Tolley® Exam Training

CTA ADVANCED TECHNICAL PAPER

TAXATION OF LARGER COMPANIES AND GROUPS

PRE REVISION QUESTION BANK

FA 2024 & F(No. 2)A 2024

May and November 2025 Sittings

PQ823

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INTRODUCTION

This Advanced Technical Pre Revision Question Bank contains 15 exam standard questions all with answers updated to Finance Act 2024 and Finance (No 2) Act 2024. 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 2025** 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

	2024/25	2023/24
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– 125,140
Dividend allowance	500	1,000
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	N/A	1,000
Scottish Tax Rates(1)	%	%
Starter rate	19	19
Scottish basic rate	20	20
Intermediate rate	21	21
Higher rate	42	42
Advanced rate	45	N/A
Top rate	48	47
Scottish Tax Thresholds(1)	£	£
Starter rate	1 – 2,306	1 – 2,162
Scottish basic rate	2,307 – 13,991	2,163 – 13,118
Intermediate rate	13,992 – 31,092	13,119 – 31,092
Higher rate	31,093 – 62,430	31,093 – 125,140
Advanced rate	62,431 – 125,140	N/A
Top rate	125,140+	125,140+

INCOME TAX - RELIEFS

	2024/25	2023/24
	£	£
Personal allowance(2)	12,570	12,570
Married couple's allowance(3)	11,080	10,375
– Maximum income before abatement of relief - £1 for £2	37,000	34,600
– Minimum allowance	4,280	4,010
Transferable Tax allowance for married couples and civil partners(4)	1,260	1,260
Blind person's allowance	3,070	2,870
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	200,000
De minimis trusts amount	500	N/A

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	**2024/25**	**2023/24**
Maximum subscription:	£	£
‘Adult’ ISAs	20,000	20,000
Junior ISAs	9,000	9,000

Pension contributions

	Annual allowance(1)	**Minimum pension age**
	£	
2023/24	60,000	55
2024/25	60,000	55

Basic amount qualifying for tax relief £3,600

Lump sum allowance £268,275

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

Employer Supported Childcare	**2024/25**	**2023/24**
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 – 2024/25

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%).

Fuel benefit base figure	**2024/25**	**2023/24**
	£	£
	27,800	27,800

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Van benefits	2024/25	2023/24
	£	£
No CO_2 emissions	Nil	Nil
CO_2 emissions > 0g/km	3,960	3,960
Fuel benefit for vans	757	757
Official rate of interest	2.25%	2.25%

INCOME TAX - CHARGES

Child benefit charge	**Withdrawal rate**
Adjusted net income >£60,000	1% of benefit per £200 of income between £60,000 and £80,000
Adjusted net income >£80,000	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).
(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 special tax site 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 1 or 6 April 2025).
New cars that either emit 0g/km of CO_2 (50g/km prior to April 2021) or are electric (until 1 April 2025).
Electric vehicle charging points (until 1 or 6 April 2025).

First year allowances (FYA) available to companies only

	Main pool assets	Special rate pool assets
Expenditure on new plant and machinery (other than cars) from 1 April 2023 onwards (5)	100%	50%
Expenditure on new plant and machinery (other than cars) in a special tax site	100%	100%

Notes: (5) 130% for main pool expenditure and 50% for special rate pool expenditure between 1 April 2021 and 31 March 2023.

INCOME TAX - SIMPLIFICATION MEASURES

	2024/25	2023/24
	£	£
'Rent-a-room' limit	7,500	7,500
Property allowance/Trading allowance	1,000	1,000

Flat Rate Expenses for Unincorporated Businesses

Motoring expenses			
Cars or vans	First 10,000 business miles		45p per mile
	Additional business miles		25p per mile
Motorcycles			24p 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

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NATIONAL INSURANCE CONTRIBUTIONS

Class 1 limits	2024/25 Annual	2024/25 Monthly	2024/25 Weekly	2023/24 Annual	2023/24 Monthly	2023/24 Weekly
Lower earnings limit (LEL)	£6,396	£533	£123	£6,396	£533	£123
Primary threshold (PT)	£12,570	£1,048	£242	£12,570	£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
Special tax sites upper secondary threshold	£25,000	£2,083	£481	£25,000	£2,083	£481

	2024/25	2023/24
Class 1 primary contribution rates		
Earnings between PT and UEL	8%	12%
Earnings above UEL	2%	2%
Class 1 secondary contribution rates		
Earnings above ST [1]	13.8%	13.8%

Note: (1) Rate of secondary NICs between the ST and the UST, AUST & special tax sites upper secondary threshold is 0%.

	2024/25	2023/24
Employment allowance		
Per year, per employer	£5,000	£5,000
Class 1A contributions	13.8%	13.8%
Class 1B contributions	13.8%	13.8%
Class 2 contributions		
Rate	£3.45 pw	£3.45 pw
Small profits threshold (SPL) [2]	£6,725	£6,725
Lower profits limit (LPL)	N/A	£12,570

Note: (2) From 2024/25, self-employed individuals with profits below the small profits threshold can pay Class 2 NICs voluntarily to get access to contributory benefits including the State Pension.

	2024/25	2023/24
Class 3 contributions	£17.45 pw	£17.45 pw
Class 4 contributions		
Annual lower profits limit (LPL)	£12,570	£12,570
Annual upper profits limit (UPL)	£50,270	£50,270
Percentage rate between LPL and UPL	6%	9%
Percentage rate above UPL	2%	2%

OTHER PAYROLL INFORMATION

Statutory maternity/adoption pay	First 6 weeks @ 90% of AWE Next 33 weeks @ the lower of £184.03 and 90% of AWE
Statutory shared parental pay /paternity pay/parental bereavement pay	For each qualifying week, the lower of 90% of AWE and £184.03
Statutory sick pay	£116.75 per week

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Student Loan	Plan 1:	9% of earnings exceeding £24,990 per year (£2,082.50 per month/ £480.57 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 £31,395 per year (£2,616.25 per month /£603.75 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 2024 onwards)

Category of Worker	Rate per hour £	Category of Worker	Rate per hour £
Workers aged 21 and over	11.44	16–17 year olds	6.40
18–20 year olds	8.60	Apprentices	6.40

Accommodation Offset £9.99 per day

HMRC INTEREST RATES (assumed)

Late payment interest	7.75%
Interest on underpaid corporation tax instalments	6.25%
Repayment interest	4.25%
Interest on overpaid corporation tax instalments	5.00%

CAPITAL GAINS TAX

	2024/25	2023/24
Annual exempt amount for individuals	£3,000	£6,000
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 24% (28% in 2023/24) if the gain is in respect of a residential property

	2024/25	2023/24
Business Asset Disposal relief		
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.

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		

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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

CORPORATION TAX

Financial year	**2024**	**2023**
Main rate	25%	25%
Standard small profits rate	19%	19%
Augmented profit limit for standard small profits rate	£50,000	£50,000
Augmented profit limit for marginal relief	£250,000	£250,000
Standard marginal relief fraction	3/200	3/200
Marginal rate	26.5%	26.5%
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.

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Research and development expenditure

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

Financial year	**2024**
Enhanced R&D Intensive Support (ERIS) - total relief for loss making R&D intensive SMEs	186%
R&D tax credit for R&D intensive SME losses	14.5%
RDEC (merged scheme RDEC) (1)	20%

Note: (1) From 1 April 2024 the merged scheme RDEC is available to all companies.

VALUE ADDED TAX

	Standard rate	**VAT fraction**
Rate	20%	1/6

Limits	**2024/25**	**2023/24**
	£	£
Annual registration limit	90,000	85,000
De-registration limit	88,000	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 2024)

Engine size	**Petrol**	**LPG**	**Engine size**	**Diesel**
1400cc or less	13p	11p	1600cc or less	12p
1401cc to 2000cc	15p	13p	1601cc to 2000cc	14p
Over 2000cc	24p	21p	Over 2000cc	19p

Electricity rate 9p

OTHER INDIRECT TAXES

	2024/25	**2023/24**
Insurance premium tax(2)		
Standard rate	12%	12%
Higher rate	20%	20%

Notes: (2) Premium is tax inclusive ($^3/_{28}$ for 12% rate and $^1/_6$ for 20% rate).

Landfill Tax (pro rated for part tonnes)		
Standard rate	£103.70 per tonne	£102.10 per tonne
Lower rate	£3.30 per tonne	£3.25 per tonne
Landfill Communities Fund (LCF) (3)	5.3% x landfill tax liability	5.3% x landfill tax liability

Notes: (3) Relief for 90% of qualifying contributions

Aggregates Levy (pro rated for part tonnes)	£2.03 per tonne	£2 per tonne
Plastic Packaging Tax (PPT) (pro rated for part tonnes)	£217.85 per tonne	£210.82 per tonne

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Climate Change Levy (CCL)[1]

Electricity	0.775p per kwh	0.775p per kwh
Natural gas	0.775p per kwh	0.672p per kwh
Liquified petroleum gas (LPG)	2.175p per kg	2.175p per kg
Any other taxable commodity	6.064p per kg	5.258p per kg

Carbon Price Support (CPS) rates

Natural gas	0.331 per kwh	0.331 per kwh
LPG	5.28p per kg	5.28p per kg
Coal & other taxable solid fossil fuels	£1.5479 per GJ on GCV	£1.5479 per GJ on GCV

Tobacco products duty	**From 22.11.2023**	**From 15.03.2023**
Cigarettes	16.5% x retail price + £316.70 per thousand cigarettes (or £422.80 per thousand cigarettes [2])	16.5% x retail price + £294.72 per thousand cigarettes (or £393.45 per thousand cigarettes [2])
Cigars	£395.03 per kg	£367.61 per kg
Hand-rolling tobacco	£412.32 per kg	£351.03 per kg
Other smoking/chewing tobacco	£173.68 per kg	£161.62 per kg
Tobacco for heating	£325.53 per kg	£302.93 per kg

Alcohol Duty[3] **From 1 August 2023 to 1 February 2025**

	Duty in £ for each litre of pure alcohol in the product		Duty in £ for each litre of pure alcohol in the product
Beer (ABV)		**Spirits/Spirit based products (ABV)**	
0 to 1.2%	0.00	0 to 1.2%	0.00
1.3% to 3.4%	9.27	1.3% to 3.4%	9.27
3.5% to 8.4%	21.01	3.5% to 8.4%	24.77
8.5% to 22%	28.50	8.5% to 22%	28.50
Stronger than 22%	31.64	Stronger than 22%	31.64
Cider (not sparkling) (ABV)		**Wine/sparkling wine (ABV)**	
0 to 1.2%	0.00	0 to 1.2%	0.00
1.3% to 3.4%	9.27	1.3% to 3.4%	9.27
3.5% to 8.4%	9.67	3.5% to 8.4%	24.77
8.5% to 22%	28.50	8.5% to 22%	28.50
Stronger than 22%	31.64	Stronger than 22%	31.64
Sparkling cider (ABV)		**Other fermented products like fruit ciders (ABV)**	
0 to 1.2%	0.00	0 to 1.2%	0.00
1.3% to 3.4%	9.27	1.3% to 3.4%	9.27
3.5% to 5.5%	9.67	3.5% to 8.4%	24.77
5.6% to 8.4%	24.77	8.5% to 22%	28.50
8.5% to 22%	28.50	Stronger than 22%	31.64
Stronger than 22%	31.64		

Notes:

(1) For holders of a Climate Change agreement (CCA), the rate charged is a percentage of the main rate given in the table. For 2024/25 (2023/24 in brackets) for electricity the rate is 8% (8%), for gas it is 11% (12%), for LPG it is 23% (23%) and 11% (12%) for any other taxable commodity

(2) The £422.80/£393.45 per thousand cigarettes is a minimum excise duty (if higher than the first calculation)

(3) There are reduced rates for qualifying draught products

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INHERITANCE TAX

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

Note: (3) 36% rate if 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 1.4.24**	**From 1.4.23**
>£0.5m - ≤ 1m	£4,400	£4,150
> £1m - ≤ 2m	£9,000	£8,450
> £2m – ≤ 5m	£30,550	£28,650
> £5m – ≤ 10m	£71,500	£67,050
> £10m – ≤ 20m	£143,550	£134,550
> £20m	£287,500	£269,450

STAMP DUTY/SDRT

Stamp duty[1]	- On shares transferred by physical stock transfer form	0.5%
Stamp duty reserve tax (SDRT)[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

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STAMP DUTY LAND TAX (SDLT)

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. Garment plc is the UK parent company of a multinational group, which manufactures and sells clothing. The group's turnover is £550 million and it has 3,000 employees. The company has asked for advice on transfer pricing.

The following information is available:

1) Most of the group's sales are in the UK and Australia. Garment plc owns a retail brand name 'Dress It' which is popular in both locations. A head office team in the UK controls the clothing that is manufactured and sold under this brand name.

2) All of the group's manufacturing is undertaken by a subsidiary of Garment plc, Makeit Pvt, based in India. This location enables the group to make significant savings on labour costs. Makeit Pvt was acquired by the group in 2021 from a third party. The design of the clothing, type of fabric used and timetable are all at the discretion of the head office team of Garment plc. The fabric is purchased locally by Makeit Pvt. All finished clothing is immediately purchased by Garment plc.

3) Distribution Australia Pty, tax resident in Australia, purchases clothing from its parent, Garment plc, which it sells to local retailers who then on-sell the clothing through their retail outlets in Australia. Distribution Australia Pty only purchases clothing to satisfy orders from these retailers and does not hold stock for any length of time. The majority of clothing it sells is shipped directly from Makeit Pvt in India to Distribution Australian Pty but periodically it buys clothing directly from third parties. All distribution costs are borne by Distribution Australia Pty.

4) Head office functions including legal, accounting and human resources, are carried out in the UK on behalf of all wholly owned subsidiaries. These costs together with a proportion of the salary and associated costs of the Garment plc Board of Directors are recharged to the subsidiary companies.

5) Garment plc provides loan finance to its subsidiaries when necessary. Lending is done on the same terms as external borrowing in Garment plc.

Assume that Double Tax Treaties in line with the OECD model treaty are in place with India and Australia.

Requirement:

Discuss the following:

1) The UK transfer pricing implications of the transactions between Garment plc and its subsidiaries, including appropriate pricing methods. (15)

2) The rules and procedures to obtain an Advance Pricing Agreement. (5)

You should NOT comment on withholding tax or any other compliance aspect of the transfer pricing regime.

Total (20)

2. Polish Home Ltd operates a chain of restaurants in North London. The company has estimated taxable profits of £700,000 before capital allowance claims for the year to 31 March 2025.

During the year Polish Home Ltd acquired a dilapidated shop, completely gutted and refurbished it before opening it as a new restaurant. The company's surveyor has prepared a summary of costs as follows:

Works	£
Removal of old wooden floor, installation of new floor and fixed plasterboard walls	20,000
Toilet stalls and washbasins	4,000
Mains electrical systems	15,000
Hot and cold water systems	10,000
Fixed ceiling and wall lighting	4,500
Built-in air conditioning system	5,000
Fixed seating	4,000
Loose rugs	2,000
Kitchen equipment	5,500
Tables and chairs	3,500
Cash tills and computer hardware	2,000
Preliminaries	5,000
Total	80,500

The surveyor estimates that the works have an expected life of ten years except for the tables, chairs, cash tills and computer hardware, all of which have a five-year life.

The tables and chairs were assorted items bought second-hand to add to the ambience of the restaurant.

The company has already spent sufficient on plant and machinery at its other restaurants to use its Annual Investment Allowance.

Requirement:

Draft appropriate notes to explain the plant and machinery allowances available for the above expenditure. A summary of the basic principles may be included but cover only what is relevant. Calculations are NOT required. (15)

3. The Underground group of companies consists of a non-trading holding company, Circle Ltd, and the following wholly owned subsidiaries: District Ltd, Jubilee Ltd, Northern Ltd, Victoria Ltd, Central Ltd, Metropolitan Ltd and WCL Ltd. All of the subsidiaries have been trading for many years except WCL Ltd which is dormant and Metropolitan Ltd (which is a company with investment business and which does not carry on any trade). All companies make up their accounts to 31 December each year.

On 1 November 2021 Jubilee Ltd sold a freehold property for £55,000 to District Ltd. The market value of the property at the time of sale was £150,000 and its base cost was £80,000.

On 1 November 2021 Jubilee Ltd purchased a registered trademark for £50,000 from an unconnected third party. The cost of the trademark is being amortised on a straight line basis over 20 years. The amortisation is calculated on a monthly basis from the date of purchase. On 1 November 2022 Jubilee Ltd sold the trademark to Metropolitan Ltd for £55,000. The estimated market value of the trademark at the time of sale was £60,000. Jubilee Ltd is considering purchasing further trademarks in the future.

On 1 November 2025, Circle Ltd sold its entire interests in District Ltd and Metropolitan Ltd to an unconnected third party for £500,000. The base cost of the shares in District Ltd was £10,000.

Circle Ltd purchased WCL Ltd in January 2013. At the time the company was trading and had realised capital losses brought forward of £100,000. The company's trade was completely transferred to Northern Ltd in June 2013 and WCL Ltd then became dormant. After this time Northern Ltd has operated this trade and no other. In October 2013 Northern Ltd acquired a building for use in its trade for £80,000 from an unconnected third party. The building was sold for £240,000 in July 2025.

In June 2025 Victoria Ltd, which has been operating its trade since 2001, transferred the entire trade plus all of its equipment to Central Ltd for a consideration of £30,000. In addition, Central Ltd has agreed to pay £5,000 to Victoria Ltd's creditors for unpaid utility bills. No other assets or liabilities were transferred. After the transfer, Victoria Ltd plans to commence a new, unrelated trade. Trading losses brought forward at the time of transfer were £75,000, all incurred before 1 April 2017, and the balance on the capital allowance general pool was £15,000.

Victoria Ltd's balance sheet at the date of transfer is summarised as follows:

	£
Freehold property	70,000
Equipment	10,000
Trade debtors	45,000
	125,000
Trade creditors	(115,000)
Bank overdraft	(65,000)
	(55,000)
Share capital	60,000
Deficit on reserves	(115,000)
	(55,000)

Requirement:

Explain the Corporation Tax treatment of the above transactions and provide supporting calculations where appropriate. You are NOT required to refer to indexation in your answers. (20)

4. Lentil plc is a fast-growing manufacturer of speciality bakery products, which is rapidly expanding overseas. The company has decided to start a new operation in Thousisland, to commence in late 2025.

There will be significant start-up costs in Thousisland, including advertising and marketing costs, and the company expects to make losses in the first two years. However, the forecasts show a break-even position for year three and then profits for year four and onwards.

It is likely that Lentil plc will continue manufacturing the products in the UK in the first two to three years before setting up a new manufacturing plant in Thousisland, to be owned by the Thousisland entity. The manufacturing plant in Thousisland would only supply the Thousisland market. In addition, Lentil plc will provide head office services to the Thousisland entity on an on-going basis.

The corporate tax rate in Thousisland is marginally lower than the main rate in the UK and Thousisland is not regarded as a tax haven.

Lentil plc is a large company for UK Corporation Tax purposes.

Assume that the main rate of Corporation Tax applies to all UK taxable profits.

Requirement:

Explain the advantages and disadvantages of setting up the new operation as a permanent establishment versus a subsidiary and recommend the preferred structure from a UK tax perspective. You are not required to consider the tax implications of financing the overseas operations. (20)

5. Midnight plc is a UK headquartered manufacturing group. The Midnight group has a December year end, operates throughout Europe and employs over 250 people. Twilight Ltd is a wholly owned UK subsidiary of Midnight plc.

Twilight Ltd manufactures electrical components from raw materials bought from third parties. The components are used to create finished products, which are then sold to third parties.

On 1 January 2023, the Belgian branch of Twilight Ltd was incorporated into Dusk BVBA, a wholly owned subsidiary. Dusk BVBA is tax resident in Belgium and carries on the same trade as Twilight Ltd. All of Dusk BVBA's sales are to third parties in Belgium.

From 1 January 2023, Twilight Ltd began selling some of its manufactured electrical components to Dusk BVBA for Dusk BVBA to use in its own manufacturing processes.

On 1 March 2025, HMRC opened an enquiry into Twilight Ltd's Company Tax return for the year ended 31 December 2023 and have asked to see the intercompany sales agreement between Twilight Ltd and Dusk BVBA. The agreement reveals that Twilight Ltd has been selling electrical components to Dusk BVBA without any mark-up on cost.

HMRC have also asserted that Twilight Ltd is habitually acting on behalf of Dusk BVBA. Twilight Ltd has signed some contracts on Dusk BVBA's behalf in January 2023 before Dusk BVBA had set up its own authorisations.

Requirement:

Assuming it is April 2025 explain the Corporation Tax implications of the matters raised by HMRC and the steps the group should take to address the issues.

You should assume that the double tax treaty between the UK and Belgium is identical to the OECD Model Treaty and that the tax rates and rules applying in FY 2024 also applied in previous years. (15)

6. White Ltd has only two sources of income: dividends receivable from wholly owned UK subsidiaries and a small amount of interest receivable from monies held on deposit in bank accounts.

White Ltd acquired all of the shares of Cyan Ltd on 1 April 2024, incurring legal and accountancy fees of £250,000. The acquisition of Cyan Ltd was partly financed by new bank loans. Interest payable thereon for the accounting period ended 31 March 2025 was £1,500,000. The bank arrangement fees of £150,000 are amortised for accounting purposes over the 10-year term of the debt in accordance with UK GAAP.

During the year ended 31 March 2025, White Ltd considered acquiring another UK company, Purple Ltd. Legal and accountancy fees of £100,000 were incurred on initial investigations and due diligence but ultimately the acquisition was not made.

The shareholders of White Ltd have recently received an offer from a third party UK resident company, Rouge Ltd, to acquire the entire share capital of White Ltd. If acquired by Rouge Ltd, Rouge Ltd would change White Ltd's investment portfolio to include investment properties. Rouge Ltd has suggested that the purchase of these properties could be funded by a loan from its wholly owned subsidiary, Black Ltd, with interest payable by White Ltd of 10% per annum.

Requirement:

Explain the Corporation Tax consequences of the above information. (15)

7. The Swift group has 10 UK tax resident, wholly owned subsidiaries and consolidated group turnover of £100 million per annum. The UK corporation tax compliance has been neglected. The group's UK tax affairs need to be brought up to date as quickly as possible.

   In relation to the UK companies:

   1) Corporation Tax computations and returns for the year ended 31 December 2021 were submitted on time. However, the return for one of the UK trading companies, Wren Ltd, erroneously showed its trading income to be £60,000 instead of £600,000.

   2) Corporation Tax computations and returns for the year ended 31 December 2022 have not yet been submitted. The UK group was in an overall loss making position and so no Corporation Tax payments have been made.

   3) Corporation Tax computations and returns for the years ended 31 December 2023 and 31 December 2024 have not yet been submitted. Timely Corporation Tax payments based upon the tax audit provision calculation for the purpose of preparing the group's financial accounts were made under Corporation Tax Self-Assessment for both years. Recently prepared draft Corporation Tax computations show that some of the individual UK companies have underpaid Corporation Tax for the year ended 31 December 2023 but the group is still in an overpayment position overall.

   4) On 1 January 2024, one of the UK companies, Bluebird Ltd, entered into a royalty agreement to pay for the use of certain patent rights held by Robin B.V., an associated company resident in The Netherlands. There is no documentation that explains how the price was determined nor any evidence that withholding tax has been applied on any payments made.

   5) Following a group reorganisation in August 2024, the Finance Director thinks that one of the UK companies may fall within the charge to the diverted profits tax.

   Requirement:

   Prepare notes to explain the tax and penalty implications of the above information.
   (20)

   Assume that you are writing in July 2025.

8. H-to-O plc is considering refinancing two of its UK subsidiaries, Water Ltd and Aqua Ltd.

Water Ltd is to be provided a loan by the National English Lending Bank plc, a UK bank. This will take the form of an interest bearing revolving credit facility of £50 million over a 10-year term.

Sac d'Argent S.A., an unconnected Luxembourg non-bank lender, will also provide finance to Water Ltd over several years. The final terms have yet to be agreed, including whether the lending would be from Luxembourg or through Sac d'Argent S.A.'s London branch.

Aqua Ltd wants to expand its operations by acquiring the shares in Engine Ltd (described below). To enable this purchase, it has obtained a three-year financing package from Money Bags Ltd, an unconnected Cayman Islands lender. The terms give Aqua Ltd the ability to 'capitalise' its interest payments (ie to roll up and defer payment of the interest), and ultimately to issue shares in itself in satisfaction of payment of the interest.

The shares in Engine Ltd are to be acquired from two individuals (Michael and Frank Engine). Due diligence has revealed that there are existing loan agreements between Engine Ltd and each of Michael and Frank, which are each for a term of nine months and repayable on demand. The due diligence team is concerned by a 'gross-up' clause (ie a clause obliging an additional payment to be made by Engine Ltd in the event a payment is subject to tax) in both those loan agreements.

Requirement:

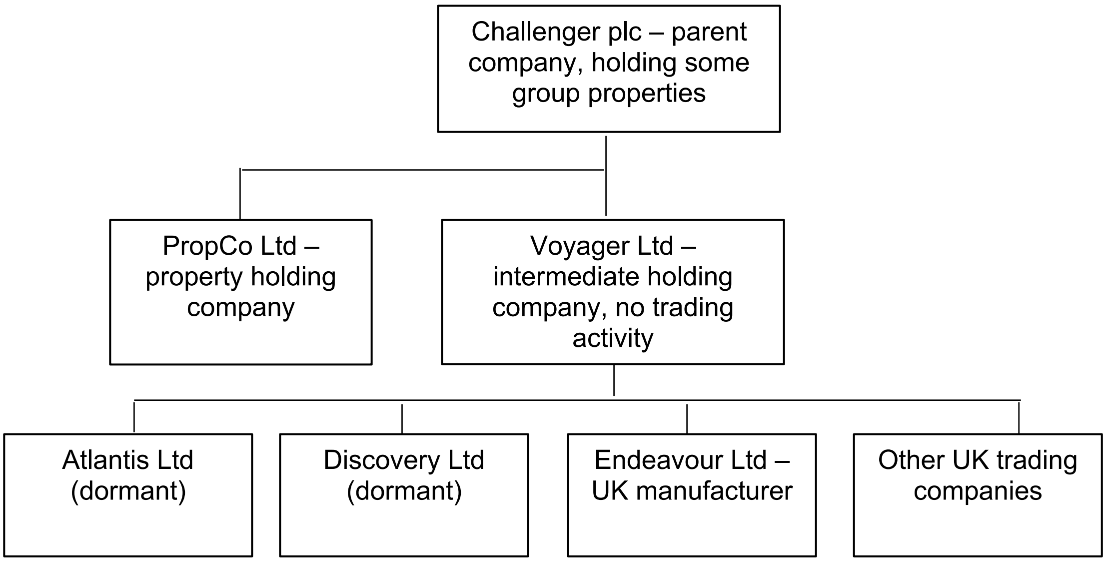
1) **Explain the UK Withholding Tax obligations for the matters described above.** (13)

2) **Explain the differences between the warranty and indemnity protection that Aqua Ltd could request from Michael and Frank Engine in the share purchase agreement.** (2)

Total (15)

9. The Challenger group operates solely in the UK and is primarily a manufacturing group, which has grown significantly over the last ten years, mainly as a result of corporate acquisitions. However, the group has now decided to focus on certain core activities and a programme of divestment is planned to occur during the year. The first proposed divestment is of the trading activities carried on by Endeavour Ltd.

The group structure is set out below, including the activities of each subsidiary. All subsidiaries are wholly owned.



Atlantis Ltd was acquired in 2015 and Discovery Ltd was acquired in 2019. Each company continued to trade until the 31 December following acquisition. The property of each company used for trade purposes was then transferred at net book value to PropCo Ltd, while the trade and remaining assets were transferred to Endeavour Ltd, again at net book value.

Since any purchaser of Endeavour Ltd would want to acquire the properties with the trades, it is proposed that the shares of PropCo Ltd, as well as the shares of Endeavour Ltd, will be sold. Details of the original acquisitions of these companies and the anticipated sale proceeds are set out below.

	Acquisition date	Note	Acquisition cost	Anticipated sale proceeds
			£million	£million
Endeavour Ltd	1 January 2001	Acquired from a third party	20	60
PropCo Ltd	1 January 2010	Acquired from a third party. Propco Ltd’s only asset at that time was a property the group wished to purchase.	15	30

As well as operating in the three premises held by PropCo Ltd (the one held on acquisition plus the two transferred by Atlantis Ltd and Discovery Ltd), Endeavour Ltd also operates from properties in Manchester and York. Challenger plc holds leases on these properties, which will be made available by Challenger plc to a new purchaser to enable the business to continue in its current form in the immediate future. Details of these properties are set out below.

	Interest held by Challenger plc	Lease period if applicable	Lease premium paid by Challenger plc	Proposal
Manchester property	Leasehold	70 years from 1 March 2015	£1 million	10 year sub-lease to be granted by Challenger plc for £250,000
York property	Leasehold	15 years from 1 January 2021	£500,000	To be assigned by Challenger plc for £300,000

All transactions will occur on 1 June 2025.

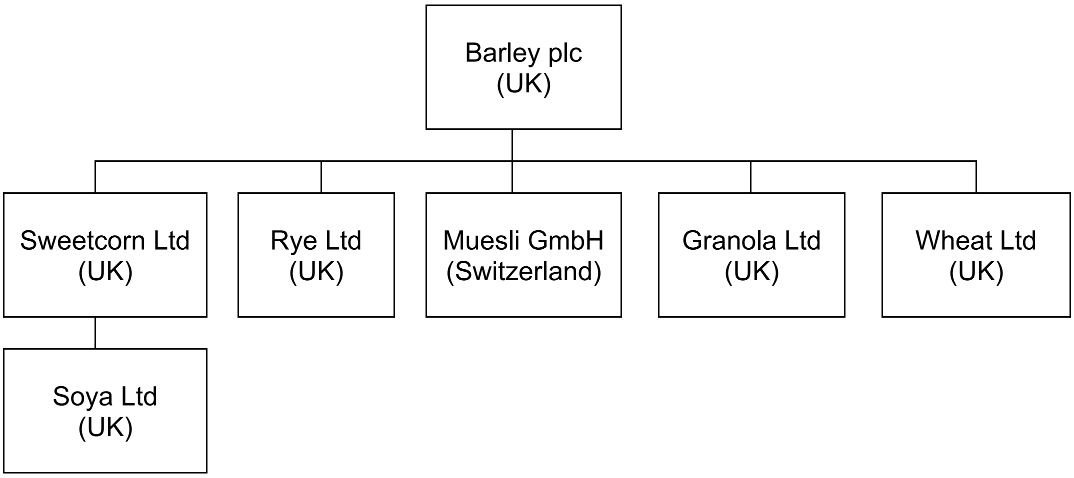
Requirement:

1) **Explain the proposed disposals of the shares in Endeavour Ltd and PropCo Ltd.** (12)

2) **Explain the tax treatment of the Manchester and York property transactions to be carried out by Challenger plc including calculations.** (8)

Total (20)

10. Barley plc is the holding company of a large multinational group and is listed on the London Stock Exchange. A relevant extract from the group structure, together with the country of incorporation and tax residency for each company, is as follows:



Barley plc holds a 5% shareholding in Wheat Ltd. All other companies in the group are wholly owned subsidiaries. All companies are trading, except for Muesli GmbH and Barley plc; the non-trading activities of these companies do not constitute a substantial amount of non-trading activity for the group as a whole.

Barley plc is in the process of undergoing a reorganisation for genuine commercial reasons, with the following transactions planned for November 2025:

1) Barley plc intends to accept an offer from a third party to purchase the shares in Sweetcorn Ltd for £35 million, having acquired the shares for £15 million in June 2004. However, the purchase price is dependent on the following transactions being completed before the sale takes place:

   a) Firstly, Sweetcorn Ltd does not own any property; it leases its business premises from Granola Ltd. The business premises will therefore be transferred to Sweetcorn Ltd at their market value of £11 million. The base cost of the business premises in Granola Ltd is £7.5 million. There will be no joint election under s.198 CAA 2001 in respect of fixtures.

   b) Secondly, as the purchaser does not wish to acquire Soya Ltd, the shares in Soya Ltd will be transferred to Barley plc at their market value of £13 million. Sweetcorn Ltd acquired the shares for £8 million in December 2016.

2) Barley plc has accepted an offer from Clementine Ltd, a third party, to acquire 40% of the shareholding in Rye Ltd. As consideration, Barley plc will receive shares in Clementine Ltd worth £7 million. Barley plc paid £8 million for the entire shareholding of Rye Ltd in December 2024.

3) Barley plc has accepted an offer from a third party resident in Switzerland to acquire its shareholding in Muesli GmbH. Muesli GmbH was incorporated by Barley plc in May 2023 with share capital of £500,000, and has been carrying out very technologically advanced research and development with the eventual aim of developing a marketable product. It has not yet commenced trading activities. The agreed purchase price is £6 million payable upfront, plus a further £2 million if Muesli GmbH completes development of a marketable product and commences trading within five years of the sale.

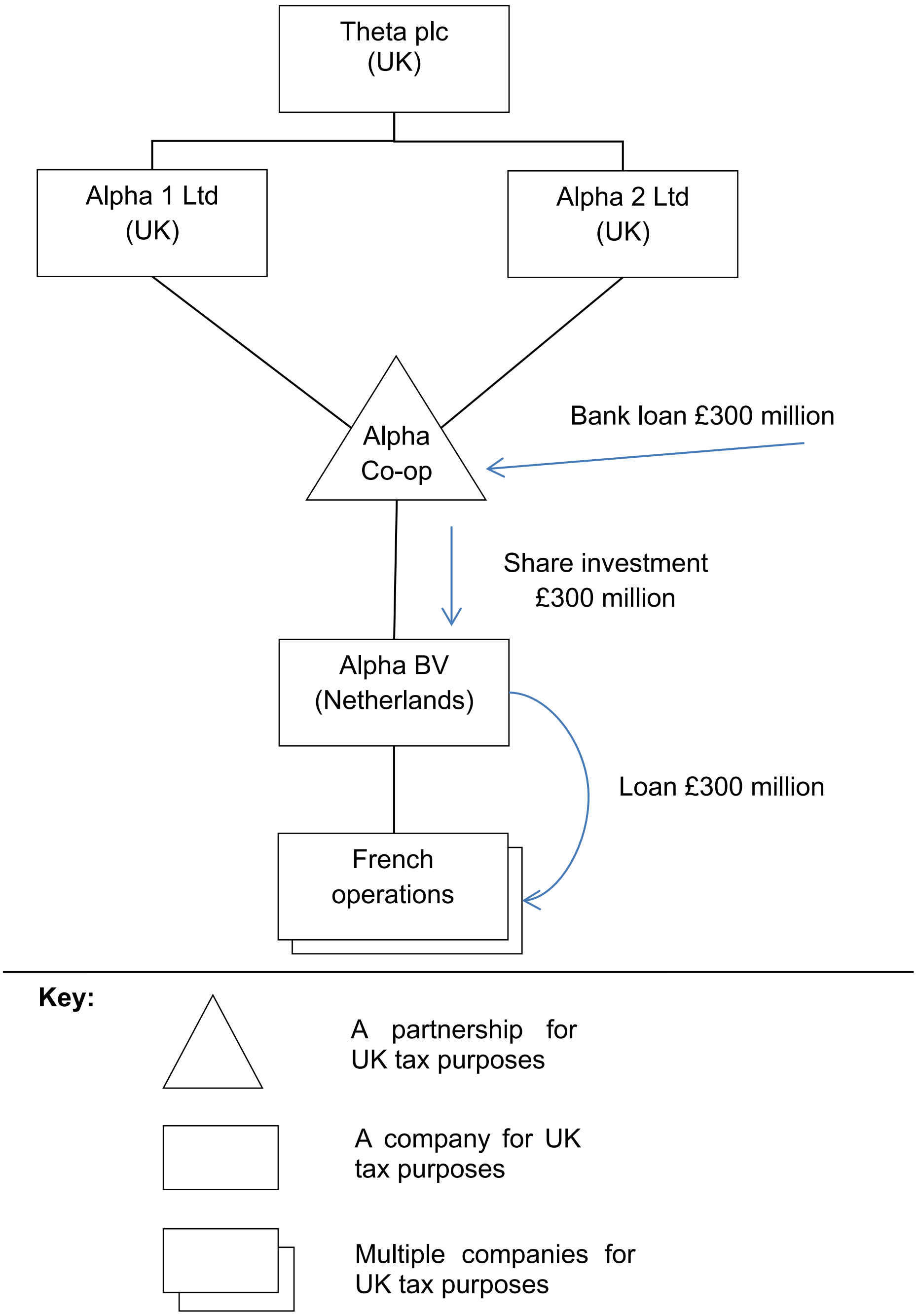
4) Barley plc has also accepted an offer from a third party to acquire its 5% shareholding in Wheat Ltd, which it acquired for £6 million in October 2016. The purchase price is £9 million payable upfront, and Barley plc will be entitled to a further payout on a future flotation of Wheat Ltd, the payout being determined by the share price on flotation.

Requirement:

Explain the tax implications of the proposed transactions on the Barley group. You do NOT need to consider indexation, VAT or payment dates. (20)

11. Theta plc are looking to resolve numerous issues with HMRC. One particular issue is the group's 'Dutch Co-op' financing structure. This was a tax planning arrangement implemented by the group.

The abbreviated structure of the Theta plc group, together with the country of incorporation and tax residence of each company, is as follows:



The following information has been provided:

1) Alpha Co-op is a Dutch Cooperative. The group has obtained clearance from HMRC that it should be regarded as a partnership for UK tax purposes. The group has also obtained a ruling from the Dutch tax authorities that it should be regarded as a company for Dutch tax purposes.

2) Alpha 1 Ltd and Alpha 2 Ltd are investment companies. Their only activity is being members of Alpha Co-op. Each member is entitled to half of the profits of Alpha Co-op.

3) On 1 April 2024, Alpha Co-op borrowed £300 million from a third-party bank at an interest rate of 8%. It invested the funds in Alpha BV in exchange for the issue of ordinary shares. The bank loan is guaranteed by Theta plc.

4) Alpha BV is the holding company for the group's French operations. It used the £300 million share investment from Alpha Co-op to lend £300 million to its French subsidiaries. The terms of the loan mirror those of the Alpha Co-op bank loan.

5) Each year Alpha BV voluntarily pays dividends on the ordinary shares sufficient to fund the interest payments on the Alpha Co-op bank loan.

6) Alpha BV pays minimal corporate tax in the Netherlands on the interest income from the £300 million loan. This is because it can obtain tax relief for the interest paid by Alpha Co-op under the Dutch 'fiscal unity' rules.

Requirement:

1) Explain the UK Corporation Tax treatment of Alpha 1 Ltd and Alpha 2 Ltd (ignoring the potential application of any anti-avoidance rules and the corporate interest restriction regime). (6)

2) Explain the UK Controlled Foreign Companies rules in respect of Alpha Co-op and Alpha BV. (8)

3) Set out potential challenges that HMRC may raise in respect of the structure and potential defences against the challenges. (6)

Total (20)

12. The UniComms group is a global telecommunications group specialising in the creation of low-cost cellular networks in emerging markets.

UniComms plc, the UK incorporated and tax resident parent company of the group, is listed on the FTSE 250 index. UniComms plc incorporated a wholly owned UK subsidiary, UZamm Ltd. UZamm Ltd registered a branch in Zamunda on 30 November 2023 which commenced trading on 1 January 2024. Its activities are limited to the construction and operation of a cellular network in Zamunda.

UZamm Ltd needs to properly manage exposures arising from an ongoing tax audit in Zamunda. The Zamunda Revenue Authority have raised the following queries:

1) Please explain why UZamm Ltd is not tax resident in Zamunda.

2) We note that a number of employees of UniComms plc were frequently in Zamunda during the period 1 January 2024 to 31 December 2024. During this period, UniComms plc negotiated a contract with the Government of Zamunda to design and distribute low cost smart phones. Please explain why UniComms plc does not have a permanent establishment in Zamunda.

3) In accordance with the Zamundan Income Tax Act 2013, withholding tax should have been applied at a rate of 20% on £50 million of royalties and management and consultancy fees paid to UniComms plc in the period 1 January 2024 to 31 December 2024. Please remit £10 million of withholding tax immediately.

The following additional information is available:

1) UZamm Ltd has both a UK resident director and a Zamundan resident director. All Board meetings to date have been convened and attended in person by both directors in the UK.

2) The Zamundan Income Tax Act 2013 states that a foreign incorporated company is tax resident in Zamunda where it undertakes the majority of its trading operations in the country.

3) The employees of UniComms plc physically present in Zamunda during the period 1 January 2024 to 31 December 2024 were engineers responsible for designing telephone masts for UZamm Ltd in its network. UniComms plc charged UZamm Ltd a £30 million fee for this service under the Intra-Group Services Agreement. The fee was calculated on an arm's length basis in accordance with the group's transfer pricing policy.

4) The Executive Sales Director of UniComms plc negotiated the contract for the design and distribution of smart phones in the UK and Zamunda. The contract was executed in the UK.

5) UZamm Ltd paid £20 million to UniComms plc in order to utilise patented technology relating to design of the telephone masts.

Requirement:

Explain how the provisions of the UK / Zamunda Double Tax Treaty could have an impact on the response to the queries received from the Zamunda Revenue Authority. (20)

Relevant extracts from the UK-Zamunda Double Tax Treaty, which is based upon the OECD Model Treaty, are provided on the next page.

Extracts from UK-Zamunda Double Tax Treaty

Article 4 (Residence)

3) Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Convention.

Article 5 (Permanent Establishment)

1) For the purposes of this Convention, the term ‘permanent establishment’ means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2) The term ‘permanent establishment’ includes especially:

   a) a place of management;
   b) a branch;
   c) an office;
   d) a factory;
   e) a workshop; and
   f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

5) Notwithstanding the provisions of paragraphs 1 and 2, where a person is acting in a Contracting State on behalf of an enterprise and in so doing habitually concludes contracts or habitually plays the principal role in leading to the conclusion of contracts [in the name of the enterprise without material modification by the enterprise], the enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise...

Article 7 (Business Profits)

1) Profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph two may be taxed in that other State.

Article 12 (Royalties)

1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2) However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5% of the gross amount of the royalties.

3) The term ‘royalties’ as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information (know-how) concerning industrial, commercial or scientific experience.

13. Olympian plc, the parent company of a property investment group, is engaged in a due diligence exercise in relation to the potential acquisition of Titan plc.

Titan plc is a UK listed property company with a number of wholly owned UK subsidiaries, each of which owns the freehold of a shopping centre in the UK. Titan plc has agreed with HMRC that the activities of each company constitute a property letting business. All companies have a 31 December year-end.

The following transactions by the subsidiaries of Titan plc, have been identified.

<u>Delta Shopping Centre</u>

In March 2001, Titan Delta Ltd, a wholly owned subsidiary of Titan plc, acquired the Delta Shopping Centre from a third party for £100 million, which was funded through the issue of £100 million of ordinary shares to Titan plc.

On 1 November 2024, Titan Delta Ltd transferred the Delta Shopping Centre to Titan Delta 2 Ltd, a newly incorporated, wholly owned subsidiary of Titan Delta Ltd. The consideration for the sale was £250 million, the market value of the Delta Shopping Centre. Titan Delta 2 Ltd borrowed the funds from a third party bank to make the purchase.

On 8 November 2024, Titan Delta Ltd declared and paid a dividend of £150 million.

On 15 November 2024, Titan plc sold its entire shareholding in Titan Delta Ltd for £100 million to a third party.

<u>Chi Shopping Centre</u>

In December 1996, Titan Chi Ltd built the Chi Shopping Centre at a cost of £10 million.

In 2017, Titan plc acquired Titan Chi Ltd for £40 million, when the Chi Shopping Centre was worth £40 million.

On 1 March 2024, Titan Chi Ltd sold the Chi Shopping Centre to a third party for £45 million.

On 3 April 2024, Titan Chi Ltd declared a dividend of £35 million, representing the overall accounting gain on the shopping centre (£45 million less £10 million).

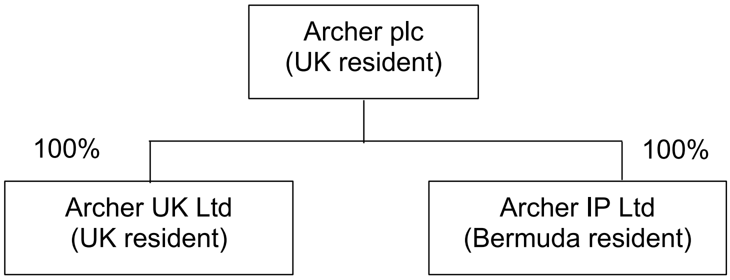
On 2 July 2024, Titan Chi Ltd was placed into members' voluntary liquidation, with the remaining £10 million from the sale of the shopping centre being distributed to Titan plc on 1 October 2024.

Requirement:

Explain the Corporation Tax and Stamp Tax issues arising in 2024, including relevant calculations, and make recommendations as to what steps might be taken in the context of the due diligence exercise. (15)

14. The Archer Group, founded in the 1990s, develops and manufactures high-tech, branded electronic devices, which it sells globally.

The current group structure is as follows:



The Archer Group's devices contain unique technology that is protected by a portfolio of patents. The devices are recognisable by distinctive trademarks, which were registered in 1999.

Until 1 July 2024, Archer IP Ltd owned all the patents and trademarks. It carried on a trade of managing this intellectual property, including licensing it to the other group companies. Archer IP Ltd employed 20 people, who were all based in Bermuda and managed the intellectual property, including managing the intra-group agreements and preventing unauthorised use by third parties.

In order to more closely align the legal ownership of the group's intellectual property with its significant commercial functions, on 1 July 2024 Archer UK Ltd purchased Archer IP Ltd's trade and assets for £1,150 million.

All companies in the group prepare accounts to 31 December each year. Archer UK Ltd prepares its accounts in accordance with International Financial Reporting Standards (IFRS). The group's accountants have advised the following in respect of Archer UK Ltd:

1) The purchase of Archer IP Ltd's trade and assets is accounted for as a business acquisition.

2) The identifiable assets and liabilities acquired from Archer IP Ltd are recognised in its statement of financial position as follows:

Asset/(Liability)	Fair market value at 1 July 2024 £ million	Depreciation/Amortisation policy
Patents	100	Straight line basis over 10 years
Registered trademarks	50	Held at cost and tested for impairment annually
Tangible fixed assets	4	Straight line basis over five years
Trade debtors	14	-
Bank overdraft	(18)	-
Total	150	-

The market value of the entire business acquired on 1 July 2024 was £1,150 million.

Under IFRS, purchased goodwill is not amortised, but rather, it is held at cost and tested for impairment annually.

Archer UK Ltd made all possible claims and elections to maximise its tax relief in relation to intangible fixed assets during the year ended 31 December 2024.

During April 2025 Archer UK Ltd's business suffered a severe downturn and the trademarks were impaired in its accounts for the year ended 31 December 2025 to a value of zero.

Requirement:

Calculate with explanations:

1) **The maximum tax relief available to Archer UK Ltd during the year ended 31 December 2024 in relation to intangible fixed assets purchased from Archer IP Ltd.** (9)

2) **The deferred tax entries in Archer UK Ltd's accounts in respect of the trademarks for the years ended 31 December 2024 and 31 December 2025.** (6)

Total (15)

15. The Tripletree group is a multi-national enterprise headed by Tripletree plc which is resident in the UK. The group operates in the telecommunications industry with Tripletree plc's wholly owned UK resident subsidiary, Tripletree (UK) Ltd, as the main trading company.

Tripletree (UK) Ltd has four wholly owned overseas subsidiaries. In addition, it has a 25% shareholding in Tripletree (Deo) Ltd, with the other shares held by individuals, none of whom are resident in the UK. All companies have been operating or trading for at least five years.

Company	Resident jurisdiction and local corporate tax rate	Activity	Additional information (Where profit amounts are stated, they refer to the year ended 31 December 2024.)
Tripletree (Ena) Ltd	Enamark, 12%	Distributor to third parties.	Trading profits of £80,000 and interest income of £10,000.
Tripletree (Deo) Ltd	Deoland, 10%	Distributor to third parties.	Trading profits of £100,000.
Tripletree (Tria) Ltd	Trialand, 22%	Distributor to third parties.	Trading profits of £600,000.
Tripletree (Tesera) Ltd	Teseraland, 20%	Provides routine support services to other group companies.	The company charges cost plus a mark-up of 7% for its routine support services.
Tripletree (Pende) Ltd	Pendeland The normal corporate tax rate is 15% but Tripletree (Pende) Ltd was established five years ago and under an 'incentive to invest' scheme, the company is exempt from the corporate tax for the first 10 years.	Provides management and high value technology services to other group companies. All staff and management are resident in Pendeland and there are only occasional visits from senior UK management to the company's offices.	Trading profits are £2 million (and this is the only source of profit). The company charges cost plus a mark-up of between 12% and 20% (which is an arm's length rate) for its services.

None of the jurisdictions mentioned in the table above are on the list of excluded territories for Controlled Foreign Companies purposes.

Requirement:

Explain how the UK's Controlled Foreign Companies legislation applies to the Tripletree group. (20)

ANSWERS

1. GARMENT PLC

The transfer pricing provisions will apply to all transactions between associated companies of Garment plc since the company is large. This will include all transactions between Garment plc and its subsidiaries Makeit Pvt and Distribution Australia Pty. Transactions here include not only the sale of goods but all services and arrangements between the entities, including the provision of finance and central management charges.

The basic requirement is that the price charged for transactions between connected parties should be the same as would apply between independent third parties acting on an arm's length basis.

Where a UK company has benefited (in terms of tax payable) from prices that are not at arm's length then HMRC may make an adjustment either to increase taxable profits or reduce available losses. Any adjustment is purely for tax purposes and does not impact the company's statutory accounts or the actual price payable. Where the other party is in a jurisdiction with which the UK has a double tax treaty it may be possible to negotiate a compensating adjustment.

Under Corporation Tax self-assessment, Garment plc is required to self-assess its tax liability and may be penalised if it fails to do this properly. It is therefore important that robust documentation is prepared and retained to demonstrate that arm's length pricing has been adopted by Garment plc.

Choice of Pricing Method

The OECD Transfer Pricing Guidelines set out a number of ways in which to determine an arm's length price. The guidelines stress that the most appropriate way will depend on the circumstances of each case. Typically, a functional analysis is appropriate, which analyses the functions undertaken, assets employed and risks adopted by each party to a transaction.

Manufacture and Distribution of Clothing

Regarding the manufacture and sale of clothing, the high value functions (control, design, ownership and application of brand name) are undertaken by Garment plc with less complex functions, contract manufacturing and distribution, being undertaken by subsidiary companies. Thus one would expect that the majority of the overall profit would be earned by Garment plc, with a more basic return in the subsidiary companies.

For both the manufacturing and distribution subsidiaries it is advisable to try to establish a comparable uncontrolled price (CUP). This requires the identification of a transaction with a third party which is equivalent in all major aspects to the intra-group transaction. If this can be established then the price of the third party transaction can be used to benchmark the intra-group price and demonstrate that it is arm's length. The difficulty is in finding a comparable third party transaction.

No third parties are used for manufacturing in India and thus no CUP is immediately available. The price charged before Makeit Pvt was acquired may not be useful if there have been significant market changes since acquisition.

Distribution Australia Pty periodically purchases goods from a third party so the terms of these transactions should be examined to determine whether an appropriate CUP can be identified.

A usual pricing method for a contract manufacturer such as Makeit Pvt is cost plus. This means that Makeit Pvt would be remunerated based on its costs plus an appropriate margin. Determination of the margin would need to be based on an analysis as to what would constitute arm's length.

Resale price minus is the most commonly applied method for distribution companies in the absence of a CUP. The third party price for the clothes is ascertained and a margin deducted to establish the profit earned by Distribution Australia Pty and thus the price it pays to Garment plc.

Head office recharges

A charge should be made by Garment plc to its subsidiaries for its head office functions. The OECD guidelines raise two questions. Firstly, has a service been rendered and secondly, what is the arm's length price for such a service. A distinction is made between a direct charge, which can be made where similar charges are made to third parties (and therefore a CUP is available) and an indirect charge. It may be appropriate to look for a CUP for example based on consultancy services for a direct change.

A charge for low value administrative services under the indirect charge would normally be based on a cost plus basis.

If higher value services are provided then it follows that a higher margin should be earned by Garment plc.

Stewardship costs must specifically be excluded from any charge. This will include costs directly attributable to Garment plc as a parent company, so costs of directors meetings, consolidation, etc.

Loans

Intra-group interest should be charged at an arm's length price. This will depend on all the terms of the loan (quantum, ability to borrow, credit rating, etc) including factors such as the quality of collateral offered, availability of guarantees, quality of the management, overall health of the economy. It may be based on the rate of any external borrowing that is comparable. However they will normally expect Garment plc to charge a margin to take account of the likely lower credit rating and borrowing ability of the subsidiary companies.

Advance Pricing Agreement

In order to remove the uncertainty over potential transfer pricing adjustments, Garment plc can apply to enter into an advance pricing agreement (APA) with HMRC. However, an APA is usually only granted where the issues involved are complex or where there is a risk of double taxation.

There is a set procedure to follow which involves an initial informal approach to HMRC as an 'expression of interest'. This enables HMRC to consider whether the transactions Garment plc is undertaking are suitable to enter into an APA.

If deemed suitable, a formal application in writing must then be made. This can be unilateral, ie binding on the UK and Garment plc only or bilateral ie binding on the other jurisdiction as well.

An APA typically covers a period from three to five years and is conditional on certain covenants or conditions being applied. Should Garment plc fail to comply with the terms of any APA then HMRC can revoke the agreement.

A penalty of up to £10,000 can be applied if false or misleading information is provided either negligently or fraudulently in connection with an APA application.

CIOT MARKING GUIDE

TOPIC	MARKS
Basics	
– Associated/control	½
– Arm's length	½
– Explain	½
– OECD	½
– Adjustment	½
– MAP/Compensating adj	½
– Tax only	½
– Documentation	½
Methods	
– Most appropriate method	½
– Based on functions/assets/risks	½
– CUP and explanation	1
– Cost plus and explanation	1
– Resale minus and explanation	1
– Mention of any other method	1
Application	
– Plc – main profit maker so others are tested parties	1
– Contract manufacturing – cost plus	1½
– Distribution – resale minus	1½
– Head office – cost plus	2
– Loans	1
APA	
– Gives certainty	1
– Written application	1
– Process	1
– Period covered	1
– Revoke etc	1
TOTAL (MAX)	**20**

2. POLISH HOME LTD

Plant and machinery allowances available

Plant and machinery allowances primarily take the form of an annual writing down allowance (WDA) on qualifying expenditure. There are two different rates which are relevant here:

1) A rate of 6% per annum (the special rate) is applied to certain specified integral fixtures such as heating and hot water systems, and electrical systems ('special rate items').

2) A rate of 18% per annum (the main rate) is applied to other plant and machinery ('main pool items').

Expenditure is generally pooled. Expenditure qualifying for the 6% rate is allocated to the special rate pool. Expenditure qualifying for the 18% rate is allocated to the main pool. The rates are then applied to the total balance in the pool, including any unrelieved balance brought forward from the previous year.

However, there are two other types of allowance which need to be considered before these WDAs are applied. First, first-year allowances (FYAs) are available where plant and machinery (excluding cars) is purchased new and unused. This means that expenditure on main pool items qualifies for a 100% FYA and expenditure on special pool items qualifies for a 50% FYA (with the remaining balance transferred to the special rate pool for relief by way of WDA in subsequent periods).

Secondly, there is an annual investment allowance (AIA) of £1,000,000 for the year ended 31 March 2025. Expenditure may not qualify for both FYAs and AIAs and so it is up to the company to claim whichever allowance is best in its circumstances. So in respect of expenditure that would otherwise qualify for a WDA at 6%, it is usually better to utilise the AIA before the 50% FYA is considered, as this effectively gives relief at a rate of 100%. However, the company has already used this on plant and machinery expenditure at its other restaurants, the AIA will not be available in respect of the expenditure being spent on the current refurbishment.

Purchases of used/second-hand plant do not qualify for the FYAs. Unlike the AIA, there is no annual limit on expenditure qualifying for FYAs.

Entitlement to plant and machinery allowances

To qualify for capital allowances the company needs to incur 'qualifying expenditure'. Qualifying expenditure is capital expenditure incurred on the provision for the purposes of a qualifying activity of plant or machinery which it then owns. The company has a trade of operating restaurants and this would be regarded as a qualifying activity.

Each item of expenditure needs to be considered to see whether it qualifies for plant and machinery allowances and if so what type of allowance applies.

Fixed wooden floor and fixed partitions

Expenditure on the provision of a 'building' will not qualify for plant and machinery allowances. A building is defined so as to include its walls, floors and ceilings. The installation of the floors and walls will therefore not qualify for plant and machinery allowances. However, as the expenditure is incurred on the renovation of a commercial building, it may qualify for structures and buildings allowances at a flat rate of 3% of the expenditure over a period of $33^1/_3$ years.

Toilet stalls and washbasins

It is stated in s.23 CAA 2001 that the provision of certain assets is not excluded from qualifying for plant and machinery allowances by virtue of being incorporated in a building. The list of items includes sanitary ware such as toilets and basins.

We must then consider whether what is being provided is plant and machinery. The key test is whether an item of apparatus is used in the trade otherwise than as premises or part of the premises in which the trade is carried on. If an item has such a use then capital allowances may be claimed.

Apparatus which becomes part of the premises instead of merely embellishing them cannot be plant. Apparatus so becomes part of the premises if it loses its identity so as to become part of the premises.

Apparatus which does not become part of the premises (even though it may be attached to the premises) may be plant if it performs a function within the taxpayer's business. So if an item has a functional use in the carrying on of the taxpayer's trade then capital allowances may be claimed.

In this case it seems reasonable to argue, and it is generally accepted by HMRC, that the sanitary ware is not part of the building (it retains a separate identity) but is part of the apparatus of the trade and that plant and machinery allowances may be claimed.

These items do not appear on the list of integral features included in the capital allowances legislation and so are main pool items and qualify for plant and machinery allowances, in this case the 100% FYA.

Electrical installation, hot and cold-water systems, fixed lighting and air conditioning

These items are all included in the definition of integral features and expenditure on them qualifies for WDA at 6%.

It may be possible to argue that the light fittings installed in the eating area are not an integral feature. Instead they are decorative assets and have as their purpose the creation of an atmosphere or ambience within the restaurant. As such expenditure on them qualifies for WDAs at the 18% rate. This argument would be unlikely to be effective for those light fittings which are located outside of the eating area, such as in the kitchen or washrooms. However, given these are new items, a 50% FYA is given in the year of purchase.

Fixed seating, loose rugs and kitchen equipment

These items have a use in the trade and as such should qualify for the 100% FYA, being new purchases.

Tables and chairs, cash tills and computer hardware

These items are moveable items which have a use in the trade and will qualify for plant and machinery allowances as main pool items. The cash tills and computer hardware are new items and so qualify for FYAs at 100%, but the tables and chairs (being second-hand) qualify for WDAs at 18%.

However, given that the tables and chairs items have an expected useful life of less than eight years it may be worthwhile making a short-life asset election for them. The effect of this election is that expenditure on the items is not included in the main pool. Instead each item qualifies for WDAs individually.

If any of the assets are disposed of within eight years after 31 March 2025 a balancing allowance may be triggered, thus accelerating the available capital allowances.

If the asset is not disposed of within this period, the remaining tax written down value is transferred to the main pool. The election must be made within two years of the accounting period in which the expenditure is incurred, so before 31 March 2027.

Preliminaries

Following the *J D Wetherspoon* case, for capital allowance purposes the cost of preliminaries can be apportioned between the expenditure that qualifies for capital allowances (as special rate or main pool items) and that which does not.

Summary table	CAs available
Removal of old wooden floor and installation of new one and install fixed plasterboard walls	3% (SBA)
Toilet stalls and washbasins	100%
Mains electrical systems	50%
Fixed ceiling and wall lighting	50%
Built-in air conditioning system	50%
Fixed seating	100%
Loose rugs	100%
Kitchen equipment	100%
Tables and chairs (second-hand)	18% (SLA)
Cash tills and computer hardware	100%
Preliminaries	Apportion

Key:

SBA = structures and buildings allowance
SLA = short life asset

CIOT MARKING GUIDE

TOPIC	MARKS
Explain WDA rates of P&M allowances	1
Explain requirement to pool most types of qualifying expenditure	1
FYAs	1½
AIAs	1½
Requirement for qualifying activity and qualifying expenditure	1
Fixed wooden floors and walls do not qualify for P&M allowances but may for SBA. Explain why	1
Toilet fittings do qualify. Explain why and explain the functional use v setting test	2
Hot and cold water systems, lighting, electrical systems and air conditioning systems qualify as special rate pool items for 50% FYA. Explain why	1½
Light fittings in eating area may qualify as main pool items. Explain why	1
Seating, rugs, tables and chairs and kitchen equipment qualify for P&M allowances. Explain why and the rate.	1½
Availability of short life asset elections on tables and chairs. Outline tax implications	2
Discuss capital allowance treatment of preliminaries	1
TOTAL (MAX)	**15**

Examiner's report:
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Most candidates showed good knowledge of the subject and good exam technique. They tackled the question systematically, beginning with an outline description of capital allowances and then applying it to the scenario. They typically considered each item on the list of works in the question, identified whether or not it qualified for capital allowances and if so what kind. Most candidates also showed good technical knowledge of short life assets.

Some candidates presented the answer in a tabular form and added notes on specific items. This was a time efficient approach, which earned full credit for relevant information.

Some candidates took the opportunity to write down all that they know about capital allowances and waffled somewhat as a result. The key to obtaining a high mark was to only write down the information relevant to answering the question and the scenario.

3. UNDERGROUND GROUP

Sale of District Ltd and Metropolitan Ltd

Ordinarily the sale of a company triggers a chargeable gain equal to the proceeds of the sale less the base cost of the shares. Where the Substantial Shareholding Exemption (SSE) is available, however, any gain arising is exempt from Corporation Tax.

The conditions for obtaining the SSE are as follows:

Circle Ltd must have owned a 'substantial shareholding' – defined as at least 10% of the ordinary share capital of District Ltd and Metropolitan Ltd – for a continuous period of at least twelve months within the six years prior to the sale. This condition appears to be met in relation to both companies.

The company being sold must be a trading company throughout the period beginning with the start of the latest 12-month period required for the substantial shareholding condition and ending with the date of disposal. The condition appears to be met in respect of District Ltd (a trading company) but not Metropolitan Ltd (which does not carry on any trade).

Assuming both conditions are met in relation to District Ltd, the disposal of its shares should qualify for SSE and any gain made by Circle Ltd should be exempt from Corporation Tax.

Transfer of freehold property to District Ltd

When Jubilee Ltd transferred the freehold property to District Ltd the transaction would have been at no gain/no loss, since both companies were members of a group for the purposes of chargeable gains. A de-grouping charge is triggered because District Ltd is leaving the group within six years of the transfer of the property, still holding the transferred property. The de-grouping charge is calculated on the difference between the market value of the asset at the time of transfer and its base cost. So the potential chargeable gain is £70,000 (£150,000 minus £80,000).

This de-grouping charge is taken into account in the calculation of the gain or loss on the disposal of the shares by the vendor of the company, ie Circle Ltd. However, since the sale of the shares appears to benefit from the SSE, the de-grouping charge would be likewise exempt.

Transfer of trademark to Metropolitan Ltd

When the trademark (an intangible fixed asset) was transferred to Metropolitan Ltd the transaction would have been 'tax neutral' since both companies were members of a group for the purposes of the intangible assets legislation and so no Corporation Tax would have arisen at the time of the transfer.

As the disposal of the shares in Metropolitan Ltd do not qualify for SSE, a de-grouping charge arises now that Metropolitan Ltd has left the group within six years of the intra-group transfer still owning the asset.

It is calculated as the market value of the trademark at the time of transfer less the tax written down value of the trademark at the time of transfer based on the figure in the accounts.

However, Metropolitan Ltd is entitled to an additional deduction for the amortisation of the trademark for the period between the intra-group transfer and the sale of its shares to reflect the fact that the acquisition cost of the asset is deemed to have been £60,000 since the time of intra-group transfer.

See Appendix 1 for the calculation. The net charge is £10,526.

The de-grouping charge remains a liability of Metropolitan Ltd. However, it may be reallocated to another Underground group company by means of a joint election. As Jubilee Ltd plans to purchase further trademarks it may be possible to defer payment of the tax due by claiming rollover relief in respect of the reallocated charge.

WCL Ltd: Pre-entry losses

The £100,000 capital loss in WCL Ltd is a restricted pre-entry loss since it was realised before WCL Ltd joined the Underground group. The loss may however be offset against the gain made by Northern Ltd on the disposal of the building if all of the following conditions are met:

1) The gain arises on the disposal of an asset which was acquired after WCL Ltd joined the Underground group. This condition appears to be met.

2) The asset was acquired either by WCL Ltd or a company in the same group as WCL Ltd at the time the asset was acquired. Northern Ltd was in the same group as WCL Ltd at the time Northern Ltd bought the building so this condition appears to be met.

3) The building was acquired from a person who is not in the same group as WCL Ltd. This condition appears to be met.

4) The building has not been used since its acquisition for any purpose other than the trade or business of WCL Ltd. The trade must have been carried on by WCL Ltd immediately before entering the group and carried on by WCL Ltd or another company in the group thereafter. This condition appears to be met.

Accordingly, the pre-entry loss may be offset against the gain arising in Northern Ltd, to produce a chargeable gain of £60,000 (£240,000 proceeds less £80,000 cost, less £100,000 loss offset). A brought forward capital loss is subject to potential restrictions but in this case the deductions allowance of £5,000,000 is available. WCL Ltd must, however, specifically claim a deductions allowance (of £100,000) to utilise the carried-forward loss in full against the gain arising on the disposal of the building.

Transfer of Victoria Ltd trade to Central Ltd

Ordinarily the sale of a trade which started before April 2002 to a connected company would trigger a chargeable gain based on the market value of the goodwill transferred less the base cost, if any. However, in this case Victoria Ltd and Central Ltd are wholly owned subsidiaries of Circle Ltd. Accordingly a group exists for Capital Gains purposes and the transfer will take place at no gain/no loss. Being an acquisition of goodwill from a fellow group company, the asset remains within the chargeable gains regime.

Ordinarily the transfer of the trade would trigger the cessation of the trade in Victoria Ltd. Brought forward trading losses would not be carried forward and would be lost, and a balancing allowance or charge might be triggered in relation to the capital allowance main pool.

However, a different treatment applies when the following conditions are met:

1) A company ceases to carry on a trade and another company begins to carry it on, AND

2) At any time within two years after the cessation, the trade is owned as to at least 75% by the same persons as owned a like interest at any time within a year before the cessation, AND

3) Throughout the periods referred to, the trade is carried on by a company which is within the charge to Corporation Tax in respect of it.

Victoria Ltd is ceasing its trade and Central Ltd will start to carry it on. As both companies are wholly owned by Circle Ltd both immediately before and immediately after cessation, Circle Ltd is treated as owning the trade at some time in the requisite qualifying period. Also during that period the two companies that actually carry on the trade are within the charge to Corporation Tax. Accordingly all three conditions appear to be met.

It follows that Central Ltd may succeed to the brought forward trading losses and the balance on the capital allowance main pool of Victoria Ltd.

The trading losses that may be succeeded to are, however, restricted to the extent that Victoria Ltd (the predecessor company) retains more ‘relevant liabilities’ than ‘relevant assets’. The relevant liabilities are broadly liabilities of Victoria Ltd, excluding share capital, which are not transferred to Central Ltd. The ‘relevant assets’ are broadly assets which are not transferred to Central Ltd plus any consideration received.

In this case the losses that may be transferred are £45,000. See Appendix 2 for workings.

The balance on the capital allowance main pool inherited by Central Ltd (ie £15,000) is not restricted by the non-transfer of assets or liabilities.

The inherited trading losses (having been incurred before 1 April 2017) may only be offset against trading profits of the same trade so in this case the one transferred from Victoria Ltd. Central Ltd must therefore identify for each year the profits (if any) that this trade has made and offset the brought forward trading losses against them only.

APPENDIX 1

Calculation of degrouping charge on intellectual property (trademark)

		£
Market value of the trademark at the time of transfer		60,000
Less: Tax written down value of trademark at the time of transfer		
50,000 – (50,000/20 years x 1 year)		(47,500)
De-grouping Charge		12,500
Less: extra amortisation deductions		
To 31 December 2022	2,500 - (2,500 x 60,000/47,500)	(658)
To 31 December 2023	2,500 - (2,500 x 60,000/47,500)	(658)
To 31 December 2024	2,500 - (2,500 x 60,000/47,500)	(658)
Net charge		10,526

Note: Alternative calculation of additional amortisation charge:
Revised amortisation = £60,000 / 19 years = £3,158
Amortisation charged in accounts = £50,000 / 20 years = £2,500
Additional amortisation = £3,158 – £2,500 = £658 pa

APPENDIX 2

Calculation of transferable losses

	£	£
Relevant liabilities retained		
Trade creditors less creditors transferred (£115,000 – £5,000)	110,000	
Bank overdraft	65,000	
		(175,000)
Relevant assets retained		
Freehold property	70,000	
Trade debtors	45,000	
Consideration received	30,000	
		145,000
Net liabilities		(30,000)
Trade losses at the date of transfer		75,000
Trade losses transferred to Central Ltd		45,000

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Disposal of District Ltd</u>	
Explain availability of Substantial Shareholdings Exemption (SSE) on disposal and explain conditions for obtaining exemption and indicate that they will likely be met	2
<u>Transfer of freehold property to District Ltd</u>	
Explain that de-grouping charge arises on the disposal of District Ltd, explain why and calculate the charge.	1
Explain that Circle is subject to Corporation Tax on the de-grouping charge and that Circle Ltd is likely to be exempt from tax on the charge on the grounds that SSE will apply to the charge.	1
<u>Transfer of trademark to Metropolitan Ltd</u>	
Explain that a de-grouping charge arises on the disposal of Metropolitan, explain why and explain how the charge is calculated	1
Calculate the de-grouping charge	1
Explain who is liable to pay the charge; explain that the charge may be transferred by joint election to other group companies, that reinvestment relief may be available to defer the tax on the charge. Explain what further information is needed	2
<u>Pre-entry losses</u>	
Explain that the £100,000 capital loss in WCL Ltd is a pre entry loss and explain why	1
Explain each condition that needs to be met for the pre entry loss to be offset against the chargeable gain in Northern Ltd	2
Calculate the chargeable gain arising in Northern Ltd	1
<u>Transfer of trade to Central Ltd</u>	
Explain that transfer of trade does not trigger a capital gain and explain why and explain the ordinary treatment of a cessation of trade	1
Explain conditions to be met for a succession to the trade to take place under s.940A et seq CTA 2010	1
Explain that conditions are met and why	1
Explain the beneficial tax consequences of a succession to trade under s.940A et seq CTA 2010	1
Explain restriction of transfer of trading losses where relevant liabilities exceed relevant assets	1
Calculate trading losses that may be transferred and explain that transfer of unused capital allowances is not restricted	2
Explain how trading losses transferred may be offset against future trading profits	1
TOTAL	**20**

Examiner's report:
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This question was time pressured but generally well answered. Most candidates identified the degrouping charges that would arise on both the freehold property and trademark when District Ltd left the Circle Ltd group of companies.

Candidates generally showed a good understanding of the Substantial Shareholdings Exemption and noted that if available it would apply to the degrouping charge relating to the transfer of the freehold property.

Few candidates explored how the degrouping charge on the intangibles could be mitigated through the use of rollover relief into a new purchase of trademarks.

Candidates showed a good understanding of the trade succession rules when one trade is transferred to another company under common ownership. Many, however, struggled to calculate the restriction on the trade losses which could be transferred to Central Ltd.

4. LENTIL PLC

Trading as a permanent establishment

The general position is that UK companies are taxable on their worldwide profits. If the Thousisland operation is set up as a permanent establishment of Lentil plc, the profits/ losses of the permanent establishment will be included in Lentil plc's profits, and subject to UK Corporation Tax.

If the permanent establishment makes losses in the first two years, the loss arising in each year will reduce Lentil plc's taxable profits for those two years accordingly.

Once the permanent establishment becomes profitable, Lentil plc's taxable profits will include the profits of the permanent establishment.

Double tax relief should be available for Thousisland tax payable on those profits and additional Corporation Tax will be due to the extent that the Thousisland tax paid is less than the Corporation Tax rate multiplied by the permanent establishment's profits (as calculated under UK tax principles) would have been.

As the tax rate in Thousisland is lower than in the UK, it is anticipated that additional Corporation Tax will be payable, ie so that total tax payable (Thousisland and UK) will be 25% of the permanent establishment's profits.

However, the UK has an exemption regime for foreign permanent establishments. In order to take advantage of the exemption, Lentil plc will need to elect for the permanent establishment to be treated as exempt from Corporation Tax. This election can be made at any time and will be effective from the start of the next accounting period.

If, however, the Thousisland permanent establishment has been continuously loss making then future profits will not be treated as exempt until the losses in the previous six years have been matched with the profits arising in subsequent periods (in effect the losses are streamed and until they have been matched in full, the permanent establishment's profits will continue to be subject to Corporation Tax).

Once an election is made it is irrevocable and would apply to any other foreign permanent establishments of Lentil plc too.

The permanent establishment exemption is subject to the anti-diversion rule, which is intended to prevent a company from artificially diverting profits out of the UK and into an exempt foreign permanent establishment. This is unlikely to apply here given that Lentil plc is intending to expand and trade in Thousisland.

If the business of the Thousisland permanent establishment is subsequently sold by Lentil plc then Corporation Tax will be due on any chargeable gain arising. For this reason, it may be beneficial to incorporate the branch once profit making if the Substantial Shareholding Exemption might apply (see below).

Trading as a company

If a separate Thousisland company is incorporated, the profits arising in the Thousisland subsidiary will not be subject to UK Corporation Tax, but no relief will be obtained for any of the anticipated losses arising in the first two years.

The subsidiary should not be caught by the UK's Controlled Foreign Companies regime, as it will be carrying on a trade in Thousisland and the tax rate in Thousisland is only marginally lower than in the UK.

Profits can be repatriated to Lentil plc by way of dividend and no Corporation Tax should be payable by Lentil plc, as it is likely the dividends would be exempt from Corporation Tax, the Thousisland company being controlled by Lentil plc.

If the Thousisland subsidiary is subsequently sold then the Substantial Shareholding Exemption may be available as it is a trading company, if other qualifying conditions are met.

Transfer pricing

If the Thousisland business operates through an overseas permanent establishment of Lentil plc then it will be important to consider the appropriate allocation of profits between the UK headquarters and the Thousisland permanent establishment.

The allocation of profit will need to be at arm’s length, focusing on the activities and functions of the permanent establishment undertaken in Thousisland versus the activities and functions undertaken in the UK.

Transfer pricing documentation will be required to support the allocation of profit from a Thousisland tax perspective and, if a permanent establishment exemption election is made, it will also be important from a UK tax perspective.

If the Thousisland business operates as a separate legal entity then it will be important to identify and determine the arm’s length price for any transactions between Lentil plc and its Thousisland subsidiary.

Transactions between the two companies are likely to include the sale of any stock from Lentil plc to the Thousisland company and management fees for any head-office services provided from the UK. Again the transactions will need to take place at arm’s length and documentation will be required in support. This could be based on third party unrelated comparables or, if none are available, a benchmarking study may be required.

If further certainty is required in relation to the pricing of the transactions between Lentil plc and the Thousisland subsidiary, then it should be possible to approach HMRC to negotiate and agree an Advance Pricing Agreement.

Recommendation

Given the new operation is expected to be loss making in the first two years, it would be beneficial to start trading in Thousisland through a permanent establishment as the losses can be offset against Lentil plc’s other profits. Profits arising in later years, however, would be taxable in the UK. Once profitable, a decision will need to be taken as to whether to make a permanent establishment exemption election or to incorporate the permanent establishment. This also ensures that flexibility is retained over the structure.

CIOT MARKING GUIDE

TOPIC	**MARKS**
Permanent establishment vs subsidiary – pros/cons	
PE	
– Taxed on worldwide profits	½
– Relief for losses in early years	1
– Double tax relief	1
– PE exemption for profits in later years	1
– Reference to election	1
– Need to utilise losses before able to elect for PE exemption	1
– Able to incorporate PE at later date	½
– Anti-diversion rule	1
– Gain on sale	½
Subsidiary	
– No Corporation Tax payable	1
– No relief for losses	1
– Dividend exemption	1
– SSE	1
– CFC	1
Transfer Pricing	
PE	
– Allocation of profit between HQ and PE	1
– Arm's length	1
– Documentation	½
Subsidiary	
– Arm's length	1
– Transactions, eg sale of stock, management fees	1
– Documentation	½
– APA	1
Recommendation	
– Set up as PE to use losses in early years. Flexibility to elect for PE exemption at later date or incorporate.	1½
TOTAL	**20**

5. MIDNIGHT PLC

Intercompany sales agreement between Twilight Ltd and Dusk BVBA

Under UK tax legislation, transactions between Twilight Ltd and its associated companies must be at arm's length, ie pricing is set at the price which two independent parties might be expected to agree on.

Twilight Ltd has been selling parts to Dusk BVBA at cost, which is unlikely to equate to market value. This has potentially resulted in lower profits in Twilight Ltd. Where a UK company has realised a UK tax advantage as a result of a transaction that was not at arm's length, HMRC may make an adjustment to increase that company's taxable profits. Any adjustment is purely for tax purposes and does not impact the company's statutory accounts or the actual price payable.

Such an adjustment would lead to tax inefficiency on the assumption that a lower amount is being deducted in Dusk BVBA than is being taxed in Twilight Ltd. It should, however, be possible for Dusk BVBA to claim a compensating adjustment if a Mutual Agreement Procedure (MAP) is initiated under the double tax treaty and agreement is reached with the relevant competent authorities in both jurisdictions.

The appropriate price for this transaction should be determined by reference to the OECD Transfer Pricing guidelines. These guidelines state that the company should use the 'most appropriate' method for its circumstances. Twilight Ltd is selling components to Dusk BVBA that it would otherwise be using in its own manufacturing processes. No components are sold to third parties and so Twilight Ltd has no comparable uncontrolled price (CUP) to base the transfer price on.

In such a situation, the most appropriate transfer pricing method may instead be the cost plus method, whereby Twilight Ltd applies an appropriate mark-up to the costs that it has incurred manufacturing the components. A benchmarking study should be undertaken to calculate an appropriate mark-up.

Twilight Ltd may be able to apply to enter into a bilateral advance pricing agreement (APA) with the two competent authorities, potentially alongside the MAP process. This would allow Twilight Ltd and Dusk BVBA to have certainty over the pricing of the transaction.

By filing an incorrect return, Twilight Ltd could be at risk of a penalty of up to 30% of the tax advantage. Also, if the transaction is found to have insufficient economic substance and result in an effective tax mismatch, Twilight Ltd may be charged to Diverted Profits Tax at 31% of the diverted profits less the UK tax already paid on those profits. This is for HMRC to determine.

Twilight Ltd as a dependent agent of Dusk BVBA

A dependent agent is a person, other than an independent agent, who acts on behalf of a company and has, and habitually exercises, in a contracting state, the authority to conclude contracts in the name of that company.

If Twilight Ltd has been habitually acting on behalf of Dusk BVBA (other than as an independent agent), the Corporation Tax implications are that Dusk BVBA will be deemed to have a permanent establishment (PE) in the UK. Dusk BVBA would need to file UK Company Tax returns, attributing a proportion of income and costs to the PE and paying UK Corporation Tax on its profits. The double tax treaty should ensure that double taxation on the PE's profits is eliminated by making an appropriate adjustment to the amount of Belgian tax charged on the profits attributable to the PE.

It should be determined exactly which of Dusk BVBA's contracts have been concluded by Twilight Ltd. If it is indeed the case that this only took place in January 2023, it should be possible to argue that Twilight Ltd has not been 'habitually' exercising an authority to conclude contracts on behalf of Dusk BVBA and so does not create a PE of Dusk BVBA in the UK. There are various ways to minimise the risk of a similar situation occurring in the future; for example, ensuring any Twilight Ltd employees involved do not have authorisation to conclude contracts.

CIOT MARKING GUIDE

TOPIC	**MARKS**
Trading agreement between Twilight Ltd and Dusk BVBA	
– All transactions between Twilight Ltd and associated companies must be at arm's length	½
– Twilight Ltd received tax advantage as sold components at cost instead of market value	1
– HMRC can make adjustment to Twilight Ltd's taxable profits	1
– Adjustment would lead to double taxation / tax inefficiency	1
– Double taxation / tax inefficiency can be eliminated through MAP to allow compensating adjustment in Dusk BVBA	1
– Must apply OECD guidelines and apply 'most appropriate' method when determining transfer price	1
– No comparable uncontrolled price as components not sold to third parties	½
– Cost plus method likely to be most appropriate in circumstances	1
– Undertake benchmarking study to determine appropriate mark-up	½
– Ability of Twilight Ltd to enter into bilateral APA	1
– Twilight Ltd may be subject to penalty for incorrect filing of return	½
– Potential applicability of DPT	1
Twilight Ltd habitually acting on behalf of Dusk BVBA	
– Definition of habitually acting on behalf of	1
– Would create UK PE of Dusk BVBA, plus consequences of this	1½
– Double tax treaty should eliminate double taxation through tax credit	1
– Determine which contracts concluded by Twilight Ltd	½
– May be able to argue not 'habitual' and so not a PE	½
– Advice on how to minimise future risk	½
TOTAL	**15**

6. WHITE LTD

Company with investment business

White Ltd is actively managing investments and will be classified as a company with investment business for Corporation Tax purposes.

Dividend income

The dividend income received from wholly owned subsidiaries is exempt from Corporation Tax. If White Ltd is a small company for this purpose the dividend income is exempt because it is paid by UK companies. If White Ltd is not a small company the dividend income is exempt because it is paid by companies under White Ltd's control.

Expenses of Management

A company with investment business is entitled to a deduction for expenses incurred in managing its investments provided a number of conditions are met. The expenses must be incurred in respect of so much of the company's business as consists of making investments, must not be incurred for an unallowable purpose during the accounting period, and must not be capital in nature.

An investment is held for an unallowable purpose if it is not held for a business or commercial purpose or is held for the purpose of activities in respect of which the company is outside the charge to corporation tax.

The capital test may preclude a deduction of the whole or part of White Ltd's legal and professional fees (£250,000). Expenditure up to the date at which the decision to acquire (or not acquire) an investment is made is not capital because up to that point the company is merely appraising its investment opportunities. This rule also applies to abortive costs regarding the purchase of Purple Ltd. Whether the professional fees are deductible as management expenses depends, therefore, on their nature and when they were incurred. A full review of expenditure and the transaction timelines should be performed.

Relief for management expenses

Management expenses are set against total profits of the company for the accounting period to which they relate. Where they exceed the gross income and gains in the current accounting period the 'excess' is carried forward for offset (subject to prescribed limitation under the corporate income loss restriction rules) against future total profits of the company.

Excess management expenses can also (subject to the corporate income loss restriction rules) be group relieved against taxable profits of qualifying group companies (which includes wholly owned UK subsidiaries).

Loan relationships

Interest receivable by White Ltd on bank deposits will be treated as a non-trading loan relationship credit (NTLRC) and interest payable on the loan to purchase the investment is a non-trading loan relationship debit (NTLRD).

Bank arrangement fees will qualify as NTLRDs. Their recognition for tax purposes will follow their accounting treatment.

NTLRDs and NTLRCs are pooled together to give a net 'profit' or a net 'loss' (called a 'deficit'). If White Ltd has a deficit, relief can be obtained by offsetting it against total profits of the period, by carrying it back against NTLR profits of the previous 12 months, or possibly by surrendering it as group relief.

Subject to prescribed limitation under the corporate income loss restriction rules, unutilised NTLR deficits are carried forward against total profits of future periods or may be surrendered as group relief in future periods.

Investment properties

Income from all UK property is treated as a single source of business income for Corporation Tax.

Transfer pricing

As White Ltd and Black Ltd will be connected (both being subsidiaries of Rouge Ltd), the companies must ensure that the 10% interest rate on the loan from Black Ltd to White Ltd does not exceed the rate that would be payable to a third-party lender, to avoid falling foul of the transfer pricing rules.

Change in ownership of company

Anti-avoidance rules exist which restrict the availability of certain tax losses for carry forward in a company with investment business where there is a change in ownership of the company and other conditions are met within the prescribed period. The rules apply to non-trading loan relationship deficits and excess expenses of management where, within the prescribed period, there is a major change in the nature or conduct of the business, which includes a major change in the nature of investments held by a company.

If Rouge Ltd acquires White Ltd and changes the activities of White Ltd to include investment properties, this is likely to constitute a major change in the nature or conduct of the investment business.

Tax group

After its acquisition, White Ltd and its subsidiaries would be part of the Rouge Ltd group for Corporation Tax. This can have a number of consequences including for group relief, capital gains grouping and group payment arrangements.

The Rouge group entities will also count as associated companies.

CIOT MARKING GUIDE

TOPIC	MARKS
Definition of company with investment business	1
Expenses of management – statutory conditions	1
Expenses of management – capital restriction and timeline	1
Expenses of management – capital – abortive costs, case law e.g. Camas	1
Dividend exemption	1
Loan relationships – interest paid and received	1
Loan relationships – costs of raising loan finance	1
Expenses of management – current period offset / group relief / c/f	1½
Debits to loan relationships - current period offset / group relief / c/f	1½
Property income	1
Transfer pricing – loan from Black Ltd to White Ltd	1
Rouge Ltd tax group / number of associated companies	1
Change in ownership – loss restrictions (expenses of management / NTLR)	2
TOTAL	**15**

Examiner's report:
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This question addressed the candidate's understanding of companies with investment business and relief for management expenses and non-trade loan relationship deficits. In particular the question focused on the rules regarding capital expenditure incurred in relation to the purchase of investments e.g. Camas v Atkinson. Many candidates failed to note that a full analysis of deal costs may identify a proportion that are revenue rather than capital in nature – relating to advice prior to the decision being made to make the acquisition.

The question also expected candidates to identify the likely tax consequences of differing income sources within the investment company and the potential tax consequences of differing types of loss, for example, management expenses and non-trade loan relationship deficits arising in the company. These points were missed by many candidates.

7. SWIFT GROUP

If a taxpayer has taken 'reasonable care' in completing a return and has taken reasonable steps to disclose any errors, no penalty will apply. 'Reasonable care' varies according to the circumstances and abilities of the taxpayer. If taxpayers do not promptly tell HMRC when they discover an error, this will be a careless inaccuracy even when the taxpayer took reasonable care.

Company Tax Returns 2021

The potential penalty for submitting an inaccurate return is a percentage of the potential lost revenue ('PLR') as a result of the inaccuracy and the percentage depends on the behaviour of the taxpayer. If the behaviour here was carelessness, the penalty is 30% x PLR.

In this case the PLR is likely to be £600,000 - £60,000 = £540,000 x 19% = £102,600 so that the penalty is £102,600 x 30% = £30,780.

This penalty may be reduced to nil provided the company makes an unprompted disclosure and corrects the error.

Company Tax Returns 2022

The filing due date for Company Tax returns is 12 months after the end of the accounting period so the returns should have been submitted by 31 December 2023. There is an immediate £100 penalty per return, regardless of whether the tax payable has been paid. This increases to £200 if the return is more than three months late. The total fixed penalty for all 10 companies is £2,000.

Where returns are submitted more than 18 months after the end of the accounting period (ie more than 6 months after the normal filing date for a 12 month period) there will be a tax-geared penalty of 10%. The penalty doubles to 20% where the return is not filed within two years of the end of the accounting period. As the companies are loss making this should not be an issue.

Company Tax Returns 2023

Since these returns were due to be filed by 31 December 2024, they are over six months late. Fixed penalties will apply as per the 2022 company tax returns.

In addition the 10% tax geared penalties mentioned above could also apply as the returns will not be filed within 18 months of the end of the respective accounting periods. Having said that, due to the group being in an overpayment position overall, the penalties should not be chargeable as there will be no outstanding tax to pay. HMRC may issue the penalties but they should be appealed and the returns filed at the same time.

Company Tax Returns 2024

These returns are due to be filed by 31 December 2025 and as such no late filing penalties have yet been incurred.

Royalty payments made to Robin B.V.

Withholding Tax

Royalties paid for the use of a patent are subject to the withholding tax provisions as the payment is of an income rather than a capital nature. 20% withholding tax should be deducted from the royalty payment and accounted for to HMRC on a quarterly basis.

However, Bluebird Ltd may choose to make the royalty payment at the reduced treaty rate of deduction (if applicable) if it reasonably believes that the Dutch entity is entitled to the benefit of the treaty.

Corporation Tax

Patent royalties are dealt with under the rules for intangible fixed assets and are taxed on an accruals basis. The royalty payment should be deducted from Bluebird Ltd's trading profits.

Transfer Pricing

If Robin B.V. and Bluebird Ltd are under the same participation, ie if Swift plc controls both Robin B.V. and Bluebird Ltd, the transfer pricing provisions may apply if there is a UK tax advantage – for instance, if Bluebird Ltd's trading profits are reduced as a result of an over-priced royalty payment or losses are increased as a result of the royalty payment.

The price of the royalty payment should adhere to the arm's length provision, determined by OECD guidelines. So the price should be based on the terms and conditions that independent parties would adopt. If not comparable, then transfer pricing rules will apply and the taxable profits of Bluebird Ltd must be restated using an arm's length price for the royalty payment.

A transfer pricing adjustment to the profits of Bluebird Ltd could lead to double taxation (if the same profit is taxed in the UK and in the Netherlands) if it is not matched by an adjustment to the profits of Robin B.V. It may be possible to achieve mutual agreement between the two countries' authorities to avoid such double taxation arising.

Under Corporation Tax Self-Assessment a company is required to self-assess its liability under the transfer pricing rules, supported by documentation. Companies must keep all records used in making and delivering a correct tax return until the latest of:

- Six years from the end of the accounting period;
- The date after which enquiries may not be commenced; and
- The date any enquiries are completed.

Failure to keep records could result in a maximum penalty of £3,000.

<u>Diverted Profits Tax ("DPT") notification</u>

If a company is potentially within the charge to DPT, it must notify HMRC in writing accordingly within 3 months of the end of the accounting period. As the accounting period ended on 31 December 2024, the notification was due by 31 March 2025. As the company has failed to notify HMRC within the relevant time frame, a tax-geared penalty may be issued.

MARKING GUIDE

TOPIC	MARKS
Wren Ltd 2021	
Reasonable excuse discussion	1
Calculation of penalty for inaccurate return due to carelessness	1
Mitigation	½
Due filing date for returns	1
Tax returns 2022	
Rules for fixed penalty rules for filing late	1
Rules for tax based penalty rule for filing late	1
Tax returns 2023	
Amount of fixed penalty for late filing	½
Amount of tax based penalties	½
Tax returns 2024	
No current penalties as not late	½
Royalties	
Explanation of withholding obligations s.903 ITA 2007	1
Reduction in rate of withholding under DTA s.911 ITA 2007	1
Corporation tax treatment of patent royalties	
Royalties paid – accruals basis	1
Deduction from trading income	1
Transfer pricing	
Special relationship so rules potentially apply	1
OECD guidelines arm's length pricing and independent prices explanation	1
What the UK tax advantage is here	1
Consequences – profits taxed on independent prices	½
Double taxation – MAP	1
CTSA - Documentation requirement for TP	1
Keeping records and penalty for failure	1
Diverted Profits Tax	
Duty to notify	1
Time – 3m from AP. Notification not made and so tax geared penalty may apply	1½
TOTAL	**20**

8. H-TO-O PLC

A company has a duty to deduct an amount representing income tax at 20% ('WHT') on payments of 'yearly' interest arising in the UK. Broadly, interest will be 'yearly' where the loan to which it relates exceeds a year. The loans from the National English Lending Bank plc, Sac d'Argent S.A. and Money Bags Ltd all have a term in excess of a year and so the interest would be yearly interest. All interest payments described below are likely to have arisen in the UK (the debtor being UK resident paying interest out of UK resources).

Water Ltd

An exemption from WHT exists where interest is paid on an advance made by a 'bank' within the charge to Corporation Tax. National English Lending Bank plc is a 'bank' (an entity authorised under FISMA 2000), and within the charge to Corporation Tax. No WHT will therefore be imposed on interest payments under that loan.

Sac d'Argent S.A. is not a bank and the above exemption will not apply. If Sac d'Argent S.A. lends from Luxembourg, the payment of interest may be exempt from WHT under the terms of the UK/Luxembourg Double Tax Treaty if such Treaty gives the recipient country taxation rights in respect of the interest. Water Ltd would however have a duty to withhold until it has received clearance from HMRC to pay gross.

If Sac d'Argent S.A. has applied for a passport under the Double Taxation Treaty Passport Scheme, it will be entitled to be paid gross. Sac d'Argent S.A. notifies Waters Ltd that it has been granted a passport; Water Ltd must notify HMRC that it intends to take advantage of the scheme before any interest is paid (and HMRC will expedite permission).

If Sac d'Argent S.A. lends from London and Water Ltd is satisfied that there is a proper trade being carried on in the UK through that branch and the interest received will be taxed in the UK, the interest payments would also be exempt from WHT.

Aqua Ltd

The WHT obligation arises when interest is paid, not when it is due. If Aqua Ltd rolls up its interest, no WHT will arise on each actual interest payment date. The shares issued by Aqua Ltd in satisfaction of the payment of the interest will constitute 'funding bonds' and be deemed to be an actual payment of interest. No specific exemption applies to the WHT on payments of interest to Money Bags Ltd (there is unlikely to be a Double Tax Treaty exempting the interest in this case). Aqua Ltd must therefore retain an amount of shares equal to the interest that would otherwise have been withheld. It may remit these to HMRC in lieu of payment.

If (exceptionally) it were impracticable to retain the shares and Aqua Ltd notified HMRC of the identity of Money Bags Ltd, then the duty to retain the shares and to make any payment to HMRC in respect of the WHT would not apply. If shares were issued, no WHT obligation arises in respect of dividends paid.

The loans from Michael and Frank have a term of nine months. The interest will not be 'yearly' interest. There will be no WHT due from Engine Ltd in respect of such payments, and therefore, no grossing-up required.

Filing obligations

Where an obligation to deduct exists, the relevant company must file a return with HMRC accompanied by payment of the WHT within 14 days of the end of the relevant return period (return periods are usually three months long, ending on the last day of March, June, September or December, although can be shorter depending on when the last day falls within the accounting periods of the relevant companies).

Protections in the SPA

The agreement for the acquisition of the shares in Engine Ltd could contain warranties and indemnities from Michael and Frank. Warranties are representations of fact about the status of the company. If they are incorrect, Aqua Ltd may rescind the contract or sue for damages. Indemnities are a promise to pay the company or the purchaser if certain events arise causing a liability. Unlike the position with damages, there is no need to prove loss, just that the events giving rise to the liability have arisen.

MARKING GUIDE

TOPIC	**MARKS**
General	
Identifying the general duty to deduct income tax at 20% on payments of yearly UK source interest made by a company (s.874(1) and (2) ITA 2007).	½
Explanation of yearly interest.	½
National English Lending Bank plc	
Referring to exemption from duty to deduct in respect of interest paid to banks within charge to Corporation Tax (s 879 ITA 2007).	1
Reference to National English Lending Bank plc being a bank as defined (s.991 ITA 2007).	½
Sac d'Argent S.A.	
Noting treaty relief may be available in respect of UK income tax (s.6 TIOPA 2010) for Sac d'Argent S.A.	1
However, duty to withhold exists until direction has been issued to payer by HMRC (s.849 ITA 2007 and reg. 2 Double Taxation Relief (Taxes on Income) (General) Regulations 1970).	1
Note DTT passport scheme could have been applied for by Sac d'Argent S.A.	1
If lending through London branch, exemption applies (s.934 ITA 2007), and reasonable belief exists that it is an excepted payment (s.930 ITA 2007).	1
Money Bags Ltd	
When interest is 'capitalised', no 'payment' and so no duty to withhold on date interest is due (SAIM 9100).	1
Issue of shares in satisfaction of interest is an issue of funding bonds (s.413 CTA 2009).	1
Where duty to withhold under s.874 ITA 2007, apply s.939 ITA 2007, and retain shares equal to tax otherwise withheld.	1
Shares may be tendered to HMRC.	½
Exception from duty to deduct if impracticable to do so and information provided to HMRC (s.940 ITA 2007).	½
No WHT on dividends	½
Engine Ltd	
This is not yearly interest and so no withholding and no gross-up required (s.874 ITA 2007).	1
Filing obligations	
If duty to withhold does exist, Water Ltd must make a return and pay the income tax to HMRC (ss.949 and 951 ITA 2007).	1½
Protections in SPA	
Warranty protection: representations in relation to the company. Can rescind or sue for damages.	1
Indemnities: promise to pay the company or purchaser if a liability arises. No need to show loss as for damages, just circumstances of claim.	1
TOTAL (MAX)	**15**

9. CHALLENGER PLC

Disposal of shares of Endeavour Ltd and PropCo Ltd

For tax purposes, each disposal will constitute a chargeable disposal. However when disposing of a substantial shareholding, the Substantial Shareholding Exemption (SSE) may apply which exempts gains and means that losses are not allowable.

The SSE has conditions relating to both the shares owned by the investing company and the company being sold.

Shareholding conditions

The investing company must have held a substantial shareholding (in excess of 10%) throughout a 12-month period beginning no more than six years prior to the disposal. In both cases, the investing companies (Challenger plc and Voyager Ltd) have each held a substantial shareholding throughout the twelve months before 1 June 2025.

Investee Company conditions

The company being disposed of must have been a trading company or the holding company of a trading subgroup in the 12 months ending on the date of disposal. A trading company is one carrying on trading activities that do not include non-trading activities to any substantial extent. In applying this test, all facts and circumstances should be taken into account by reference to the company's activities as a whole. As Endeavour Ltd is a trading company it appears that it would meet this test.

PropCo Ltd requires further consideration. The holding of property for the purposes of generating rental income will not of itself qualify as a trading activity. In a group context, intra-group activities are disregarded for the purposes of assessing the trading status of the group. Where a subgroup is being sold, activities between group companies (which are not in the subgroup) and the subgroup are not disregarded. However, PropCo Ltd is neither the holding company of a group nor a subgroup and these provisions do not assist in determining its status. As such, when considering only the disposal of the shares in PropCo Ltd, the trading company condition will not be satisfied and the SSE will not apply.

The gain would be:

PropCo Ltd		£'000
Proceeds		30,000
Cost	1 January 2010	(15,000)
Unindexed gain		15,000
Indexation	(Jan 2010- Dec 2017)	
	(278.1 – 217.9)/217.9 x £15,000,000	(4,144)
Gain		10,856

De-grouping charges

When a company leaves a chargeable gains group holding chargeable assets transferred to it intra-group within the past six years, the rules on de-grouping charges must also be considered. A de-grouping charge is calculated as though the chargeable asset had been sold and immediately reacquired for its market value at the time of the original transfer. The de-grouping charge is treated as an adjustment to proceeds when calculating the gain or loss on the disposal of the shares in the company being sold. Where a de-grouping charge arises on a share sale, if the sale of the shares qualifies for the SSE, the SSE rules also exempt the de-grouping charge.

Whilst the transfer from Atlantis Ltd took place more than six years before the proposed disposal of the shares, the transfer from Discovery Ltd took place in December 2019 and therefore a de-grouping charge may arise if there is a share disposal before 31 December 2025.

Provided the sale of the Endeavour Ltd shares does indeed qualify for the SSE, no de-grouping charge would arise on this sale as a result of the transfers in December 2019 of non-property chargeable assets to it.

However, it is likely that a de-grouping charge would arise on the transfer of the property from Discovery Ltd to PropCo Ltd on 31 December 2019. Details of the original cost of the property and the market value at 31 December 2019 will be needed to calculate the potential adjustment to the gain above. Delaying the disposal (currently proposed to be made on 1 June 2025) until six years from the time of the original transfer may be worth considering if the de-grouping charge would be significant.

The tax treatment of the property transactions by Challenger plc associated with the proposed transactions is set out in the Appendix below.

Appendix – Tax treatment of property disposals

Manchester

This is the grant of a short lease (less than 50 years) from a long lease (as the head lease has between 59 and 60 years left to run).

Part of the premium will be taxed as property income and part as a chargeable gain.

		£
Premium		250,000
Capital element	2% x 250,000 x (10-1)	(45,000)
Income element		205,000

The chargeable gain calculation is treated as a part disposal with the allowable cost calculated as follows:

a/(A+B) x acquisition cost

where a is the part of the premium treated as capital (ie £45,000), A is the total amount of the premium (£250,000) and B is the value of the reversionary interest in the lease. It would therefore be necessary to determine the value of the reversion in order to calculate the gain arising.

York

This is the assignment of a short lease (as it has 10 years and 7 months left on its term). As the lease is less than 50 years it is a wasting asset. A chargeable gain is calculated but the company cannot take a deduction for the whole of the acquisition cost.

The deductible base cost is the original acquisition cost multiplied by S/P where S and P are the 'lease depreciation' percentages for the years of the lease remaining at the dates of sale and purchase respectively.

Lease term remaining on purchase – 15 years – lease percentage 61.617

Lease term remaining on sale – ten years seven months – lease percentage
46.695 + 7/12 x (50.038-46.695) = 48.645

The chargeable gain based on a disposal of 1 June 2025 would be:

	£
Proceeds (1 June 2025)	300,000
Adjusted cost (500,000 x 48.645/61.617)	394,737
Capital loss	(94,737)

MARKING GUIDE

TOPIC	MARKS
Share disposal:	
Chargeable disposal, SSE possible	1
>10%, 12 months	1
Investee condition, met by Endeavour	1
Propco fails	2
Gain calc	1
Sub-total	6
Degrouping charge:	
Holding assets transferred intra group in last six years	1
Fixed assets and intangibles	1
Relevant to Discovery transfer, not Atlantis	1
Exempted if SSE so Propco transfer only	1
Need gain at 31 December 2019 and add to proceeds	1
Consider delaying	1
Sub-total	6
Leases:	
Manchester short lease so part income, part gain	1
Income £205,000	1
Gain a/(A+B)	1
a=45,000	1
A=250,000	1
B=value of reversionary interest – to be determined	1
York – assignment of short lease, wasting asset	1
Calculation of deductible base cost (principle, use of %, precise answer)	1
Sub-total	8
TOTAL	**20**

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This question [concerned] proposed share disposals as well as two lease transactions.

In general, candidates performed well on this question with most identifying the key points relating to the share disposals, including discussion of the application of the Substantial Shareholdings Exemption and the possibility of degrouping charges. The best candidates considered planning opportunities such as deferring the transaction and discussed these in commercial terms.

The understanding of lease transactions was less consistent with confusion as to when the consideration needed to be split between capital and income. It was particularly disappointing to see many candidates calculating the gain on the Manchester disposal based on the capital element of the proceeds and then deducting the income element again! A number of candidates also confused the part disposal rules and the adjustment of cost on a depreciating asset.

10. THE BARLEY GROUP

Preparation for the disposal of shareholding in Sweetcorn Ltd

The group, excluding Wheat Ltd, forms a chargeable gains group with Barley plc as the principal company.

The effect of there being a chargeable gains group is that both the transfer of business premises from Granola Ltd to Sweetcorn Ltd and the transfer of shares in Soya Ltd from Sweetcorn Ltd to Barley plc will be treated as occurring on a nil gain/nil loss basis for tax purposes. Therefore, no chargeable gains or losses will arise on the transfers.

However, as Sweetcorn Ltd will be sold, and hence leave the capital gains group, within six years of the transfer of business premises, a de-grouping charge will arise and be charged (subject to exemption) on Barley plc. The de-grouping charge will be equal to the chargeable gain that would have arisen on the intergroup transfer, ie £3.5 million (£11 million - £7.5 million).

Stamp duty land tax (SDLT) will be chargeable on the transfer of the building. Group relief is not available because, at the time of the transfer, arrangements are in place to dispose of Sweetcorn Ltd, the recipient of the building. The SDLT payable will be as follows:

	£
£150,000 x 0%	0
(£250,000 - £150,000) x 2%	2,000
(£11,000,000 - £250,000) x 5%	537,500
SDLT payable	539,500

This will be payable by Sweetcorn Ltd.

No stamp duty will be chargeable on the transfer of the shares in Soya Ltd as beneficial ownership is being transferred to an associated company (ie a group company) and at the time of the transfer there are no arrangements for Barley plc to cease to be Soya Ltd's parent company.

Substantial shareholdings exemption (SSE)

The conditions to be met for SSE to apply to a disposal of shares are as follows:

a) the investing company must have held at least 10% of the ordinary share capital of the investee company for a continuous period of at least 12 months in the six years preceding the disposal; and

b) the company invested in must be a trading company or the holding company of a trading group (or sub-group) from the beginning of the latest 12-month period in which the above requirement is met until immediately before the sale.

If the conditions are met, then any chargeable gain is exempt from Corporation Tax and any capital loss is not allowable.

Disposal of shareholding in Sweetcorn Ltd

This disposal should qualify for SSE, as:

a) Barley plc has held at least 10% of Sweetcorn Ltd for more than a year before the disposal;

b) Sweetcorn Ltd is a trading company.

This not only means that no chargeable gain will arise on disposal of the shareholding, but also that the de-grouping charge arising in respect of the transfer of business premises will be exempt from tax.

Disposal of shareholding in Rye Ltd

This disposal will not qualify for SSE as Barley plc has not held the shares in Rye Ltd for a continuous period of at least 12 months. However, as Barley plc is exchanging shares in Rye Ltd for shares in Clementine Ltd, and Clementine Ltd would be acquiring more than 25% of the ordinary share capital of Rye Ltd, 'share for share' relief is available. Barley plc will be treated as having made neither a disposal nor an acquisition and so no chargeable gain will arise. Instead, for chargeable gains purposes, the new shares (ie the shares in Clementine Ltd) will 'stand in the shoes' of the old shares (ie the shares in Rye Ltd). This means the base cost and date of acquisition of the old shares becomes the base cost and date of acquisition of the new shares.

The transfer of the shares in Rye Ltd will be liable to a Stamp Duty charge of £7 million x 0.5% = £35,000, payable by Clementine Ltd.

Disposal of shareholding in Muesli GmbH

This disposal will not qualify for SSE as Muesli GmbH is not a trading company or the holding company of a trading group.

The sales proceeds include an element of contingent but ascertainable consideration. As a result, Barley plc will be taxed upfront by reference to the full £8 million proceeds, resulting in a chargeable gain of £7.5 million (£8 million - £0.5 million).

If Muesli GmbH does not commence trading by the end of the five-year period, Barley plc will be able to make a claim to have the gain recalculated using actual proceeds received of £6 million.

Disposal of shareholding in Wheat Ltd

This disposal will not qualify for SSE as Barley plc does not hold at least 10% of the ordinary share capital of Wheat Ltd.

The sales proceeds include an element of contingent and unascertainable consideration. The value of this right to receive future contingent consideration must be estimated and will be added to the £9 million cash proceeds. There will therefore be a chargeable gain equal to £3 million (£9 million - £6 million) plus the value of the right.

The onus will be on Barley plc to provide a valuation of the right. However, the valuation may be agreed with HMRC after the disposal has taken place in order to obtain certainty over the transaction.

When the contingent consideration is received, this is treated as a disposal of the right. There will therefore be a further chargeable gain calculation in the period in which the contingent consideration is received, based on the difference between the original value of the contingent element and the actual amount that is eventually received.

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Preparation for disposal of Sweetcorn Ltd</u>	
– The group, excluding Wheat Ltd, forms a chargeable gains group.	½
– Transfers of business premises and shares done on nil gain nil loss basis	1
– De-grouping charge arises on business premises as Sweetcorn Ltd leaves group within six years of transfer	1
– Calculation of de-grouping charge	½
– SDLT due on transfer as group relief not available, with explanation	1
– Calculation of SDLT	1
– No Stamp Duty payable on transfer of shares, with explanation	1
<u>Substantial shareholdings exemption</u>	
– Conditions required for SSE to apply	1½
– Effect of SSE if conditions are met	1
<u>Disposal of shareholding in Sweetcorn Ltd</u>	
– Disposal of Sweetcorn Ltd covered by SSE, with explanation	1
– De-grouping charge exempt from tax as SSE applies to the disposal	½
<u>Disposal of shareholding in Rye Ltd</u>	
– Disposal will not qualify for SSE	½
– 'Share for share' relief available, with explanation	1
– No chargeable gain and new shares 'stand in the shoes' of old shares	1
– Calculation of Stamp Duty charge on transfer of Rye Ltd shares	1
<u>Disposal of shareholding in Muesli GmbH</u>	
– Disposal will not qualify for SSE	½
– Contingent but ascertainable consideration must be included in upfront gain calculation	1
– Calculation of chargeable gain	½
– Future claim available if Muesli GmbH does not commence trading	1
<u>Disposal of shareholding in Wheat Ltd</u>	
– Disposal will not qualify for SSE	½
– Value of right to receive contingent and unascertainable consideration must be estimated and taxed upfront	1
– Valuation may be agreed with HMRC after disposal has taken place	½
– Calculation of chargeable gain	½
– Second chargeable gain calculation will arise in period in which contingent consideration is received	1
TOTAL	**20**

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Almost all candidates showed a good understanding of SSE principles, although many either forgot to apply the SSE conditions to each disposal, or applied them incorrectly to at least one of the disposals. Many correctly identified the contingent consideration although some failed to appreciate the difference in treatment between ascertainable and unascertainable consideration.

It was disappointing that so few mentioned, and even fewer calculated stamp taxes, despite its applicability to the land and building transfer, the transfer of Soya Ltd shares and the acquisition of Clementine Ltd shares.

11. THETA PLC GROUP

Co-op financing structure

1) Alpha 1 Ltd / Alpha 2 Ltd

- These are UK resident companies, subject to Corporation Tax on their worldwide profits.

- For UK tax purposes, Alpha Co-op is treated as a partnership. Where a company is a partner, the partnership profits should be calculated as if the corporate partner had undertaken the activities of the partnership itself. As a result, Alpha 1 Ltd and Alpha 2 Ltd will be taxed on their respective share of the profits of Alpha Co-op.

- The bank loan represents a loan relationship for the corporate partners, as it is a money debt that has arisen from a transaction for the lending of money.

- Each of Alpha 1 Ltd and Alpha 2 Ltd will therefore obtain relief for their respective share of the interest payable and any other losses or expenses in respect of the loan in line with the amounts recognised to the partnership's income statement. These will be non-trading loan relationship debits and can be deducted against any taxable profits arising in the same period, carried back against non-trade loan relationship profits of the previous year, carried forward against future total profits (subject to a restriction on the maximum amount which can be offset over £5m) or surrendered as group relief to other UK group companies.

- Any dividends received by Alpha Co-op (and so Alpha 1 Ltd and Alpha 2 Ltd) from Alpha BV will be exempt income given that they are in respect of ordinary shares.

2) Controlled Foreign Companies (CFC) rules

Alpha Co-op

- For UK tax purposes, Alpha Co-op is not considered to be a company and so it cannot be a CFC.

Alpha BV

- Alpha BV is a foreign company that is controlled by UK persons (Alpha 1 Ltd and Alpha 2 Ltd acting together in partnership) and so it will be considered to be a CFC.

- It is necessary to consider whether Alpha BV is covered by an exemption.

- The Excluded Territories Exemption may apply as The Netherlands is on the list of excluded territories. However, this exemption is not available where the company is involved in an arrangement, the main purpose of which is to obtain a tax advantage. On this basis, it is possible that the exemption would not apply.

- The other exemptions will not be relevant:

  - Exempt period exemption – not relevant as not a newly acquired company.
  - Low profits exemption – not available as profits are more than £50,000.
  - Low profit margin exemption – not available assuming profits are more than 10% of relevant operating expenditure.
  - Tax exemption – not available as local tax paid is less than 75% of the corresponding UK tax.

- On the basis that none of the exemptions apply, the gateway tests need to be considered.

- The interest income receivable on the loan will fall under the non-trading financial profits gateway given the funds originated from the UK and were contributed to Alpha BV (the funds originated from Alpha 1 Ltd and Alpha 2 Ltd acting together in partnership).

- Alpha BV may claim the 'Finance Company Partial Exemption' so as to exempt 75% of the profits as they arise from qualifying loan relationships.

- A 'qualifying loan relationship' is a loan relationship (derived from UK capital investments and not generated by UK activities) where the CFC is the creditor and the ultimate debtor is another group company that is not UK resident and which is controlled by the same UK resident persons as control the CFC. As such, the profits on the loan, which ultimately goes to the group's French subsidiaries, should be able to be reduced in this way. In addition, the CFC must have business premises in the territory in which it is resident.

- It can therefore be expected that 25% of the interest on the loan made by Alpha BV may be subject to a CFC apportionment, 12.5% to each of Alpha 1 Ltd and Alpha 2 Ltd.

- The CFC apportionment cannot be offset by the non-trading loan relationship debits arising on the interest payments made by Alpha 1 Ltd and Alpha 2 Ltd. However, relief will be available against the CFC tax for any corporate tax paid by Alpha BV on its interest income.

3) Potential challenges

Unallowable purpose (s.441 CTA 2009)

- An unallowable purpose in the context of the loan relationship regime is where a loan has no business or other commercial purpose. This includes where one of the main purposes of entering into a loan is tax avoidance. HMRC may argue that one of the main purposes of Alpha 1 Ltd and Alpha 2 Ltd borrowing from the bank through Alpha Co-op is to obtain a UK tax advantage. Any debits attributable to the unallowable purpose would be restricted.

- It would be important to establish the commercial purposes for which the companies borrowed the funds and invested in Alpha BV. The company needs to ask whether the transaction would have been structured in that way but for its ability to claim a tax deduction for its finance expense. Where the tax advantage is mere 'icing on the cake' – an incidental benefit to the commercial purpose – then the rule would not be invoked. We should review the documentation to provide support for the reasons for the structure.

Hybrid mismatch rules (Part 6A TIOPA 2010)

- HMRC may argue that the hybrid mismatch rules should apply. These rules, amongst other cases, would restrict deduction in the UK on a financial instrument where relief is also obtained in another jurisdiction.

- These rules apply to counter the effect of a 'double deduction' or a 'deduction/non-inclusion' mismatch. The rules are limited to specific circumstances, but in this case the structure would fall into the hybrid entity category. This is because Alpha Co-op is treated as a taxable person in The Netherlands and tax-transparent in the UK.

- The hybrid mismatch rules apply regardless of the purpose of the arrangement and therefore it is difficult to see why this would not restrict the whole of the relief claimed in the UK.

Residence

- HMRC may look to examine the residence of Alpha BV. For example, if the management of the company is in the UK then it will be subject to UK Corporation Tax on the whole of the interest income. This would be reduced by any double tax relief for tax suffered in The Netherlands, although this is anticipated to be minimal.

- Determining the residence depends on a close examination of the facts. It would be important to show the directors of Alpha BV had control of the company in The Netherlands, and key decisions were not being made in the UK. It would be necessary to consider 'central management and control' for determining UK residence. However, if the company is resident in both the UK and The Netherlands, the tax authorities of both states will have regard, in addition to other criteria, to its 'effective management' in the application of the tie-breaker test to determine the residence of the company.

CIOT MARKING GUIDE

TOPIC	**MARKS**
Alpha 1 Ltd / Alpha 2 Ltd	
– UK companies taxable on their worldwide profits	2
– Each company has a share of the gross debits and credits	1
– Loan relationship definition	1
– Non-trading loan relationship debits	1
– Dividends exempt	1
	6
CFC	
– CFC Definition	1
– Alpha Co-op not a CFC / Alpha BV is a CFC	1
– No charge if exemption applies	½
– Exemptions	2
– Need to consider if profits fall into one of the gateways	½
– Non-trading financial profits gateway	1
– Finance Company Partial Exemption	1
– Chargeable profits to companies with 25%+ holdings	1
	8
Potential challenges (*)	
– Unallowable purpose	2
– Anti-hybrid rules	2
– Residency	2
	6
TOTAL	**20**

(*) Credit will be given for other potential challenges that could apply, for example outlining the potential transfer pricing issues with the structure.

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This question contained a relatively sophisticated scenario, which candidates may not have come across, but they should have been able to identify the relevant tax technical issues. There was a wide range in the quality of the answers. Those who failed to appreciate that this was essentially a financing arrangement struggled.

It was reassuring that some had a broad understanding that partnerships were treated as transparent but hardly any explained how the taxation of partnerships works. Many went into detail on the rules for investment companies and management expense, without any mention of the loan relationship rules.

On the CFC aspects, most had a reasonable grasp of the rules. However, not everyone identified that the CFC rules only apply to controlled foreign companies. Few showed any knowledge of the full and partial exemptions for qualifying loan relationships under the non-trading financial profits gateway.

Many made valid points around the application of the transfer pricing rules and hybrid mismatch rules. But many incorrectly provided detailed explanation of the diverted profit tax rules and failed to note that they do not apply to profits diverted through holding loan relationships. Hardly any mentioned the possible application of the unallowable purpose rule.

12. UNICOMMS GROUP

A number of the provisions in the UK / Zamunda Double Tax Treaty (DTT) are directly relevant to the queries raised by the Zamundan Revenue Authority (ZRA) and should mitigate the potential tax exposures arising from the tax audit.

Company residence

UZamm Ltd (UZL) is tax resident in the UK by virtue of the fact it was incorporated in the UK. In accordance with the Zamundan Income Tax Act 2013, the company is also likely to be regarded as tax resident in Zamunda as all trading operations are carried out there.

In the absence of a tie breaker test under the DTT, the company would be dual resident. However, Article 4(3) of the DTT addresses the issue where a company is resident in two contracting states under their domestic law.

It states that where a company is a resident of both contracting states, the competent authorities should try to determine in which state it is to be deemed resident by mutual agreement. The commentary to the convention gives details of factors to be considered by the competent authorities in making their decision. These include the usual location of board meetings, where the CEO and other senior management usually carry on their activities, where the company's headquarters are located, which country's laws determine its legal status and where its accounting records are held. This approach differs from the application of the UK concept of central management and control (used to determine whether non-UK incorporated companies are UK resident), which is designated as the place where the Board of Directors meet.

It will be necessary to examine the operating model to determine the likely state in which UZL will be treated as resident; however, it may be the UK if key decisions have been taken there (eg at Board meetings). If the company is Zamundan resident, this would be unlikely to have an immediate impact but may broaden the local tax base in the future as any income or gains realised by UZL from a non-Zamundan source could be subject to tax in Zamunda.

Permanent establishment

On the basis that UZL is a UK tax resident company, the total taxable profits of the company are taxed in the UK. It would then be sensible to consider making a branch exemption election for UK tax purposes to exempt future income or gains of the branch from UK Corporation Tax.

At present only the activity of the Zamundan branch of UZL is subject to income tax in Zamunda as the branch creates a permanent establishment for UZL in Zamunda.

The ZRA are querying whether the activities of UniComms plc also give rise to a Zamundan permanent establishment. A permanent establishment can be created in a jurisdiction in two ways:

1) A fixed place of business – it seems unlikely that UniComms plc has a physical office, branch or place of management in Zamunda (on the basis UZL does) and as such would not have a fixed place of business.

2) A dependent agent - The activities of UniComms plc employees and directors in Zamunda could be construed as giving rise to a dependent agent permanent establishment. Article 5(5) of the DTT states that a permanent establishment is created if such individuals habitually conclude contracts in the name of UniComms plc while present in Zamunda.

The engineers are unlikely to meet this test because they did not have the authority to conclude contracts. Their role was to design the telephone masts as part of the services UniComms plc provided to UZL under the Intra-Group Services Agreement.

The activities of the Executive Sales Director should be closely reviewed going forward. As the key contract referenced was executed in the UK and there is nothing to suggest that such contracts are *habitually* negotiated in Zamunda, it is unlikely that a permanent establishment has been established there with regard to prior activities.

Management and consultancy fees

The £30 million charge in respect of design work by the engineers employed by UniComms plc has been designated a 'Management and Consultancy Fee'. Such amounts are subject to withholding tax (WHT) under local legislation at a rate of 20%.

Article 7(1) of the DTT is clear that the profits of a Contracting State (in this case the UK) shall be taxable only in that State unless attributable to a permanent establishment in the other Contracting State. On the basis that UniComms plc does not have a Zamundan permanent establishment, the profits should be solely taxed in the UK with no Zamundan WHT applicable.

The local WHT on management and consultancy fees of £6 million should not be payable as it is excluded under the DTT.

Royalties

Article 12(3) of the DTT defines 'royalties' as including any consideration paid for the use of a patent. The £20 million payment to UniComms plc for patented technology should therefore meet this definition.

Pursuant to Article 12(2), any tax withheld at source should be limited to 5% where the beneficial owner of the royalties is a resident of the other Contracting State. This condition is satisfied as UniComms plc is the owner of the patent and a UK tax resident company.

The WHT due in respect of the royalty payments should therefore reduce to £1 million (ie 5% of the £20 million gross payments).

Conclusion

The provisions of the DTT are relevant to the tax audit as follows:

1) UZL is likely to be solely a UK tax resident company although the company's operating model should be reviewed in detail to determine this.

2) UniComms plc should not have a Zamundan permanent establishment during the period under audit. Care should be taken in this area going forward.

3) The £10 million WHT assessment should be reduced to £1 million.

Tutorial Note:

The articles of the UK/Zamunda DTT reproduced in this question are based on the 2017 Update to the OECD Model Treaty; the original question quoted from the pre-2017 version of the treaty. The majority of the UK's Double Tax Treaties were negotiated before 2017 and so use the wording from older versions of the Model Treaty, and the UK has not adopted all of the changes to Article 5. You can find a copy of the UK/Germany double tax treaty, which is based on an earlier version of the OECD Model Treaty, at Misc 39 in Part 2 of your Yellow Tax Handbook; but do take care that the wording of Articles 4(3) and 5(5) of the Model Treaty has now altered.

CIOT MARKING GUIDE

TOPIC	MARKS
Company residence:	
State UZamm Ltd UK tax resident by virtue of incorporation	1
State company also likely tax resident in Zamunda based on the fact all activities conducted there	1
Comment that in the absence of treaty tie breaker test UZamm Ltd would be a dual resident company	1
State residency determined by mutual agreement under Article 4(3) of double tax treaty but looks at a number of factors	2
Explain that central management and control carried out in the UK	1
Draw distinction between central management and multi-factorial approach	1
Note that if UZamm Ltd Zamundan tax resident, may broaden tax base in the future	½
Permanent establishment:	
Recommendation that UZamm Ltd make a branch exemption election	1
State that UniComms plc should not have a fixed place of business	1
Note risk of dependent agent permanent establishment	1
Refer to Article 5(5) and requirement to habitually conclude contracts	1½
Comment why engineers unlikely to be regarded as dependent agents	1
Comment why Executive Sale Director unlikely to be regarded as dependent agent	1
Management and consultancy fees:	
State Article 7(1) should be applicable such that fees only taxable in UK	1
Comment that should result in £6 million reduction in WHT assessable on the basis UniComms plc has no Zamundan permanent establishment	1
Refer to guidance on OECD Model Treaty around non-resident services	1
Royalty:	
State that payment for use of patents should meet the definition of a Royalty under Article 12(3) of the treaty	1
Comment that reduced WHT rate of 5% should be applicable under Article 12(2) of the treaty	1
Calculate reduced WHT assessable applying treaty rate of WHT	1
TOTAL	**20**

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The issues regarding company residence were generally dealt with well by candidates and most correctly identified that UZamm Ltd (UZL) is dual resident company that is likely to be resident in the UK. Most could demonstrate a good understanding of the principles relating to central management and control and place of effective management.

A good number of candidates could identify the risks of Unicomms plc having a permanent establishment in Zamunda. A minority conflated these issues with company residence as opposed to focusing on the activities of UZL.

The withholding tax issues related to payment of the patent royalty were dealt with relatively well. Many candidates identified the applicability of Article 12(3) of the double tax treaty (DTT). Only a small number of candidates were able to determine that no withholding tax should apply to payment of the management and consultancy fees in view of Unicomms plc having the sole right to tax business profits under Article 7(1) of the DTT.

Few candidates pointed out that a branch exemption election could be usefully made by UZL, but most highlighted the potential for double tax relief.

13. OLYMPIAN PLC

Delta Shopping Centre

- The transfer of the shopping centre will be treated as being a ‘nil gain/nil loss’ transaction, as both companies are part of the same chargeable gains group. A chargeable gains group comprises the parent (‘principal company’) and its 75% subsidiaries or sub-subsidiaries, provided that the subsidiaries and sub-subsidiaries are also 51% economic subsidiaries of the principal company. As a result the base cost for Titan Delta 2 Ltd will be the original cost paid by Titan Delta Ltd for the Delta Shopping Centre plus accrued indexation from the date of purchase in March 2001 to December 2017.

- The receipt of the dividend by Titan plc will be exempt from Corporation Tax as it is received from a controlled subsidiary.

- Normally a ‘de-grouping charge’ arises where, following a ‘nil gain/nil loss’ intra-group transfer, the transferee company leaves the capital gains group within six years of that transfer. However, on the disposal of Titan Delta Ltd by Titan plc, there is no de-grouping charge as Titan Delta Ltd and Titan Delta 2 Ltd leave the group at the same time (the original intra-group transfer having been between the same two companies).

- The basic chargeable gain on disposal of Titan Delta Ltd by Titan plc will therefore be:

	£ million
Proceeds	100
Cost	(100)
Chargeable gain	Nil

- The Substantial Shareholdings Exemption will not be available as Titan Delta Ltd is not a trading company.

- However, it is likely that the steps undertaken prior to the sale of the company constitute a ‘value shifting’ arrangement. This applies where there is a disposal by a company of shares in another company and:

  a) Arrangements have been made whereby the value of those shares is materially reduced;

  b) The main purpose (or a main purpose) of the arrangements is to obtain a tax advantage; and

  c) The arrangements do not consist solely of the making of an exempt distribution.

  Consideration will need to be given to whether a main purpose of the arrangements is to avoid tax. This will be the case where the obtaining of the tax advantage is more than an incidental benefit. We should identify whether there are any commercial reasons for the restructuring, or whether the arrangements were undertaken to attempt to reduce the tax liability on the disposal of Titan Delta Ltd.

  Where this applies, the gain is to be calculated as if the consideration for the disposal is increased by such amount as is just and reasonable having regard to the arrangements.

- As a result, the gain would be increased to £88.5 million, calculated as follows:

	£ million
Proceeds	250
Cost	(100)
Indexation allowance (March 2001 – December 2017)	
(278.1-172.2)/172.2 = 0.615 x £100m	(61.5)
Chargeable gain	88.5

- SDLT group relief may be available where the property is transferred between companies that are part of the same 75% group. If the relief applies then the transfer is exempt from SDLT. No de-grouping charge would apply for the same reason given above in relation to the chargeable gains de-grouping charge.

- However, SDLT group relief is denied where the transfer is part of an arrangement for a person to obtain control of the purchaser but not the vendor, or under which consideration for the purchase is provided from outside the group (standard bank loans excepted) or the purchaser is to cease to be a 75% subsidiary of the vendor or a third party. If any of these exceptions apply (and the third exception possibly does given the timing of the transactions), SDLT of £12,489,500 would be due by Titan Delta 2 Ltd on the initial transfer of the property (0% of £150,000 plus 2% of £100,000 plus 5% of £249,750,000).

Chi Shopping Centre

- The chargeable gain on the disposal of the property by Titan Chi Ltd will be:

	£'000
Proceeds	45,000
Cost	(10,000)
Indexation allowance (December 1996 – December 2017)	
(278.1-154.4)/154.4 = 0.801 x £10m	(8,010)
Chargeable gain	26,990

- The dividend of £35 million received by Titan plc will be tax exempt as it is received from a controlled subsidiary.

- The distribution in the liquidation of Titan Chi Ltd will constitute a capital disposal by Titan plc of its shares. The basic allowable loss will be:

	£ million
Proceeds	10
Cost	(40)
Allowable loss (no SSE – non-trading company)	(30)

- However, this arrangement may constitute a depreciatory transaction. This applies where a company (the 'first company') has a holding in another company (the 'second company') and the following conditions are fulfilled:

  a) The holding amounts to 10% of that class of share;

  b) A distribution has been made to the first company in respect of the holding out of pre-acquisition profits; and

  c) The effect of the distribution is that the value of the holding is materially reduced.

  Where this applies, the loss is reduced on a just and reasonable basis. Note that it cannot create a gain. As a result of the prior £35 million dividend, the capital loss will be reduced to nil.

Conclusions

- There may be errors in the tax computations. In particular, the Titan group may have understated its tax liabilities in respect of chargeable gains and Stamp Duty Land Tax.
- It is therefore recommended that confirmation be obtained as to how the transactions have been treated and whether adequate provision has been recognised in the accounts. In addition, consideration should be given to adjusting the purchase price or at least including an indemnity to cover any additional tax.

CIOT MARKING GUIDE

TOPIC	MARKS
Delta Shopping Centre	
Nil gain nil loss transfer	1
No de-grouping charge, as both companies leaving at the same time	1
No SSE, as not trading	½
Distribution exempt	½
Calculation of gain before adjustment	1
Value shifting rules apply	2
Stamp duty – no group relief / calculation	2
Subtotal	8
Chi Shopping Centre	
Gain on the disposal of the property – calculation	1
– Distribution exempt	½
– Loss on liquidation – capital	1
– No SSE, as not trading	½
– Calculation of loss before adjustment	1
– Depreciatory transaction rules apply	2
Subtotal	6
Conclusions / recommendations	1
TOTAL	**15**

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This question was set in the context of two restructuring transactions that were designed to be within the scope of the value shifting and depreciatory transaction rules. As such, the transactions were contrived.

Generally candidates performed well; they were able to analyse the steps undertaken and explain how the chargeable gain rules applied. The most common mistake was concluding there would be a degrouping charge arising in the first scenario, despite the two companies leaving together. There was also a degree of confusion over how the distribution in liquidation should be treated, with only a few candidates able to explain the resulting chargeable gains calculation.

There was a good level of awareness of the value shifting and depreciatory transaction rules, with many candidates identifying that the basic treatment was too good to be true, such that the anti-avoidance rules would be in point, but there was some confusion as to which of the two sets of rules applied in each scenario, which led to slightly muddled answers.

14. THE ARCHER GROUP

1)

From 1 July 2020, intangible fixed assets (IFAs) acquired from an overseas related party are included in the corporate intangibles (IFA) regime even if they were originally created or acquired before 1 April 2002. Thus, any IFAs acquired by Archer UK Ltd from Archer IP Ltd will be dealt with under the IFA regime.

The regime gives deductions for the cost of acquiring IFAs based on the amounts recorded in a company's accounts, subject to certain adjustments. There is no distinction between capital and revenue.

Accounting

Archer UK Ltd recognised the individual assets and liabilities acquired from Archer IP Ltd in its accounts at their combined value of £150 million. The purchase price of the whole business acquired exceeds the aggregate value of those assets and liabilities by £1,000 million (£1,150m less £150m). Archer UK Ltd will therefore also recognise goodwill of £1,000 million.

Valuation

Archer UK Ltd and Archer IP Ltd are under common control and are therefore related parties. Alternatively, they are related companies by virtue of being in the same group. The IFA purchase is treated for tax purposes as having taken place at market value (MV).

The patents and trademarks are already recognised at MV per the expert report. The overall purchase price of the business was also at MV. By implication, therefore, the goodwill is recognised at its MV of £1,000 million (£1,150m less £150m).

Eligible assets

The patents and registered trademarks are eligible for writing-down relief.

Goodwill acquired on or after 1 April 2019 is eligible for writing-down relief where it is acquired as part of a business acquisition and 'qualifying IP assets' are also acquired. The amount of goodwill that attracts relief is limited to six times the value of the qualifying IP assets purchased as part of the business acquisition. Qualifying IP assets include patents but not trademarks. Here the qualifying assets are £100 million so only £600 million (£100 million x 6) of the goodwill will attract writing-down relief.

Writing-down relief

Archer UK Ltd's deductions for the year ended 31 December 2024 are as follows:

- For the patents, relief follows the accounts: £100m x 10% p.a. = £10 million.

- The registered trademarks are not amortised in the accounts. The company may maximise its deductions by electing irrevocably for fixed rate relief at 4% p.a.: £50m x 4% = £2 million.

- £600 million of goodwill will attract writing-down relief at a fixed rate of 6.5% p.a.: £600m x 6.5% = £39 million.

The remaining £400 million of the goodwill MV may be deducted in the calculation of the gain or loss on any future disposal of the goodwill but must be treated as a non-trading debit.

Tutorial Note:

The amount of writing down allowances for IFAs for tax purposes usually follows the accounts. If a claim is made for a fixed writing down allowance under CTA 2009, s.730 (a 4% claim) or CTA 2009, s.879B (a goodwill claim at 6.5%) then this is adjusted for a short accounting period (where this is relevant) but not where IP is acquired during an accounting period.

As regards the treatment of the patents in this answer, it has been assumed that the accounts have calculated amortisation for a full year at a rate of 10% per annum. It may also be acceptable to assume that only one-half of this amount has been included in the accounts as the patents were acquired by Archer UK Ltd on 1 July 2024.

As regards the registered trademarks and the goodwill, amortisation is calculated using the fixed rates of 4% and 6.5% respectively. As Archer UK Ltd's accounting period is 12 months long, the amount of writing down allowance in both cases has not been restricted further (even though the assets were acquired on 1 July 2024). It is assumed that the acquisition of the trade of Archer IP Ltd has not triggered the start of a new AP and Archer UK Ltd trade, as expanded, merely continues.

2)

Y/E 31 December 2024

Because the registered trademarks are not amortised in Archer UK Ltd's accounts, tax deductions are received before debits are recognised in its income statement. This is accounted for by recognising a deferred tax liability (DTL) equal to the temporary difference between the book value of the trademarks and their tax basis, multiplied by the 25% CT rate.

The temporary difference is £2 million (£50m book value less £48m TWDV). At a 25% CT rate this gives rise to a DTL of £500,000 which the company should recognise as follows:

	£
DR income statement tax charge	500,000
CR DTL on balance sheet	500,000

Y/E 31 December 2025

Archer UK Ltd impairs the registered trademarks to zero, recognising a loss of £50 million in its income statement.

For tax purposes, the registered trademarks continue to be written down at 4% p.a. As at 31 December 2025, they will have a tax written down value of £46 million yet to be relieved.

The company has now recognised income statement deductions in advance of the corresponding tax deductions. It should reverse out the DTL carried on its balance sheet as follows:

	£
DR DTL on balance sheet	500,000
CR income statement tax charge	500,000

It should then recognise a deferred tax asset (DTA) reflecting the value of the tax deductions it will receive for the trademarks in the future, but only to the extent that it is probable those deductions will be relieved against future profits.

If it is probable all the deductions will be relieved, the DTA will be £46 million x 25% CT rate = £11,500,000:

	£
DR DTA on balance sheet	11,500,000
CR income statement tax charge	11,500,000

Archer UK Ltd's accounts should reconcile its current tax charge with its accounting profit, explaining that the DTLs/DTAs arise because tax rules recognise deductions at a different time to the accounts.

CIOT MARKING GUIDE

TOPIC	**MARKS**
1. Tax treatment of business acquisition	
– Which regime applies - pre-FA02 rule not relevant	1
– Treatment of IFAs follows the accounts, subject to adjustments	½
– No capital/revenue distinction	½
– Purchase price exceeds asset value therefore goodwill recognised	1
– Related parties therefore market value rule applies	1
– Correct application of market value rule	½
– Goodwill eligible because acquired after 1/4/19	½
– Goodwill capped at 6x qualifying IP	1
– Correctly identifying qualifying IP and applying cap	1
– Rates of writing-down relief, including 4% fixed rate election	1½
– Treatment of goodwill value in excess of cap	½
Sub-total	9
2. Accounting presentation of tax relief	
Deferred tax treatment:	
y/e 31 December 2024	
– Tax deduction given in advance of a/c debits	½
– Accounted for with DTL	1
– Correct calculation of DTL	½
– Correct accounting entries	½
y/e 31 December 2025	
– accounting debits now in advance of tax deductions	½
– reversal of b/fwd DTL and correct accounting entries	½
– correct calculation of new DTA resulting from impairment and accounting entries	1
– principle for recognition of DTA	1
– reconciliation in notes to accounts	½
Sub-total	6
TOTAL	**15**

Examiner's report:
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This question involved a multinational group which transferred an IP-rich business to the UK from overseas. The first requirement asked about the relief available under the intangible fixed assets (IFA) regime as a result of the transaction, while the second requirement asked about the deferred tax treatment of trademarks acquired by the UK entity.

Many candidates failed to identify that because the transferor company was non-UK resident, the transfer of assets to the UK should not be treated as a tax neutral intra-group transfer. This led to difficulties in correctly working out the IFA relief available, although follow-through credit was given for relevant explanations.

Candidates generally applied the right treatment to the patents and trademarks. Many candidates also demonstrated understanding of the specific rules for post-1 April 2019 goodwill, sometimes with minor errors in the application of the qualifying IP cap or the 6.5% fixed writing-down rate. Some candidates spent time discussing the treatment of assets other than the IFAs, which was not required.

Many candidates correctly explained the role of deferred tax in accounting for timing differences between the accounting and tax measures of profit, and many produced reasonable calculations of the deferred tax position in relation to the trademarks for one or both years. Relatively few explained the accounting entries that would be necessary, or identified the need to assess the likelihood of future profits when determining whether a deferred tax asset should be recognised. Some candidates attempted to calculate deferred tax entries for assets other than the trademarks, which was not required.

15. TRIPLETREE GROUP

Definition

A controlled foreign company (CFC) is a company which is not resident in the UK and is controlled by a UK resident person or persons.

Control is:

- the power to secure the affairs of the company are conducted as the persons wish,
- a shareholding of more than 50%, or
- one UK shareholding of 40% and non-UK holders have less than 55%.

All the non-resident companies apart from Tripletree (Deo) Ltd are controlled by UK persons as they are 100% owned by Tripletree (UK) Ltd. They are all therefore CFCs apart from Tripletree (Deo) Ltd.

When a company is a CFC, it is possible that the profits it makes will be taxable in UK. If the profits are taxable, they will be taxed at the main UK Corporation Tax rate, but the company should get credit for any foreign tax paid.

The profit can be apportioned to the company holding the shares based on its percentage interest in the CFC.

However, there are exemptions, and other tests commonly known as gateway tests, which may eliminate the CFC charge.

The CFC legislation does not specify an order between the exemptions and the gateways and companies can consider either method first.

Exemptions

1) Exempt period. This is a temporary exemption which can apply in the 12-month period when the company first becomes a CFC. As Tripletree (UK) Ltd has owned all the companies for more than five years this does not apply to any of the CFCs.

2) Excluded territories. Companies which are resident in certain territories can be exempt subject to meeting certain criteria. The criteria include that the company must carry on a business in the excluded territory and that the company must be liable to tax in the relevant territory. A list of the excluded territories is available online at gov.uk but none of the countries are on that list.

3) Low profits exemption. This applies if a company's accounting profits, or taxable total profits are less than £50,000. It also applies where accounting profits or total profits are less than £500,000 and not more than £50,000 is non-trading income. This exemption should apply to Tripletree (Ena) Ltd, and no CFC apportionment will be necessary for this company.

4) Low profit margin exemption. Where a company's profit margin is less than 10%, this exemption can apply. The operating expenditure brought into account in determining accounting profits for the relevant period is used as the basis of calculating the profit margin for the purposes of this exemption. This exemption should apply to Tripletree (Tesera) Ltd since it charges cost plus 7%.

5) Tax exemption. If the tax paid in the territory where the CFC is resident is more than 75% of the UK Corporation Tax that would be paid if the CFC were UK resident, this exemption may apply. As the rate of corporate taxes in Trialand is 22% then this exemption applies to Tripletree (Tria) Ltd.

None of the exemptions apply to Tripletree (Pendeland) Ltd. It is necessary to consider the gateway tests to identify if any profits need to be apportioned to Tripletree (UK) Ltd.

<u>The five gateway tests</u>

The above exemptions look at a CFC as an entity and therefore if they apply, all the company's profits will be exempt. The gateway tests can apply to some or possibly all of a non-exempt CFC's profits. For profits of a CFC to be apportioned to Tripletree (UK) Ltd, they must pass through at least one of five gateways. However, as Tripletree (Pende) Ltd only had profits from the provision of management and technology services to other group companies, the following four do not apply:

- non-trade finance profits,
- trade finance profits,
- captive Insurance, and
- solo consolidation.

The fifth gateway is 'profits attributable to UK activities'. This gateway does not apply if any of the following conditions apply:

1) The motive test - there are no assets held or risks undertaken with the main purpose of reducing or eliminating UK tax.

2) The company has no assets managed from the UK and bears no UK risks.

3) The company can operate effectively without any assistance from the UK.

4) The company's profits are only from property or from non-trading loan relationships.

<u>Significant people functions</u>

Significant people functions are the key business and management functions relating to the control of assets and the management of risk. The significant people functions should be considered in the context of the business, and would involve functions that require active decision-making regarding the management of business risks and business asset. Any CFC profits for which the related significant people functions are undertaken outside the UK will not be subject to the CFC charge.

<u>Safe harbour conditions</u>

This gateway also does not apply to the company's trading profits if all of the following 'safe harbour' conditions are met.

1) Business premises. The company must have a physical presence in the country of residence. This must be where its main activities are carried out and have a degree of permanence (usually more than twelve months).

2) The company must derive no more than 20% of its relevant trading income directly or indirectly from the UK.

3) The company must not incur costs of management in the UK which exceed 20% of its total costs of management expenses.

4) The company must not derive income from intellectual property which was transferred from the UK within the last six years.

5) The company must not derive more than 20% of its income from the export of goods from the UK.

Tripletree (Pende) Ltd has offices in Pendeland and most of the other conditions appear to be met, although it is unclear how much of the company's trading income comes from charges to the group's UK companies.

However, all profits of Tripletree (Pende) Ltd are from management services carried out in Pendeland. There does not appear to be any significant people functions carried out in the UK and the company does not manage and control any UK assets or risks.

Therefore, the profits of the company do not pass through any of the gateways and there will be no need to apportion any of those profits to Tripletree (UK) Ltd.

MARKING GUIDE

TOPIC	**MARKS**
Definition of a CFC	1
Meaning of control	1
Identify the CFCs (all but Deo)	1
Apportionment subject to exemption and gateway tests	1
Subtotal	4
Exempt period	½
Excluded territories	1
Low profits exemption Tripletree (Ena) Ltd	1
Low profits margin exemption Tripletree (Tesera) Ltd	1
Tax exemption (Tesera)	1
No exemptions apply to Pende	½
Subtotal	5
The four gateway tests that do not apply to Pende	2
Subtotal	2
UK activities – four tests	1
The four tests	2
SPF define and explain	1
Safe harbours	1
Business premises	1
Four other safe harbours	2
Subtotal	8
Conclusion	1
TOTAL	**20**

Examiner's report:
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This question concerned a UK headed multi-national telecommunication group with interests in a number of non-UK resident companies. Candidates were provided with information about shareholdings, activities, and financial data, and were required to explain how the UK's Controlled Foreign Companies legislation applied to the group.

The question was answered well for the most part. Most candidates correctly identified which of the overseas companies came within the legislation, and where the appropriate exemptions applied. None of the exemptions applied to one of the companies and therefore the profit gateways needed to be considered. In general, candidates dealt with the exemption rules much better than the gateway rules.

The main area where some candidates lost marks was consideration of what constitutes control for the purposes of this legislation, with candidates confusing the 25% shareholding required to be subject to apportionment, and the control tests.

Many candidates correctly stated that only one of the exemptions needed to apply to a company but having identified one such exemption, then went on to discuss why the other exemptions did not apply, which was not required.