			7,540
£38,849 x 40%			15,540
£500 x 0%			Nil
£725 x 40%			290
£1,000 x 0%			Nil
£1,000 x 33.75%			338
			23,708
Less: Tax credits			
PAYE			(19,507)
Income tax payable			4,201

Capital gains tax calculation 2023/24:

There is no capital gains tax because no gains are remitted in the year (W2)

W2) Remittance

Mr Balducci had made a cleansing transfer of €60,000 in 2018/19. At that time his Italian account contained at least €117,632 of capital, being the Italian employment income whilst he was non-UK resident, the inheritance of €50,000 and the cost of the Italian shares (€17,327). Consequently, he would have nominated the whole of the transfer to be capital.

Therefore when the balance on the account is remitted to the UK it is wholly a remittance of clean capital. No income or gains are remitted in the year.

Total tax payable:

	£
Income tax	4,201
Capital gains tax	Nil
Remittance basis charge	30,000
Total	34,201
Total tax paid if NOT claiming remittance basis	61,614
Tax saved by making a remittance basis election	27,413

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Income Tax calculation if remittance basis not claimed:</u>	
Employment income	½
Rental income	½
UK bank interest	½
Italian bank interest	½
UK dividends	½
Calculation of personal allowance	1½
Calculation of income tax liability	1
Tax paid at source	1
<u>CGT calculation if remittance basis not claimed:</u>	
Annual exempt amount	½
Tax payable @ 28%	1
<u>Income Tax calculation if remittance basis claimed:</u>	
£2,000 rule	1
Loss of PA	1
Determination of whether RBC applies	2
Comment re nomination	½
Comment re payment of RBC	½
Identification of mixed fund	1
Correct determination of cleansing transfer	1
Revised computation of income	1
Tax comp	1½
<u>CGT calculation if remittance basis claimed:</u>	
Identifying no gain remitted	1
Calculate total tax under both options	1
Conclusion on best option	1
TOTAL	**20**

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This question involved comparing the client’s total liability under the remittance and arising basis.

Almost all candidates correctly identified that the remittance basis was relevant but only good candidates explained why this was the case and mentioned that it would not automatically apply. The highest scoring candidates carried out a systematic analysis to decide whether the remittance basis should be chosen, calculating the total liability on each basis.

Most candidates correctly identified that the personal allowance on the arising basis needed to be abated and also that no personal allowance (or annual exempt amount) would be available on the remittance basis.

Most candidates attempted to calculate the Capital Gains tax due.

Only very good candidates correctly analysed the residency pattern and correctly identified that a £30,000 remittance basis charge would be payable but most candidates made a consistent recommendation as to whether the client should opt for the remittance basis to apply.

6. ETHEL AND FLORENCE

1) TREATMENT OF CAPITAL DISPOSALS BY ETHEL

100 Ordinary £1 shares in Meadows Investments Ltd

Ethel is non-resident in 2021/22. Therefore the gain of £1,299,900 arising on the disposal on 30 April 2021 will not initially be liable to UK CGT being a gain made in a non-resident period.

Upon her return to the UK on 3 July 2023, Ethel will resume residence under the second automatic residence test as her only or main home will be in the UK. She will also be UK resident in 2023/24 under the first automatic residence test as she will spend 183 days or more in the UK. The tax year 2023/24 will be split under Case 4 (starting to have an 'only home' in the UK) such that Ethel will be UK resident from 3 July 2023.

Ethel was UK resident in four of the seven years preceding the year of departure and has resumed UK residence within five years. The rules for temporary non-residents in S.10A TCGA 1992 must therefore be considered.

In this case, chargeable gains and losses made in the intervening period (being 6 April 2021 to 2 July 2023) on assets held at departure are treated as accruing to the taxpayer in the year in which the taxpayer resumes UK residence.

The gain of £1,299,900 on the transfer of shares in Meadows Investments Ltd on 30 April 2021 will therefore be taxable in 2023/24.

Australian mining company shares

The gain is not taxable at the time of disposal as it was made in a non-resident period.

The shares were acquired and sold during the period of non-residence. The gain is not therefore taxable on Ethel's return to the UK as the shares were acquired after Ethel's departure from the UK (s.10AA(1)(a) TCGA 1992).

UK shares

The loss realised on the UK shares on 10 April 2021 will be treated as accruing in the year of return (2023/24) and can be offset against gains arising in that year.

The loss arising on the further disposal on 30 November 2021 cannot be offset against gains, as both the acquisition and disposal arose in the period of non-residence.

Holiday cottage

The transfer from Edward to Ethel is at nil gain nil loss (NGNL) as they are spouses. Ethel is deemed to acquire the cottage on the date of the NGNL transfer i.e. 30 September 2013. Ethel's base cost of the cottage will be the original cost to Edward of £250,000.

The disposal of the cottage falls within the non-resident capital gains (NRCG) rules for residential property, which only charges the gain from 6 April 2015. It will be necessary to determine the amount arising after 6 April 2015 which would be taxable in 2021/22 under this provision.

The gain chargeable would in the first instance be calculated using the default method, which takes the increase over the value at 6 April 2015. We would need to ascertain the value of the cottage at 6 April 2015.

Alternatively the chargeable gain may be calculated by time-apportioning the gain based on the original cost. In this case the gain chargeable would be £40,625 (£50,000 x 6.5 years/8 years).

Depending on the value of the cottage at 6 April 2015, capital gains tax will be due on the amount of the gain after deduction of the 2021/22 annual exempt amount. The tax will be charged at 18% or 28% depending on the available basic rate band.

However, this disposal should have been reported to HMRC on an online property return and the tax paid within 30 days of completion. Penalties for late returns will be charged in respect of the late filing. Interest will be charged from the due date for payment until the day before payment is made. Penalties will also be charged in respect of the late payment as the tax was outstanding 30 days after 31 January after the end of the tax year.

Tutorial Note:

The disposal was prior to 27 October 2021 therefore the deadline for the return and payment is 30 days. It is 60 days for disposals on or after 28 October 2021.

The pre April 2015 element of the gain will be treated as accruing in the year of return (2023/24).

Portfolio of listed shares

It is likely that split year treatment will apply in 2023/24. The gain of £80,000 arises after Ethel has regained UK residence and is therefore taxable at the time of disposal.

The gain on the holiday cottage taxable in 2023/24 (after deduction of available losses and the annual exempt amount) will be taxed at 28% to the extent that it exceeds Ethel's unused basic rate band. The other gains will be taxed at 20%. Gains within the basic rate band will be taxed at 18% and 10% respectively.

2) DEPARTURE OF FLORENCE FROM UK

How residency impacts Florence's CGT position

An individual is chargeable to CGT in respect of disposals of worldwide assets if they are resident in the UK in the year in which the disposal is made.

Non-residents are generally not liable to UK CGT, even on the disposal of assets located in the UK, with the exception of assets situated in the UK which are used in a trade, UK residential property gains accruing after 6 April 2015, and all other UK land and property gains accruing from 6 April 2019.

If Florence leaves the UK, there is no deemed disposal for assets held at the time of departure.

However, gift relief is not available if the donee is non-UK resident. In addition, a held over gain is charged to tax if the donee becomes non-resident within six years of the end of the tax year in which the gift is made, and still owns the asset (s.168 TCGA 1992).

The gain of £70,000 held over on the transfer from the discretionary trust to Florence of the Welsh property would therefore become taxable on Florence at the time of her departure. However, as the property remains a chargeable asset by virtue of the NRCG rules, Florence could elect not to be charged on the held over gain when she becomes non-resident (s.168A TCGA 1992). If the property is sold whilst she is non-resident the held over gain will become chargeable, in addition to the gain chargeable under the NRCG rules.

There will also be a charge if Florence disposes of the York property whilst she is non-resident under the NRCG rules.

<u>How HMRC determine residence position</u>

HMRC will apply the statutory residence test to determine whether Florence is treated as ceasing to be UK resident for tax purposes.

They will first consider whether she will satisfy the automatic overseas tests. Since she has been resident in the UK, she will need to be present in the UK for fewer than 16 days in the tax year to be treated as automatically non-resident.

If she is not non-resident under the automatic overseas tests, HMRC will proceed to consider the automatic UK tests. If she is present for 183 days or more in the tax year or has a home in the UK, she will be treated as UK resident. Given that Florence is planning to move overseas it is unlikely that this test will be satisfied.

HMRC would then consider the sufficient ties test. It is likely that Florence would have two ties with the UK, being a 90-day tie (for the first two tax years after leaving) and an accommodation tie (if she stays with her sister for sufficient days).

As Florence has been UK resident for one or more of the previous two tax years, with two ties she would be non-resident if she spends less than 91 days in the UK. A ‘day’ in this context normally means one on which she is present in the UK at midnight. Days of departure are therefore usually ignored but days of arrival are counted.

The length of time she spends in the UK will determine her residence status. Therefore Florence will need to consider her intentions as to how often she is planning to visit the UK once she has moved abroad.

MARKING GUIDE

TOPIC	MARKS
<u>Ethel</u>	
Meadow Investments	
− Disposal when NR – not chargeable	½
− S.10A will apply	1
− Resident 4 out of 7 years prior to departure	½
− Less than 5 years	½
− Chargeable on return in 2023/24	½
Australian Company	
− Disposal when NR - not chargeable	½
− Shares bought after departure – S.10A does not apply	½
UK shares	
− Loss – April 2021 – treated as accruing in 2023/24	½
− Loss – Nov 2021 – not allowed shares acquired after departure	½
Holiday cottage	
− NRCG disposal	½
− Gain after 6 April 2015 chargeable	½
− Default – MV 6 April 2015	½
− Time apportion from 6 April 2015	½
− Liability and due date	½
− Return requirements	1½
− Penalties/interest	½
− Balance of gain chargeable under S.10A on return	1
− Pre April 2015 element of gain taxed in year of return	½
Listed shares	
− Disposal after return chargeable	½
Applicable rates in 2023/24	½
<u>Florence</u>	
Effect of Residence	
− If resident subject to CGT	½
− If NR not subject to CGT	½
− Subject to NRCG rules	½
− No deemed disposal on departure	½
− No gift relief if donee non resident	½
− Clawback if NR < 6 years	½
− Effect on Welsh property	1
− NRCG rules re York property	½
Determination of residence position	
− Statutory residence test	½
− Application of automatic overseas test	½
− Application of automatic residence test	½
− Application of sufficient ties test	1
− Two ties	½
− 91 days	½
TOTAL	**20**

7. MRS JANE LINDSAY

PART 1

Income tax computation 2023/24:

	Non savings	Savings	Dividends
	£	£	£
Employment income (W1)	198,800		
Benefits and expenses (W2)	494		
Interest		1,500	
Life assurance gain (W6)		25,000	
Dividend income (W5)			14,000
	199,294	26,500	14,000
Less: EIS loss (W7)	(28,000)		
Less: Gift of shares to charity (W8)	(10,000)		
	161,294	26,500	14,000
Less: Personal Allowance (tapered to nil)	(Nil)		
Taxable income	161,294	26,500	14,000

Tax	
48,325 @ 20% (W9)	9,665
87,440 @ 40% (W10)	34,976
25,529 @ 45%	11,488
26,500 @ 45%	11,925
1,000 @ 0%	Nil
13,000 @ 39.35%	5,116
	73,170
Less: Seed EIS relief (£5,000 @ 50%)	(2,500)
	70,670
Less: Tax deducted at source:	
PAYE	(75,000)
Tax repayable	(4,330)

Workings:

W1) Employment income

	£
Salary	160,000
Add: Bonus (date paid)	40,000
Less: Payroll giving (£100 x 12)	(1,200)
	198,800

W2) Benefits and expenses

	£
Vouchers	300
Medical insurance	1,000
Loan benefit (W3)	594
Mileage (W4)	(1,400)
Car parking space	Exempt
Taxable benefits	494

W3) Loan benefit

	£
Average basis: £(38,000 + 14,800) / 2 = £26,400 x 2.25%	594
Strict basis: (£38,000 x 10/12 x 2.25%) + (£14,800 x 2/12 x 2.25%)	768

A benefit of £594 will be reported on the P11D. HMRC could insist on the strict basis as this gives a higher figure for the benefit. However as the use of the average basis does not lead to a significant distortion in the benefit, the P11D figure would probably remain taxable.

[Credit is given for taxing either amount as long as workings are shown.]

W4) Mileage

	£	£
Amount reimbursed (12,000 @ 30p)		3,600
Less: Authorised mileage rates		
10,000 miles @ 45p	4,500	
2,000 miles @ 25p	500	
		(5,000)
Mileage shortfall		(1,400)

W5) Dividend income

	£
Dividends received	15,500
Less: Dividend not taxable from qualifying VCT	(1,500)
Taxable dividends	14,000

W6) Life assurance gain

The offshore life assurance gain is treated as savings income. As the gain arises from an offshore bond, it does not have a UK basic rate tax credit.

W7) Sale of EIS shares

	£	£
Proceeds		20,000
Cost	60,000	
Less: Income tax relief not clawed back (> 3 years)	(12,000)	
		(48,000)
Net loss		(28,000)

Relief under s.131 ITA 2007 claimed for loss to be set against income in the year.

W8) Gift of shares to UK charity

The market value of the shares at the date of the gift (£10,000) is a deductible payment under s.431 ITA 2007.

W9) Basic rate band

	£
Basic rate band	37,700
Add: Gross gift aid £(5,000 + 3,500) x 100/80	10,625
	48,325

A cash donation to an EU charity is a qualifying donation under s.416 ITA 2007 (France being a relevant territory under Sch 6 para 2 FA 2010).

W10) Higher rate band

	£
Higher rate band	125,140
Add: Gross gift aid £(5,000 + 3,500) x 100/80	10,625
	135,765

PART 2

Mrs Lindsay's salary and bonus are subject to Class 1 national insurance contributions (NICs), both primary (payable by Mrs Lindsay) and secondary (payable by Lovett Timber Ltd).

Vouchers are treated as earnings and are also subject to Class 1 NICs, both primary and secondary.

There are no NICs on the mileage allowance as there is no profit element.

The private medical insurance and loan benefit are subject to Class 1A NICs only payable by Lovett Timber Ltd.

The car parking space is an exempt benefit and no NICs are payable by either party.

MARKING GUIDE

TOPIC	MARKS
PART 1	
Employment income & benefits:	
Bonus	1
Payroll giving deduction	1
Vouchers – cash value	½
Medical insurance – cost to employer	½
Car parking space – exempt	½
Loan benefit:	
Average basis / strict basis / decision	1½
Mileage shortfall	1
Bank interest	½
Dividends (VCT exempt)	½
EIS loss calculation	1
Take relief against income	1
MV of shares deducted against income	1
Personal allowance reduced to nil	1
Calculation basic rate/higher rate bands	1
Life assurance bond:	
Savings income	1
No basic rate tax credit as offshore	½
Seed EIS relief	1
Correct tax rates	2
Deduction of tax credits	½
	17
PART 2	
Cash pay subject to Class 1 NICs primary and secondary	1
Vouchers earnings for Class 1 NICs	1
Other benefits subject to Class 1A NICs	½
No NICs on parking space / mileage allowance as no tax	½
	3
TOTAL	**20**

Examiner's report:
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Most candidates answered the question to a decent standard, demonstrating a good knowledge of how most of the benefits were taxed. Common errors included the different treatment of the various donations to charity and the amount of the loss that was available to be set against income with a s.131 ITA 2007 election. Also, the majority of candidates identified the bonus was taxable on the earlier of receipt or entitlement, but then missed the fact that Mrs Lindsay became entitled to payment as long as she was still employed 2 months later. Candidates lost marks by failing to mention the National Insurance treatment of each item of employment income and benefits, with most focussing on salary and bonus only. Also to be awarded marks, the comments needed to be specific rather than "Class 1A NIC is applied to benefits". A few candidates wasted time calculating the NICs liability for both Lovett Timber and Mrs Lindsay, despite the question clearly stating calculations were not required.

8. KEVIN MARSHALL

Generally, a tax deduction is allowed against employment income if the individual is obliged to pay the expense as a holder of the employment and the expenditure is incurred 'wholly, exclusively and necessarily' in the performance of the employment duties. To meet the 'necessarily' test HM Revenue & Customs would ask whether Mr Marshall could do his job without incurring the expense. This test is very difficult to meet and specific provisions have been written into the legislation to allow certain deductions.

Travel expenses

Any travel expenses Mr Marshall incurs between his home and the office in Redtown would not be allowable as this would constitute ordinary commuting. However, costs of travel to the regional office would be allowable as this would be classed as a temporary workplace. A temporary workplace place is a place an employee attends in the performance of his duties for the purposes of performing a task of limited duration or for some other temporary purpose. A workplace is not normally temporary if a period of attendance will last over 24 months, but this only applies if an employee spends more than 40% of their working time there. As Mr Marshall would only spend one day a week in Bluetown for a limited duration, these travel costs would be allowable.

Mr Marshall's travel costs to visit customers would be allowable regardless of whether he visits the office first, although the costs of going to the office first would not be allowable. Mr Marshall will be reimbursed for these journeys at the rate of 40p per mile. HMRC approved rates allow a deduction for mileage payments at the rate of 45p per mile for the first 10,000 miles and 25p per mile for mileage over this. Mr Marshall would be able to claim a tax deduction for mileage based on the difference between the HMRC rate and the amount reimbursed should it be less than the HMRC rate. If he receives more than the HMRC rate, this would be taxable income. Mileage payments are not earnings for National Insurance purposes if they do not exceed 45p per business mile.

Where an individual has to stay away overnight on business, the cost of the accommodation is part of the cost of business travel and the cost of meals and accommodation while travelling for business purposes would be tax deductible. As Mr Marshall must meet the cost of any journey lasting only one night he would be able to claim a tax deduction for this.

Any reimbursement of business expenses is exempt and no tax liability arises. For National Insurance purposes if the expenses reimbursed by the employer are specific and distinct payments of expenses actually incurred by an employee in carrying out their work, they will not attract contributions.

Mr Marshall's travelling costs to college would not be allowable. HMRC consider travel to work-related training is not undertaken in the performance of the duties of the employment, so he would not be able to claim any deduction in respect of this.

Professional fees

The subscription to the Institute of Directors would be deductible as it relates to Mr Marshall's employment and is included on the HMRC approved list of professional subscriptions. The subscription to the rugby club would not be deductible as HMRC would not deem this to be necessary for the employment (despite the fact that Mr Marshall would meet customers at the club).

Business Entertainment

Relief for expenses in connection with entertainment is not allowed unless the expense has been paid or reimbursed by the employer and has been disallowed in arriving at the employer's taxable profit. The expenses reimbursed to Mr Marshall would be disallowed in the employer's tax computation and consequently will not be taxable on him. No National Insurance contributions would be due on the amounts reimbursed if they can be identified as business expenses.

Mr Marshall would not be able to claim a deduction for the expenses that he bears the cost of himself.

Household Expenses

Household expenses are deductible from earnings if HMRC accept an employee's home is a workplace. Before a deduction can be permitted for a household expense it must be demonstrated that the expense has been incurred wholly, exclusively and necessarily in the performance of the duties of the employment. HMRC only accept that these conditions are met where the duties that the employee performs at home are substantive duties of the employment and at no time is the employee able to choose between working at the employer's premises or elsewhere. As Mr Marshall would be able to perform the duties in the employer's office and would be working from home by choice, no deduction would be available for household expenses.

The costs of his broadband connection would only be allowable if his internet connection was exclusively for business use, which is clearly not the case here.

As Mr Marshall's home telephone is not used exclusively for business and private calls are not restricted, the payment of this by the company would result in a taxable benefit. As Extra Tools Ltd has agreed to pay the tax due under a PAYE Settlement Agreement (PSA) Mr Marshall would not suffer a tax liability or NICs in respect of this personally. Under the PSA, Extra Tools Ltd would pay the tax liability on Mr Marshall's behalf and as the payment of the tax liability is also a benefit to him, this would be taken into account by grossing-up the benefit. Class 1B NIC would be payable by Extra Tools Ltd on the total benefit including the tax which would have been payable.

Other Expenses

Fees paid by an employee to an employment agency for obtaining employment are not deductible as HMRC consider such payments are not made in the performance of duties of employment. Mr Marshall cannot therefore claim a deduction for this cost.

MARKING GUIDE

TOPIC	MARKS
General rules	1
Travel expenses:	
Travel between home and office not allowable	½
Travel to temporary office	1
Travel to visit customers/HMRC mileage rates	2
Accommodation costs	2
Travel to college	1
Professional subscriptions	1
Business Entertainment	2
Household expenses:	
General expenses	1
Broadband	1
Telephone / PSA	1½
Employment agency	1
TOTAL	**15**

Examiner's report:
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Most candidates were able to demonstrate a reasonable knowledge of the rules regarding the deductibility of travel expenses and accommodation. Almost all candidates outlined the authorised mileage rates although few mentioned the correct position for National Insurance. The majority of candidates set out the correct treatment for professional fees although many seemed to be confused as to whether this was reimbursed by the employer despite the fact that this was mentioned in the question. Few candidates were able to set out and apply the correct rules in relation to whether Mr Marshall could receive a deduction for household expenses. However, most candidates were able to set out the effects of the PAYE Settlement agreement and this part of the question was answered well. Many candidates lost out on marks by not mentioning the National Insurance treatment of the reimbursed expenses at all despite this being specifically requested in the question.

9. SUE MCDONNEL

Potential gains

Mr McDonnel:

Shareholding				145
				£
Cash sale proceeds	Note 1	£1,750 per share		253,750
Base cost	Note 2			(180,444)
				73,306
Annual exempt amount				(6,000)
Taxable gains				67,306
20%	Note 3			13,461

Mrs McDonnel:

Shareholding		355
EIS exempt shares	Note 4	(160)
Taxable shares		195

				£
Cash sale proceeds	Note 1	£1,750 per share		341,250
Base cost	Note 5			(152,444)
Gains on share disposal:				188,806
Held over capital gain falling back into charge	Note 7		15,000	
Annual exempt amount	Note 8		(6,000)	
Taxable gains			9,000	188,806
10%	Note 9			18,881
20%	Note 10		1,800	
Total CGT = £20,681				

Note 1

In the absence of any election, the taxable consideration will consist of the initial cash of £1,000 and deferred cash of £500 and £250 per share. The balance of £500 settled in the form of shares will be a share for share exchange and will not be taxable immediately.

Note 2

The base cost of Mr McDonnel's shares will be the aggregate of the consideration paid for his shares. This comes to £320,000 (100 shares at £1,000 per share and 100 shares at £2,200 per share). The aggregate base cost per share will be £1,600. Mr McDonnel's remaining shares will have a base cost of £232,000 (145 x £1,600).

The base cost relating to the cash consideration is 1,750/2,250 of the total ie £180,444.

Mrs McDonnel will be deemed to acquire the shares at her husband's original cost ie 55 shares at £1,600 per share = £88,000.

Note 3

Mr McDonnel's gain will not benefit from Business Asset Disposal Relief (BADR) as he was not an employee or director of the company at the point of sale. Neither will he benefit from Investors' Relief (IR) as he did not subscribe for the shares on or after 17 March 2016.

Note 4

The gain on the EIS shares will be exempt from CGT as they have been held at least three years. The 40 bonus shares will be added to the exempt EIS shares.

Note 5

Date	Shares	Cost	
		£	
September 2017	60	80,000	
December 2019	80	28,000	(Note 6)
January 2023	55	88,000	(Note 2)
Total		196,000	

The base cost is apportioned between the cash and share consideration in the ratio 1,750:500. The cash element is 1,750/2,250 x £196,000 = £152,444

Note 6

The CGT base cost will be the market value at the date of grant of the EMI share options (being the price paid for the shares (£100) plus the amount charged to IT, which was the discount at grant (£250) = £350).

Note 7

The held over capital gain on the EIS shares will fall back into charge on disposal of the shares.

Note 8

The annual exempt amount will be set against gains subject to 20% tax in priority to those subject to 10%.

Note 9

Mrs McDonnel's gain will qualify for BADR as Phips Ltd is a trading company, she is an office holder and has held more than 5% of the shares for the two years prior to disposal.

Note 10

The reinstated gain will be subject to 20% capital gains tax as it is a non-residential property gain.

Planning Opportunities:

Sale of Shares

After the sale of the shares Mrs McDonnel has £811,194 (£1m - £188,806) of her BADR lifetime limit available.

Mrs McDonnel may consider electing out of the share for share exchange under s169Q TCGA 1992 and paying CGT on the full sale consideration now. This will ensure that she maximises her BADR. If the election is not made then a proportion of the capital gain will be held over under the share for share provisions. This gain will become taxable on a subsequent sale of the Driver Plc shares and it is highly unlikely that these will qualify for BADR, as such the future gain is likely to be taxed at 20%.

Mr McDonnel may transfer some or all of his shares to his wife at no gain no loss prior to the sale. This will ensure that the whole of the capital gain benefits from BADR in the hands of Mrs McDonnel.

He may wish to retain a small number of shares in order to make use of his own CGT annual exempt amount.

If Mr McDonnel were to transfer all of his shares to Mrs McDonnel, and Mrs McDonnel makes the s169Q election to disapply the share for share exchange rules, her gain eligible for BADR would be:

Shareholding	145 + 195	340
Sale proceeds	£2,250 per share	765,000
Base cost	£232k + £196k	(428,000)
Gains on share disposal:		337,000

She would therefore still have £663,000 of her BADR lifetime limit available.

Property Disposal

In the absence of any reliefs the gain would be taxed at 20%.

Provided the sale is connected with the proposed disposal of the shares of Phips Ltd then this should qualify as an associated disposal and a proportion of the gain will qualify for BADR.

It is necessary to consider the full history of the property in order to calculate the proportion of the gain that will benefit from BADR.

The restriction to BADR can be summarised as:

i) One quarter of the property has never been occupied by Phips Ltd and therefore one quarter of the gain will not qualify for BADR.

ii) Sue McDonnel only became a director in August 2014 so the shareholder/ director (or employee) condition for BADR is only satisfied from this date and so the gain on the associated disposal arising before this date does not qualify for the relief. It will therefore be necessary to time apportion the gain around August 2014.

iii) The remaining post August 2014 portion of the gain should qualify for an element of BADR. Where rent has been paid by Phips Ltd then the proportion of the gain qualifying for BADR is further restricted. As half market rent has been charged then the BADR is restricted by 50%.

CIOT MARKING GUIDE

TOPIC	MARKS
The initial and deferred cash will be taxable immediately.	½
The share for share element of the gain will be held over	½
Base costs of share will be pooled	1
Correct calculation of remaining share base cost	½
The balance will be apportioned in the ratio of cash to total consideration	½
Mr McDonnel will not qualify for BADR and is taxed at 20%	½
EIS shares exempt from CGT	½
Bonus shares added to original holding and exempt	½
Apportionment of the base cost in the ratio of cash to total consideration	1
Base cost equivalent to market value on the date of grant	1
Held over capital gain will fall back into charge	1
Annual exempt amount set against gains subject to 20% in priority	1
Mrs McDonnel's shares will qualify for BADR and be taxed at 10%	1
The balance of the reinvested gain falling back into charge is taxed at 20%	½
	10
Possible to elect under s169Q TCGA 1992 to waive share for share exchange	1
Propose transfer of shares from Mr to Mrs McDonnel	1
Mr McDonnel to retain some shares in order to utilise his exempt amount	1
	3
Taxed at 20% without relief	1
Possible associated disposal	1
Relief limited to proportion occupied by personal company	1
One quarter let to third parties will fall outside BADR	1
The gain relating to the period before Mrs McDonnel became a director will be excluded from BADR on a time apportionment basis	1
Restriction for rent charge	1
Restriction proportionate to market rent	1
	7
TOTAL	**20**

Examiner's report:
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To answer this question well required planning and thought before committing to paper. Those who had a good idea of how they would approach the question scored more highly. Many candidates appeared to have dived into the question without due consideration of how they were to structure the answer and as a consequence the answers were confused and easy marks were missed.

By and large candidates scored highly on the associated disposal section and showed a good appreciation of the restriction. The majority of candidates also scored well on the identification of planning opportunities including the waiver of the share for share provisions in order to secure full BADR.

Common problem areas were:

- The majority of candidates failed to note the CGT exemption on the EIS shares and also that the deferred capital gain would fall back into charge. There was generally a very poor understanding of how this element would be taxed.

- Many candidates calculated the base cost on the EMI share incorrectly.

- A number of candidates produced over a page explaining in detail the rules for BADR on a share sale including statutory references. The only requirement was to identify whether or not BADR was applicable.

10. MR SHARMA

Statutory references are to ITA 2007 unless stated otherwise.

Vespasian Ltd

Income tax relief is not available for an existing shareholder unless the shares already held were acquired as part of an issue of shares which qualified for EIS income tax relief or are subscriber shares (S.164A).

Mr Sharma received income tax relief in respect of his existing shareholding so this condition is satisfied.

In addition, for income tax relief, the investor must not be connected with the company within the period beginning two years before the issue of the shares and ending (normally) three years after the issue of the shares (S.163).

An investor is connected with a company if he (taking into account the shareholdings of associates) holds or is entitled to more than 30% of the company's ordinary share capital (S.170). Mr Sharma's subscription of £200,000 on 30 April 2024 takes his shareholding to 35% and he is therefore connected with the company.

If the investor becomes connected with the company at any time during the above period, the shares cease to qualify for income tax relief. The £30,000 income tax relief granted for 2022/23 will therefore be withdrawn. Income tax relief will also not be available for the further subscription.

Mr Sharma's further investment of £200,000 will however qualify for deferral relief under Sch 5B TCGA 1992 since the connection test does not apply for CGT purposes. The investment must be made within the qualifying time, being one year before and three years after the gain arose (Sch 5B para 1(3) TCGA 1992). The subscription will therefore be within the time limit.

No part of the gain on the sale of property can be deferred against the original share subscription on 4 July 2022 since this is more than one year before the gain arose.

Claudius Ltd

Mr Sharma will not be able to claim EIS income tax relief in respect of his investment in Claudius Ltd as he will be connected with the company.

A person is connected with a company if he and his associates own or are entitled to acquire more than 30% of the ordinary share capital and loan capital of the company (S.170). The definition of an associate for this purpose includes a business partner (S.253). Mr Sharma will however be able to claim CGT deferral relief in 2023/24 against his investment of £100,000.

Constantine Ltd

Mr Sharma received income tax relief in respect of his existing shareholding so this condition is satisfied.

A director is normally connected with a company under S.167 at the time when shares are issued.

Since Mr Sharma is paid a commercial salary for his work for the company, he became connected with the company on 1 June 2022. He therefore was connected with the company when he was issued with further shares on 1 May 2023.

S.169 however allows him to claim income tax relief despite the connection provided certain conditions are met.

Condition A is that the remuneration is reasonable and Condition B is that the director had no connection at the time when the shares were issued.

If Condition B is not met, Condition C is that the shares were issued before the termination date for the latest share issue which did meet Condition B. The latest share issue where Condition B would have been met was the original investment on 1 April 2021 for which the termination date is 31 March 2024.

Mr Sharma is therefore able to claim income tax relief for his further investment of £75,000 on 1 May 2023. He will not be able to claim income tax relief on the additional investment on 1 May 2024 since this falls after the 3-year termination date for his original investment and does not therefore meet Condition C.

Mr Sharma is not connected with the company other than as a director as his interest does not exceed 30% at any point. While shares held by associates are attributed for this purpose, Mr Sharma's brother is not an associate since the definition of associate in S.253 does not include siblings.

He cannot claim CGT deferral relief in respect of the gain on sale of property on 31 March 2024 in respect of his initial investment in the company as the shares were subscribed for more than a year before the gain arose and therefore is outside the time limit. However, deferral relief is available for his further subscriptions of £75,000 on 1 May 2023 and 1 May 2024 as these occurred within the time limit.

Trajan Ltd

Income tax relief for investment in an EIS company may be subject to withdrawal if the shares are disposed of or value is received from the company. However, HMRC do not regard this as applicable where a company is liquidated. If any distribution is received from the liquidator this will result in a partial withdrawal of relief under S.209.

The liquidation of the company will trigger a disposal of Mr Sharma's shares in Trajan Ltd under S.24 TCGA 1992. The capital loss may be offset against gains arising in the year or carried forward.

Alternatively, a claim may be made under S.131 for loss relief against Mr Sharma's income for 2024/25 or 2023/24. As Mr Sharma is an additional rate taxpayer, it will be more tax efficient for loss relief to be claimed under S.131. The loss will be restricted by the £30,000 income tax relieved earlier and so assuming that no distribution is received from the liquidator the loss will be restricted to £70,000.

Hadrian Ltd

The receipt of £125,000 by way of loan will be treated as a return of value within the period of restriction under Sch 5B para 13(2) TCGA. Under Sch 5B para 13(1)(b) TCGA, the shares are treated as ceasing to be eligible shares at the date the value is received.

Para 16, Sch 5B requires notice of a chargeable event to be given within 60 days of the individual 'coming to know' of the event, which was duly given on 20 April 2024.

However, the withdrawal of relief may be avoided if the company receives replacement value as defined in para 13B. Replacement value includes disposing of an asset to the company for less than market value or purchasing an asset from the company for more than market value.

It also includes making any payment (subject to certain exceptions) to the company, and therefore the obvious solution would be for the loan to be repaid by Mr Sharma as soon as possible.

Summary of deferred gains:

	£	£
Gain on property disposal 2023/24		400,000
Deferral relief available:		
Vespasian Ltd 2024/25	200,000	
Claudius Ltd 2024/25	100,000	
Constantine Ltd 2023/24	75,000	
Constantine Ltd 2024/25	25,000	
		(400,000)
Gain chargeable		Nil

MARKING GUIDE

TOPIC	MARKS
Vespasian Ltd	
Existing shareholder condition	½
Explanation of connection test	1
Connection test met by subscription as a result of owning 30% of shares	½
Income tax relief withdrawn	1
Qualifying for CGT deferral relief re investment on 30 April 2024	1
No deferral re 2023/24 gain against original investment	½
Claudius Ltd	
No income tax relief as connected with co (associated with bus partner)	1
CGT deferral available as no connection test for CGT	1
Constantine Ltd	
Existing shareholder condition	½
Connection test for directors	1
Effect of remuneration	1
Income tax relief for investment of £75k on 1 May 2023	1
No IT relief for investment on 1 May 2024	1
No CGT deferral re investment 1 April 2021 as > 12m before gain	½
Deferral relief for investments of £75k on 1 May 2023 and 1 May 2024	1
Not connected with company due to brother	½
Trajan Ltd	
Income tax relief not withdrawn on liquidation if no distribution received	½
Liquidation gives rise to disposal under S.24 TCGA	½
Loss relief available under S.131 ITA 2007	1
Loss net of income tax relief	1
Hadrian Ltd	
Loan is a return of value	½
Effects of return of value ie withdrawal of deferral relief	½
Possibility of replacement value by repayment of loan	1
Summary of reliefs	2
TOTAL	**20**

Examiner's report:
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Candidates generally scored better on this question.

The question states in any case that all the companies were qualifying companies. Some candidates summarised the rules for qualifying companies which was unnecessary.

Many candidates appreciated that the question of whether a person is connected to a company and thus debarred from relief involves the rights of associates, though the rules were often incorrectly applied. Many candidates also appreciated that being a paid director or employee made the investor connected with the company though often wrongly that the exception under s.168(f) ITA 2007 applied for reasonable payments of remuneration (in a self employed capacity only). As a result, s.169 was not applied, which not only requires that any remuneration should be reasonable but also no connection prior to becoming an employee.

A number of candidates dealt with the IT and CGT issues as regards the investments but failed to deal with or quantify the CGT deferral relief available against the gain on sale of property, which was a substantial part of the question.

As regards the case of Hadrian Ltd, where a loan of £125,000 from the company constituted a return of value, some candidates correctly considered that part of any income tax relief given in respect of the £250,000 investment would be withdrawn, although the question does not state that any income tax relief was claimed.

However, many considered that the CGT deferral relief falling back into charge would only be on £125,000 whereas under CGT rules the whole gain deferred of £250,000 comes back into charge. No candidate suggested that withdrawal of relief may be avoided if the investor had given 'replacement value' e.g. by repaying the loan.

11. MR TOOGOOD

The sale of shares in TipTop Furniture Ltd (TF Ltd) to Mr Toogood's son Trevor

As this is a disposal of a capital asset to a connected person, it is deemed by HMRC to take place at market value. Therefore, although Trevor will only pay Mr Toogood £500 per share, Mr Toogood will be subject to capital gains tax (CGT) on the transfer as if he had been paid full value being £750 per share.

As the shares constitute business assets (being shares in an unquoted trading company), Mr Toogood can claim gift relief. This requires a claim signed by both Mr Toogood and Trevor no later than four years after the end of the tax year in which the transaction took place (5 April 2029 if the transfer takes place in 2024/25).

The effect of gift relief is that tax on the part of the value that is not paid by Trevor (£250 per share) will be deferred until Trevor disposes of the shares. The effect of the claim is shown in the Appendix.

Additionally, as this is a disposal of shares in a trading company of which, for at least two years, Mr Toogood has been an officer and has held more than 5% of the shares, business asset disposal relief (BADR) will be due. This means that the taxable gain will be charged to CGT at a rate of 10% giving tax payable of £2,000.

BADR must be claimed by Mr Toogood no later than the anniversary of the filing date for the tax year to which the claim relates (31 January 2027 if the transfer takes place in 2024/25).

Because Trevor is an employee of TF Ltd and he has paid below market value for the shares, HMRC could argue that he is in receipt of employment income under the Employment Related Securities (ERS) legislation.

However, providing Mr Toogood executes a properly worded deed of transfer and makes it clear that Trevor is purchasing the shares as a result of a normal family relationship (rather than as a result of his employment with the company), the ERS rules will not apply.

Repurchase of the balance of the shares by TF Ltd

The gain on a repurchase of shares by the issuing company will normally be treated as a distribution to a selling shareholder and taxed as if they had received a dividend.

However, if the following conditions are satisfied, the gain will instead be subject to CGT:

- The shares must be purchased by an unquoted trading company to benefit its trade. As Mr Toogood and his fellow directors have had a fundamental disagreement about the future path of the business, this is clearly satisfied.

- The seller needs to substantially reduce his interest in the company. As Mr Toogood is disposing of all of his shares and withdrawing from TF Ltd, this satisfies the requirement.

- The seller must be resident in the UK.

- The seller must not be connected with the company post sale. As Mr Toogood will have severed all his ties with TF Ltd post sale this is not an issue.

- The seller must have owned the shares for at least five years prior to the buy-back (or three years if the shares were acquired by inheritance).

However, Mr Toogood has not owned the shares for at least five years, therefore the CGT treatment cannot apply. He would need to wait a further 12 months before the share buy-back which, in view of his relationship with his fellow shareholders, may not be practical.

The payment he receives from TF Ltd in excess of the original subscription price will therefore be treated as a dividend. The dividend will therefore be 50 x £(750 – 100) = £32,500. It is likely that the dividend allowance will have already been utilised and hence this will be subject to income tax at a rate of 39.35%, giving tax payable of £12,789.

The original amount of £5,000 subscribed for the shares will be treated as a return of share capital and no tax will be payable on this amount.

<u>The lump sum payment of £20,000</u>

This can only be paid tax free if it can be shown to be compensation for loss of office, to which Mr Toogood is not contractually entitled and in respect of which he has no expectation of payment, and if it does not represent post-employment notice pay.

It would be necessary to have sight of Mr Toogood's employment contract in order to make any definitive comment on this matter. Things are further complicated by the fact that the payment is made in return for Mr Toogood's resignation and removal from TF Ltd within a specific time frame and it needs to be confirmed that this does not constitute legal notice.

If Mr Toogood is entitled to a notice period and he does not work all of that notice period then some or all of the payment may be taxable as post-employment notice pay. This will normally be the amount of his basic salary that he would have received for the contractual notice period (or for the part of this period not worked). For example, if his notice period is six months and he does not work any of that notice period, the whole of the £20,000 payment will be taxable as earnings. Again, it would be necessary to have sight of his employment contract to comment further.

HMRC may argue that as a director of TF Ltd Mr Toogood could have expected a compensatory payment given that he is in a position within TF Ltd to decide whether such a payment is made. It is necessary to ascertain whether TF Ltd generally makes payments of this type to outgoing senior employees as HMRC may consider this should they enquire further into the nature of the payment.

As Mr Toogood is approaching retirement age, HMRC may also try to argue that the payment has been made as part of a retirement benefit package. If so, the compensation payment will be fully taxable.

Finally, as the payment of the compensation is being made together with a purchase of part of Mr Toogood's shareholding, HMRC may try to argue that instead of being a compensation payment, it is instead part of the proceeds of the share transaction and thus it would be added to the amount of the distribution and taxed accordingly. Given that Mr Toogood is receiving full market value for his shares, this seems unlikely.

If it can be argued that the payment is an ex-gratia payment for loss of office, then it can be received income tax free as the cash payment received is less than £30,000 (the maximum amount that can be received tax free). In addition, since the payment is less than £30,000 there would be no employers Class 1A National Insurance Contributions (NICs) due.

If the payment is deemed to be fully taxable, the income tax payable will be £9,000 (£20,000 x 45%). NICs under Class 1 for both employee and employer would also be due.

Company car

Whether the £20,000 is deemed to be post-employment notice pay (in full or in part) or not the transfer of the car is likely to represent an ex-gratia element of the termination package.

If all of the cash payment is post-employment notice pay the whole of the £30,000 exemption will be available and the transfer of the car will be exempt.

If none of the cash payment is post-employment notice pay it will use up £20,000 of the tax-free amount. Consequently £10,000 of the car value will be exempt leaving £5,000 chargeable. In which case the tax due will be £2,250 (£5,000 x 45%). There would also be a liability to employer's Class 1A NICs on the chargeable amount.

APPENDIX

Capital gains tax arising on the sale of Mr Toogood's shares to Trevor

	£
Deemed proceeds (50 x £750)	37,500
Less: Original cost (50 x £100)	(5,000)
Gain	32,500
Less: Held over gain	(12,500)
Chargeable gain = Excess proceeds £(25,000 – 5,000)	20,000
CGT @ 10%	2,000

MARKING GUIDE

TOPIC	MARKS
Sale of shares to Trevor:	
Identification of MV transaction	1
Availability of BADR	2
Calculation of gain with correct hold over	2
Mention of employment related securities issue	1
Company purchase of own shares:	
Correct treatment with reasons	3
Calculation of tax due	1
Correct valuation used	1
Lump sum payment:	
Discussion of why a payment would be made tax free – expectation, contractual entitlement	2
Mention of requirement to see contract	1
Consideration of PENP	1
Mention of retirement benefit issue	1
Mention of £30,000 tax free if payment is ex-gratia	1
Calculation of potential tax due	1
Inclusion of car in termination package	1
Car: tax/NICs	1
TOTAL	**20**

Examiner's report:
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The majority of candidates knew that the transaction between Mr Toogood and his son was a market value transaction that would qualify for gift relief however the calculation of the relief due was generally poor.

Most candidates were aware of the requirements for the company purchase of own shares to be treated as a capital transaction however many failed to use the information to come to the correct conclusion. Additionally, many candidates saw this section as an opportunity to state in full all they know about company purchase of own shares and in the event they were unsure of the outcome many hedged their bets by showing the tax charge for both outcomes.

The explanations of the termination payments were generally good with most candidates correctly dealing with the company car. Generally, the accuracy of the CGT calculations was poor: a large number of candidates used the wrong cost as the basis of the CGT calculations as a result of incorrect multiplication of share costs.

12. HANS ORFF

1)

The UK tax treatment of the various withdrawals from Hans' foreign bank accounts is as follows:

Account A

Account A contains 'clean' capital which has remained untouched since Hans became UK resident. The capital of £300,000 brought from this account to the UK on 1 October 2023 to assist with Hans' house purchase is not a taxable remittance.

Account C

The £500,000 withdrawn from Account C on 9 October 2023 to assist with the house purchase is clearly money or property brought to or received or used in the UK for the benefit of a relevant person (Hans) and is therefore a remittance under Condition A in ITA 2007, s.809L(2).

The transfer is from a mixed fund under s. 809Q as the £1 million consists of a foreign chargeable gain of £200,000 and clean capital of £800,000. Section 809Q(3) and (4) determine that the gain is remitted before the capital.

As a result, condition B at s.809L(3)(a) is also met as the property, service or consideration is income or chargeable gains. The amount treated as remitted is the amount of the income or chargeable gains (s.809P(2)). However the amount taxable is limited to the amount of the gain under s.809P(12) so that Hans will be liable to CGT for 2023/24 on £200,000.

Account D

The purchase of a painting for £200,000 and its importation to the UK is clearly property brought to and used in the UK within Condition A (see above) and is therefore a remittance. Applying the mixed fund rules, it is also property which derives from income or chargeable gains and therefore Condition B applies (s.809L(3)(b)).

The painting itself is not income or chargeable gains, but where the property derives from income or gains the amount remitted is equal to the amount of income from which the property derives (s.809P(3)). The painting is treated as a remittance of £200,000. However, as Account D is a 'mixed' fund, the rules in s.809Q determine the order in which the remittance is identified with the various sources of unremitted foreign income/gains.

These rules are set out as a series of steps:

Step 1:

The amounts of income/capital in the mixed fund immediately before the transfer are as follows:

- £50,000 of 'relevant foreign earnings' net of foreign tax;
- £100,000 of foreign property income (untaxed);
- £25,000 of foreign interest net of foreign tax;
- £50,000 of other foreign capital gains (untaxed).

Step 2:

The earliest paragraph in s.809Q(4) for which the amount is not nil is (d) 'relevant foreign income' being £100,000 property income which has not suffered foreign tax.

Step 3:

The transfer is reduced by the amount of £100,000 at Step 1, to £100,000.

Step 4:

As the figure at Step 3 is not nil it is necessary to repeat the Steps 2 to 4.

Step 2:

The earliest applicable paragraph in s.809Q(4) is now paragraph (e), foreign chargeable gains £50,000.

Step 3:

The transfer is reduced by the amount at Step 3 to £50,000.

Step 4:

As the figure at Step 3 is still not nil it is necessary to repeat Steps 2 to 4.

Step 2:

The earliest applicable paragraph in s.809Q(4) is now para (f), employment income subject to a foreign tax £50,000.

All of the remittance of £200,000 in respect of the painting has now been matched with income/gains in accordance with s.809Q.

Under s.809V, the £30,000 brought to the UK and paid directly to HMRC to meet the 2023/24 remittance basis charge (RBC) is not treated as a remittance.

Hans' UK tax liability on the above remittances is summarised as follows:

Income/gains		Rate	Tax due	Foreign tax	Net
	£		£	£	£
Relevant foreign earnings	60,000	45%	27,000	(10,000)	17,000
Foreign property income	100,000	45%	45,000		45,000
Foreign capital gains	50,000	20%	10,000		10,000
Total			82,000	(10,000)	72,000

2)

Any future purchases or remittances should be made from Account A or Account C.

Account A contains £200,000 of clean capital which can be remitted to the UK without giving rise to a UK tax liability.

Account C originally contained £1,000,000 of which £200,000 represented the capital gain. The gain has already been remitted, hence the account now contains £500,000 of clean capital which can also be remitted to the UK without giving rise to a UK tax liability.

He should also ensure that no other income or gains are credited to these accounts to avoid creating mixed funds.

3)

Hans should again nominate £1 of income on Account B for the purposes of the RBC. This is because it is preferable to nominate income/gains which will never be remitted to the UK.

If nominated income/gains are brought into the UK while any unremitted income/gains exist, the income/gains are identified not with the actual source of the income/gains but in the order set out in s.809J which results in 'worst first' treatment – ie, the remittance is identified with income/gains which produce the highest UK tax charge. Further, all future remittances would then be identified in accordance with the 'mixed fund' rules rather than identified with the actual sources of those remittances; the nominated income is not treated as remitted until all other unremitted gains have been remitted.

A £10 de minimis limit applies so it possible to remit up to £10 of nominated income from a year with no adverse consequences.

Tutorial Note:

The question tested the treatment of various remittances for a remittance basis user. It is not absolutely clear that a remittance basis election would be beneficial. However, given the information about income up to 30 September, it is a reasonable assumption that there would be sufficient overseas income to make the election worthwhile.

CIOT MARKING GUIDE

TOPIC	MARKS
Part 1)	
Treatment of remittance from Account A of 'clean' capital	1
Treatment of withdrawal from Account C as a remittance within s.809L	1
Identifying Account C is a mixed fund	1
Limitation of taxable remittance from Account C to capital gain of £200,000	1½
Painting:	
Treatment of painting as a remittance from Account D under s.809L	1
Conditions A and B and amount of remittance determined under s.809P(3)	1
Identification of income/gains within mixed fund per s.809Q(3)	1½
Identification of cost of painting £200,000 in order at s.809Q(4)	2
Treatment of payment of RBC direct from Account D	1
Calculation of liability on amounts remitted	3
	14
Part 2)	
Advising Account A consists of 'clean capital'	½
Advising Account C consists of 'clean capital'	½
Advice in connection with future remittances	½
No other income or gains to be paid into account	½
	2
Part 3)	
Advising nomination of income of £1	1
Discussion of remittance of nominated income	1
Effect of remittance of nominated income on future remittances	1
£10 de minimis rule	1
	4
TOTAL	**20**

Examiner's report:
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Despite the difficult subject matter, many candidates did well on this question with a majority achieving over 50% of the marks. If candidates were versed in the 'mixed fund' rules they generally did very well on this question because that was the core of the question and for which most marks were awarded.

13. SIMON

1) TAXABLE EMPLOYMENT INCOME 2023/24

		£
Salary		110,000
Bonus		25,000
Loan benefit	W1	384
Accommodation benefit	W2	1,438
Car	W3	7,673
Fuel	W4	6,881
Mileage	W5	109
Personal liabilities		953
Share option	W6	1,200
Employment income		153,638

Workings

W1) Loan benefit

	£
Loan advanced on 5 May 2023	20,000
Loan outstanding 5 April 2024	17,250
	37,250
Average x ½	18,625
Benefit = £18,625 x 2.25% x 11/12	384

W2) Accommodation benefit

	£
Annual value	600
Additional charge £(175,000 – 75,000) x 2.25%	2,250
Use of furniture (£9,000 x 20%)	1,800
	4,650
x 5/12	1,938
Less: Employee contribution	(500)
Benefit	1,438

W3) Car benefit

	£
List price	36,000
Less: Capital contribution (max)	(5,000)
	31,000
@ [(110 – 75)/5] = 7 + 20 = 27%	8,370
x 11/12 (1 May 2023 – 5 April 2024)	7,673

No adjustment for off-road period as < 30 days.

The payment towards a specific expense does not reduce the value of the benefit.

W4) Fuel benefit

	£
£27,800 x 27% x 11/12	6,881

W5) Mileage

	£
Amount paid	1,090
Less: Tax-free amount (2,180 miles @ 45p)	(981)
Profit element	109

W6) Share option

	£
Value at exercise (1,000 x £2.70)	2,700
Less: Cost of shares (1,000 x £1.50)	(1,500)
Option gain	1,200

Notes:

The sales course paid for by the company does not give rise to a benefit as it falls within ITEPA 2003, s.250.

There is no deduction allowed for the costs of the computer course paid for personally by Simon as this would fail the 'in the performance of the duties' test in ITEPA 2003, s.336.

2) NATIONAL INSURANCE CONTRIBUTIONS (NICs)

Earnings for NIC purposes are broadly the same as for Income Tax.

Simon's salary and bonus are liable to both Class 1 primary (employee) and secondary (employer) NICs.

Payments in kind are generally excluded from earnings for Class 1 NICs, except for payments in the form of certain assets, insurance policies or non cash vouchers. Benefits chargeable under Class 1 NICs include gilts, company shares and loan stock, futures and options, certificates of deposit, unit trusts and other marketable assets - ie assets for which trading arrangements exist.

These provisions also result in the personal liabilities of Simon met by Energen Ltd becoming chargeable to Class 1 primary and secondary NICs.

In addition, the existence of an Employee Benefit Trust would be considered by HMRC as creating a market for the shares in Energen Ltd, as the trust had previously bought shares from employees. This would be considered a trading arrangement, as defined in ITEPA 2003 s.702. In these circumstances, a Class 1 NIC liability will arise in respect of the shares acquired.

Mileage payments in excess of the qualifying amount are also treated as earnings for Class 1 NIC purposes.

There is a separate charge on all other benefits in the form of Class 1A NICs and these would apply in the case of the loan, car, fuel and accommodation benefits. Class 1A NICs are only payable by the employer.

CIOT MARKING GUIDE

TOPIC	**MARKS**
Calculation of employment income:	
Salary	½
Bonus	½
Beneficial loan interest	1
Accommodation benefit	1½
Use of furniture	½
Car benefit	2
No adjustment for period of unavailability	½
Fuel	1
Mileage	1
Personal liabilities	½
Exercise of option	1
No deduction for course paid personally	1
	11
NICs:	
Salary/bonus chargeable to Class 1 NICs	½
General categories of benefits chargeable to Class 1 NICs	½
Personal liabilities chargeable to Class 1 NICs	½
Shares acquired via EBT chargeable to Class 1 NICs	1
Mileage payments chargeable to Class 1 NICs	½
Other benefits chargeable to Class 1A NICs	1
	4
TOTAL	**15**

Examiner's report:
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This was another fairly straightforward question with many basic marks being available for core computational aspects. A large proportion of candidates scored pass marks. Only candidates lacking a knowledge of computation of benefits in kind scored poorly.

Beneficial loan interest was correctly calculated by many candidates although some failed to recognise the requirement to aggregate the loans to determine any exemption. A few did not realise the benefit should be calculated on the average loan balance and attempted to base the calculation on the balance at the end of the year. Many identified the possibility of basing the calculation on the 'strict' day to day basis.

The accommodation benefit was also reasonably well covered although some candidates did not appreciate the differing percentages used for the accommodation benefit and use of furnishings.

Car and fuel benefits were again well attempted with the vast majority commenting that the two week period for which the car was unavailable for use did not reduce the taxable benefit. The majority were also aware of the £5000 restriction on the capital contribution for the vehicle although a few deducted this from the benefit rather than the value on which the benefit was calculated.

The national insurance aspect to the question was also well answered with many candidates successfully identifying the sources liable to Class 1 primary and secondary contributions and those liable to Class 1A contributions.

The strongest candidates recognised that the Employee Benefit Trust could constitute a 'trading arrangement' for the shares, resulting in a Class 1 liability.

14. MR VAN DRAKE

PART 1)

Compare Mr Van Drake's tax liabilities using both the arising and the remittance basis for both years to determine whether a claim for the remittance basis is beneficial.

2022/23	Arising basis	Remittance basis
	£	£
UK salary	35,350	35,350
UK rental income	10,000	10,000
UK bank interest	2,000	2,000
Foreign bank interest (W1)	200	200
Foreign rental income (W2)	5,000	4,788
Total income	52,550	52,338
Less: personal allowance	(12,570)	(Nil)
Taxable income	39,980	52,338
Tax 37,700/37,700 @ 20%	7,540	7,540
Tax 500/500 @ 0%	Nil	Nil
Tax 1,780/14,138 @ 40%	712	5,655
	8,252	13,195
Less: DTR	(1,032)	(988)
	7,220	12,207
Less: PAYE	(4,379)	(4,379)
Income Tax payable	2,841	7,828
Capital Gains	400,000	200,000
Less: Annual exempt amount	(6,000)	(Nil)
Taxable gains	394,000	200,000
CGT @ 28%	110,320	56,000
Total tax payable	113,161	63,828

It is beneficial to claim the remittance basis in 2022/23. Mr Van Drake has not been resident in the UK for at least seven out of the nine preceding tax years and does not therefore have to pay the remittance basis charge of £30,000.

The remittance basis will not apply automatically as unremitted foreign income and gains in the year exceeds £2,000.

Workings:

W1) Foreign bank interest

Mr Van Drake remitted £4,000 of foreign income in 2022/23. Under the statutory ordering rule, untaxed foreign income (being £200 of bank interest) is remitted first. The remaining remittance of £3,800 is from foreign rental income (see W2).

W2) Foreign rental income

The effective rate of foreign tax deducted from rental income is 1,032/5,000 = 20.64%. The £3,800 of foreign rents remitted will therefore carry a 20.64% tax credit and should be grossed up as follows:

£3,800 x 100/(100 – 20.64) = £4,788

The foreign tax credit of £(4,788 – 3,800) = £988 is available for double tax relief.

2023/24	Arising basis	Remittance basis
	£	£
UK salary	36,000	36,000
UK rental income	12,000	12,000
UK bank interest	2,500	2,500
Foreign bank interest (W3)	400	400
Foreign rental income (W4)	8,000	5,559
Total income	58,900	56,459
Less: personal allowance	(12,570)	(Nil)
Taxable income	46,330	56,459
Tax 37,700/37,700 @ 20%	7,540	7,540
Tax 500/500 @ 0%	Nil	Nil
Tax 8,130/18,259 @ 40%	3,252	7,304
	10,792	14,844
Less: DTR	(2,100)	(1,459)
	8,692	13,385
Less: PAYE	(5,312)	(5,312)
Income Tax payable	3,380	8,073
Add: Remittance basis charge	Nil	30,000
Total tax payable	3,380	38,073

It is not beneficial to claim the remittance basis in 2023/24 as Mr Van Drake will have been resident in the UK for seven out of the last nine preceding tax years and a remittance basis charge (S.809H ITA 2007) will apply in addition to the loss of the personal allowance.

Workings

W3) Foreign bank interest

Mr Van Drake remitted £4,500 of foreign income in 2023/24. Untaxed foreign income (being £400 of bank interest) is remitted first. The remaining remittance of £4,100 is from foreign rental income (see W4).

Note that under the mixed fund rules, remittances are deemed to come from the later year in priority to the earlier year (so 2023/24 foreign income is remitted before 2022/23 etc).

W4) Foreign rental income

The effective rate of foreign tax deducted from rental income is 2,100/8,000 = 26.25%. The £4,100 of foreign rents remitted will therefore carry a 26.25% tax credit and should be grossed up as follows:

£4,100 x 100/(100 – 26.25) = £5,559

The foreign tax credit of £(5,559 – 4,100) = £1,459 is available for double tax relief.

PART 2)

If Mr Van Drake had realised the foreign gains in 2023/24 instead of 2022/23 and had remitted any of the disposal proceeds, his tax position for both years would have changed.

2022/23

In general terms it is not beneficial to claim the remittance basis if foreign income does not exceed the UK personal allowance and no foreign gains are realised.

His total foreign income during the year was £5,200, of which £4,000 was remitted to the UK. As unremitted foreign income and gains were less than £2,000, the remittance basis will have been automatically applied and Mr Van Drake will still have been entitled to his personal allowance and CGT annual exempt amount for 2022/23.

2023/24

If Mr Van Drake was assessed on an arising basis, he would be liable to CGT at 28% on the foreign gains of £400,000 realised during the year less his annual exempt amount.

If Mr Van Drake claimed the remittance basis, he would be liable to a remittance basis charge of £30,000, as he had been resident for UK tax purposes for seven out of the last nine years. He would also have had to pay CGT on the foreign proceeds remitted of £200,000. He would have lost his personal allowance and any capital gains tax annual exempt amount.

It would, therefore, have been beneficial for Mr Van Drake to claim the remittance basis.

MARKING GUIDE

TOPIC	MARKS
PART 1	
2022/23:	
Foreign bank interest remitted first	1
Calculate remitted foreign rental income	1
No personal allowance if remittance basis claim	1
Tax rates	1
Double tax relief (½ for each)	1
UK tax credits	½
Gains	½
No annual exempt amount if remittance basis claim	½
CGT rate	½
Total tax payable	½
Beneficial to claim the remittance basis	1
Automatic use of remittance basis not available	1
No remittance basis charge as not resident for seven out of nine tax years	1
2023/24:	
Calculate remitted foreign rental income	1
No personal allowance if remittance basis claim	½
Remittance basis charge applies as resident for seven out of last nine tax years	1
Beneficial not to claim the remittance basis	1
	14
PART 2	
2022/23:	
Foreign income < personal allowance so no claim for remittance basis	1
Automatic use of remittance basis as unremitted foreign income and gains > £2,000	1
No claim gives entitlement to personal allowances	1
2023/24:	
CGT @ 28% on foreign residential gains if assessed on arising basis	1
RBC applies if he claims the remittance basis	1
Still beneficial to claim the remittance basis	1
	6
TOTAL	**20**

Examiner's report:
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Part 1 of this question required the candidate to compare the remittance basis and the arising basis in two consecutive years. Many showed a general understanding of the remittance basis, but easy marks were lost in respect of the incorrect the grossing up of untaxed income. Most candidates analysed the residency pattern and correctly identified that a remittance basis charge would apply in 2023/24. However, some candidates were confused as to whether the remittance basis could be claimed in years prior to 2023/24 when the remittance basis charge did not apply. Many candidates did not identify that unilateral relief was available in respect of the foreign tax paid and very few grossed up the remitted foreign income to account for any tax credit. Very few candidates correctly identified that the remitted income should have been treated as untaxed foreign investment income before taxed foreign investment income.

Part 2 of the question required the candidate to apply general principles of the remittance basis to a change of circumstance. The figures given for the capital gain were large enough for most candidates to correctly assume that the remittance basis claim would be beneficial in 2023/24 even when paying the £30,000 remittance basis charge. However, the majority of candidates failed to correctly identify that the amount of unremitted income in 2022/23 of less than £2,000 would mean that the remittance basis would automatically apply.

15. JOHN AND SARAH PARKER

London Flat

This property was Sarah's main residence from November 2009 and John's main residence from November 2012 until they moved to New Zealand in November 2013. Gifts between husband and wife are made on a 'no gain no loss' basis for capital gains tax, so they will have a base cost for capital gains tax (CGT) for this property of £100,000 each.

When Sarah gifted half of the house to John after their marriage, they were living together. When calculating private residence relief (PRR), John's period of ownership is treated as beginning when Sarah purchased the property in November 2009. In addition any periods during which Sarah occupied the property as her main residence are deemed to be periods qualifying for PRR for John even though he was not living there at the time. So for both of them, the first four years from November 2009 will qualify for PRR.

Although they did not move back into the property on their return, two further periods will qualify for PRR as they come within the criteria for periods of 'deemed occupation'.

Firstly, any period of absence is treated as deemed occupation where the taxpayer or the taxpayer's spouse was employed abroad. Normally they would have needed to have moved back into the property on their return to qualify, but this condition does not apply where the taxpayer is unable to move back into the property because their employment requires them to work elsewhere. The period from November 2013 until November 2017 should also therefore qualify for PRR for them both.

Secondly, for a property that has been a main residence , the final nine months of ownership are always treated as a period of occupation, even if another property qualifies as the main residence at the same time.

Therefore, if the London flat were sold in November 2024, PRR will be available for 8.75 out of the 15 years of ownership.

So, based on 2023/24 rates, both John and Sarah will have the same capital gains as follows:

	£
Sales Proceeds	800,000
Purchase price	(200,000)
Capital gain	600,000
Divisible equally	300,000
Less: PRR at 8.75 /15	(175,000)
Chargeable gain before annual exempt amount	125,000
Annual exempt amount	(6,000)
Gain liable to CGT	119,000
Capital gains tax at 28% - each	33,320

The disposal must be reported online using HMRC's UK property service within 60 days of completion and a payment on account of the tax due must be paid within the same period.

Corner House

Corner House has been John and Sarah's main residence since they bought it, so would normally qualify for PRR on the whole gain. However, if they sell the garden separately, they could trigger a capital gain on this part of the property. PRR extends to the gardens of the property if they are within the "permitted area", which automatically includes gardens of up to ½ hectare. If they sell the house before selling the garden however, the remaining garden ceases to be part of their main residence and they will trigger a capital gain when they sell it. To avoid this, they must sell the garden before or at the same time as the house. Any gain should then be covered by PRR with no tax being due.

CIOT MARKING GUIDE

TOPIC	**MARKS**
London Flat	
No gain no loss on gift	1
John's PRR backdated to November 2009	1
Deemed occupation whilst abroad – any length	1
Not required to move back in – employment elsewhere	1
Final 9 months qualify for PRR	1
Calculate correct amount of PRR as 8.75 yrs (105 months)	1
Calculation of gain incl PRR and CGT	2
Reporting and payment	1
Corner House	
PRR normally available on whole gain	1
Garden within 'permitted area'	1
Sale of house first – garden no longer qualifies for PRR	1
Must sell house and garden together or garden first for no CGT	1
TOTAL	**13**

Examiner's report:
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On the whole, most candidates made a reasonable attempt at this question. Very few spotted that John would inherit Sarah's PRR history when she transferred half of the property to him, so most who actually did a calculation gave different taxable figures for John and Sarah.

A number of candidates thought that a PRR election could be made for London or Yorkshire when the Yorkshire property was purchased even though London was not available as a PRR at this time as it was rented out and they clearly were not living there. Some thought it would be possible to gain an extra period of PRR for a period of absence by moving back to London even though they had another PRR during the relevant time.