Tolley® Exam Training

CTA ADVANCED TECHNICAL PAPER

TAXATION OF INDIVIDUALS

PRE REVISION QUESTION BANK

FA 2020

May and November 2021 Sittings

PQ920

Tolley® Tax intelligence from LexisNexis®

INTRODUCTION

This Pre Revision Question Bank for the Advanced Technical Individuals paper contains 15 exam standard questions (all with answers updated to Finance Act 2020).

Using this question bank

All the CTA exams, with the exception of the Awareness paper, are **3.5 hours** in length.

We recommend you **allocate 1.9 minutes per mark** which allows for 10 minutes initial reading time and a further 10 mins in total for final reviews (best done as you finish each question).

10 mark question = 19 minutes
15 mark question = 28.5 minutes
20 mark question = 38 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 our 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** yourself.

Doing "proper" answers also gives you a good idea of how long an exam standard answer will take you to type.

Reviewing your answers

It is essential to read through your answer when you have finished typing it. 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 our 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? 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?

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

You may be able to make some small corrections at this review stage – you can use the spell check function to correct any spelling mistakes and 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.

The presentation and higher skills (PHS) marks are given for "clarity of explanation" so consider giving your answer to somebody else to read to see whether they can understand the points you are trying to make as a test of your PHS skills. A good question to ask yourself is would the reader pay money for your advice?

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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2	Mr Carraway	SEIS relief
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5	Mr and Mrs Gibson	Property income inc. FHL
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8	Sue McDonnel	Briefing note and CGT comp; share disposals, BADR on assoc disposal
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15	Simon	Calculation of employment income incl unapproved options

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INCOME TAX - RATES AND THRESHOLDS

	2020/21	2019/20
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	7.5	7.5
Dividend upper rate	32.5	32.5
Dividend additional rate and trust rate for dividends	38.1	38.1
Thresholds	£	£
Savings income starting rate band	1 – 5,000	1 – 5,000
Basic rate band	1 – 37,500	1 – 37,500
Higher rate band	37,501 – 150,000	37,501– 150,000
Dividend allowance	2,000	2,000
Personal Savings Allowance		
– Taxpayer with basic rate income	1,000	1,000
– Taxpayer with higher rate income	500	500
– Taxpayer with additional rate income	Nil	Nil
Standard rate band for trusts	1,000	1,000
Scottish Tax Rates(1)	%	%
Starter rate	19	19
Scottish basic rate	20	20
Intermediate rate	21	21
Higher rate	41	41
Top rate	46	46
Scottish Tax Thresholds(1)	£	£
Starter rate	1 – 2,085	1 – 2,049
Scottish basic rate	2,086 – 12,658	2,050 – 12,444
Intermediate rate	12,659 – 30,930	12,445 – 30,930
Higher rate	30,931 – 150,000	30,931 – 150,000
Top rate	150,000 +	150,000 +

INCOME TAX - RELIEFS

	2020/21	2019/20
	£	£
Personal allowance(2)	12,500	12,500
Married couple's allowance(3)	9,075	8,915
– Maximum income before abatement of relief - £1 for £2	30,200	29,600
– Minimum allowance	3,510	3,450
Transferable Tax allowance for married couples and civil partners(4)	1,250	1,250
Blind person's allowance	2,500	2,450
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	100,000	100,000
Social investment relief	1,000,000	1,000,000

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

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ISA limits	2020/21	2019/20
Maximum subscription:	£	£
'Adult' ISAs	20,000	20,000
Junior ISAs	9,000	4,368

Pension contributions

	Annual allowance(1)	Lifetime allowance	Minimum pension age
	£	£	
2019/20	40,000	1,055,000	55
2020/21	40,000	1,073,100	55

Basic amount qualifying for tax relief £3,600

Note: (1) The annual allowance is tapered by £1 for every £2 of adjusted income above £240,000 (2019/20: £150,000) for individuals with threshold income above £200,000 (2019/20: £110,000). It cannot be reduced below £4,000 (2019/20: £10,000).

Employer Supported Childcare

Exemption – basic rate taxpayer(1)	£55 per week	£55 per week

Note: (1) 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(1)	First 10,000 business miles	45p
	Additional business miles	25p
Motorcycles		24p
Bicycles		20p
Passenger payments		5p

Note: (1) For NIC purposes, a rate of 45p applies irrespective of mileage.

INCOME TAX - BENEFITS

Car benefits – 2020/21

Emissions	Electric range (miles)	Car benefit %(1) Pre 6 April 2020 registration	Car benefit %(1) On/after 6 April 2020 registration	
0g/km	N/A	0%	0%	
1-50g/km	>130	2%	0%	
1-50g/km	70-129	5%	3%	
1-50g/km	40-69	8%	6%	
1-50g/km	30-39	12%	10%	
1-50g/km	<30	14%	12%	
51-54g/km		15%	13%	
55-59g/km		16%	14%	
60-64g/km		17%	15%	
65-69g/km		18%	16%	
70-74g/km		19%	17%	
75g/km or more		20%	18%	+ 1% for every additional whole 5g/km above 75g/km
160g/km or more		37%		
170g/km or more			37%	

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Car benefits – 2019/20

Emissions	Car benefit %[1]
0 – 50 g/km	16%
51 – 75 g/km	19%
76 – 94 g/km	22%
95 g/km or more	23% + 1% for every additional whole 5g/km above threshold
165 g/km or more	37%

Note: (1) 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	**2020/21**	**2019/20**
	£	£
	24,500	24,100

Van benefits	**2020/21**	**2019/20**
	£	£
No CO_2 emissions	2,792	2,058
CO_2 emissions > 0g/km	3,490	3,430
Fuel benefit for vans	666	655

INCOME TAX - CHARGES

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

	2020/21	**2019/20**
Official rate of interest	2.25%	2.5%

INCOME TAX - SIMPLIFICATION MEASURES

Allowances

	2020/21	**2019/20**
	£	£
'Rent-a-room' limit	7,500	7,500
Property allowance/Trading allowance	1,000	1,000

Flat Rate Expenses for Unincorporated Businesses

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

Cash Basis for Unincorporated Businesses	£
Turnover threshold to join scheme	150,000
Turnover threshold to leave scheme	300,000

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CAPITAL ALLOWANCES

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

Notes: (1) On first £1,000,000 of investment in plant & machinery (not cars) from 1 January 2019 to 31 December 2020 (£200,000 from 1 January 2021) (£200,000 before 1 January 2019).

(2) The main pool rate applies to cars with CO_2 emissions of not more than 110 g/km (from April 2021 not more than 50g/km).

(3) The special pool rate applies to cars with CO_2 emissions greater than 110 g/km (from April 2021 greater than 50g/km). The special pool rate was 8% before 6 April 2019 (1 April 2019 for companies).

(4) The SBA rate was 2% prior to April 2020.

100% First year allowances available to all businesses

1) Capital expenditure incurred by a person on research and development.
2) New zero-emission goods vehicles (until April 2025).
3) New cars if the car either emits not more than 50 g/km of CO_2 (0 g/km of CO_2 from April 2021) or it is electrically propelled (until April 2025).
4) Electric vehicle charging points (until April 2023).

NATIONAL INSURANCE CONTRIBUTIONS

Class 1 limits	**2020/21**			**2019/20**		
	Annual	**Monthly**	**Weekly**	**Annual**	**Monthly**	**Weekly**
Lower earnings limit (LEL)	£6,240	£520	£120	£6,136	£512	£118
Primary threshold (PT)	£9,500	£792	£183	£8,632	£719	£166
Secondary threshold (ST)	£8,788	£732	£169	£8,632	£719	£166
Upper earnings limit (UEL)/ Upper secondary threshold for under 21 (UST)(1) Apprentice upper secondary threshold for under 25 (AUST)(2)	£50,000	£4,167	£962	£50,000	£4,167	£962

	2020/21	2019/20
Class 1 primary contribution rates		
Earnings between PT and UEL	12%	12%
Earnings above UEL	2%	2%
Class 1 secondary contribution rates		
Earnings above ST (1)(2)	13.8%	13.8%

Notes: (1) Rate of secondary NICs for employees < age 21 on earnings between ST&UST is 0%.

(2) Rate of secondary NICs for apprentices < age 25 on earnings between ST&AUST is 0%.

	2020/21	**2019/20**
Employment allowance		
Per year, per employer	£4,000	£3,000
Class 1A contributions	13.8%	13.8%
Class 1B contributions	13.8%	13.8%
Class 2 contributions		
Normal rate	£3.05 pw	£3.00 pw
Small profits threshold	£6,475 pa	£6,365 pa
Class 3 contributions	£15.30 pw	£15.00 pw
Class 4 contributions		
Annual lower profits limit (LPL)	£9,500	£8,632
Annual upper profits limit (UPL)	£50,000	£50,000
Percentage rate between LPL and UPL	9%	9%
Percentage rate above UPL	2%	2%

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OTHER PAYROLL INFORMATION

Statutory maternity/adoption pay		First 6 weeks @ 90% of AWE Next 33 weeks @ the lower of £151.20 and 90% of AWE
Statutory shared parental pay /paternity pay/parental bereavement pay		For each qualifying week, the lower of 90% of AWE and £151.20
Statutory sick pay		£95.85 per week
Student Loan	Plan 1:	9% of earnings exceeding £19,390 per year (£1,615.83 per month/ £372.88 per week)
	Plan 2:	9% of earnings exceeding £26,575 per year (£2,214.58 per month /£511.05 per week)
Postgraduate Loan		6% of earnings exceeding £21,000 per year (£1,750 per month/£403.88 per week)

National living/minimum wage (April 2020 onwards)

Category of Worker	Rate per hour £	Category of Worker	Rate per hour £
Workers aged 25 and over	8.72	18–20 year olds	6.45
21–24 year olds	8.20	16–17 year olds	4.55
Accommodation Offset	£8.20 per day		
		Apprentices	4.15

HMRC INTEREST RATES

Late payment interest	2.6%
Underpaid corporation tax instalments interest	1.1%
Repayment interest	0.5%
Credit interest	0.5%

CAPITAL GAINS TAX

	2020/21	2019/20
Annual exempt amount for individuals	£12,300	£12,000

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 28% if the gain is in respect of a residential property

Business Asset Disposal(1) relief	**2020/21**	**2019/20**
Relevant gains (lifetime maximum) (2)	£1 million	£10 million

Investors' relief

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

Note: (1) Formerly called entrepreneurs' relief
(2) For qualifying disposals made before 11 March 2020 the lifetime limit was £10 million.

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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

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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CORPORATION TAX

Financial year	**2020**	**2019**	**2018**
Main rate	19%	19%	19%

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.

VALUE ADDED TAX

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

Limits	**From 1.4.20**	**From 1.4.19**
	£	£
Annual registration limit	85,000	85,000
De-registration limit	83,000	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 June 2020)

Engine size	**Petrol**	**LPG**	**Engine size**	**Diesel**
1400cc or less	10p	6p	1600cc or less	8p
1401cc to 2000cc	12p	8p	1601cc to 2000cc	9p
Over 2000cc	17p	11p	Over 2000cc	12p

Electricity rate 4p

OTHER INDIRECT TAXES

	2020/21	**2019/20**
Insurance premium tax(1)		
Standard rate	12%	12%
Higher rate	20%	20%

Tobacco products duty	**From 11.3.20**	**From 29.10.18**
Cigarettes	16.5% x retail price + £237.34 per thousand cigarettes (or £305.23 per thousand cigarettes (2))	16.5% x retail price + £228.29 per thousand cigarettes (or £293.95 per thousand cigarettes (2))
Cigars	£296.04 per kg	£284.76 per kg
Hand-rolling tobacco	£253.33 per kg	£234.65 per kg
Other smoking/chewing tobacco	£130.16 per kg	£125.20 per kg
Tobacco for heating	£243.95 per kg	£234.65 per kg(3)

Notes: (1) Premium is tax inclusive ($^{3}/_{28}$ for 12% rate and $^{1}/_{6}$ for 20% rate).
(2) The £305.23/£293.95 per thousand cigarettes is a minimum excise duty (if higher than the first calculation).
(3) From 1.7.19.

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INHERITANCE TAX

Death rate	40%(1)	**Lifetime rate**	20%

Note: (1) 36% rate applies where 10% or more of the deceased person's net chargeable estate is left to charity.

Nil rate bands

6 April 1996 – 5 April 1997	£200,000	6 April 2003 – 5 April 2004	£255,000
6 April 1997 – 5 April 1998	£215,000	6 April 2004 – 5 April 2005	£263,000
6 April 1998 – 5 April 1999	£223,000	6 April 2005 – 5 April 2006	£275,000
6 April 1999 – 5 April 2000	£231,000	6 April 2006 – 5 April 2007	£285,000
6 April 2000 – 5 April 2001	£234,000	6 April 2007 – 5 April 2008	£300,000
6 April 2001 – 5 April 2002	£242,000	6 April 2008 – 5 April 2009	£312,000
6 April 2002 – 5 April 2003	£250,000	6 April 2009 – 5 April 2021	£325,000

Residence nil rate bands(2)

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 2021	£175,000

Note: (2) 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 1.4.20**	**From 1.4.19**
>£0.5m - ≤ 1m	£3,700	£3,650
> £1m - ≤ 2m	£7,500	£7,400
> £2m – ≤ 5m	£25,200	£24,800
> £5m – ≤ 10m	£58,850	£57,900
> £10m – ≤ 20m	£118,050	£116,100
> £20m	£236,250	£232,350

STAMP DUTY/SDRT

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

2021

TAX TABLES

STAMP DUTY LAND TAX

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

Basic Rate %(1)(2)(3)	Higher Rate %(1)(2)	Residential(1)(2)(3)	Non-Residential
0	3	£0 - £125,000	£0 - £150,000
2	5	£125,001 - £250,000	£150,001 - £250,000
5	8	£250,001 - £925,000	£250,001 +
10	13	£925,001 - £1,500,000	N/A
12	15	£1,500,001 +	N/A

Notes: (1) The basic rates are increased by 3% where the purchase is of an additional residential property for individuals (see column 2 for the rates that apply). Companies and trusts pay the additional 3% on all purchases of residential properties, subject to note 2 below.

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

(3) First-time buyers purchasing a single dwelling as their only or main residence may benefit from a reduced rate. (This includes qualifying shared ownership properties.) SDLT will not be due on properties up to £300,000. For homes up to £500,000, SDLT will be payable on £200,000 at 5%. Homes bought for more than £500,000 will incur the rates as per column 1 of the table above.

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

Rate (%)	Net present value of rent	
	Residential	Non-residential
Zero	Up to £125,000	Up to £150,000
1%	Excess over £125,000	£150,001-£5m
2%		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) An additional amount of tax equal to 4% of the relevant consideration applies broadly to purchases of an additional dwelling by individuals and trusts (over which the beneficiary has substantial rights) and to purchases of a dwelling by certain businesses, companies and 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(1)
	Non-residential
Zero	Up to £150,000
1%	£150,001 to £2,000,000
2%	£2,000,001+

Note: (1) Residential leases are generally exempt

QUESTIONS

1. On 4 January 2021, Roofix Ltd, was put into liquidation. Sheena Steeple owned 10,000 ordinary £1 shares in the company. 5,000 of these shares were acquired in 1990 on her 21st birthday as a gift from her mother when their value was £2,000. No gift relief was claimed at that time. Sheena subscribed for the balance of 5,000 shares in 2006 when the company raised capital by means of a new share issue. These shares cost £8,000. The liquidator has informed her that she will receive no proceeds following the liquidation of the company.

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

   In addition, Sheena loaned the company £7,500 in 2017 to allow repairs to be carried out on the company's warehouse, and this loan will also not be repaid.

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

   1) In May 2020 Sheena sold her Rolex watch to her sister. She had purchased this in the Far East in 2004 for £9,000, but her sister would only give her the current market value of the watch which has been agreed with a specialist watch dealer as £3,000.

   2) On 10 June 2020 Sheena sold her holding of 6,000 £1 ordinary shares in Windowbox Ltd, a UK trading company, to a third party for £87,000. There are 100,000 shares in issue. She had purchased the shares in 2007 for £58,000.

   3) In July 2020 Sheena sold her vintage sports car for £65,000, which she had bought in 1992 for £10,000.

   Sheena's income for the year ended 5 April 2021 comprised her director's fees from Roofix Ltd of £20,000 (from which PAYE of £2,600 has been deducted) together with net taxable income from letting a furnished holiday cottage of £4,000. She had only commenced as a director of the company in April 2020 when she had returned to work after raising her family.

   You also complete a tax return on behalf of Sheena's husband Bill. Bill also holds 10,000 shares in Roofix Ltd, which were originally acquired by Sheena as part of the subscription in 2006. She subscribed £16,000 for these 10,000 shares (in addition to the 5,000 shares which she retained) and transferred them to Bill in January 2011 when the company was doing very well and the holding of 10,000 shares was worth £50,000.

   Aged 61, Bill is somewhat older than Sheena and his only income for the year ended 5 April 2021 was a company pension of £15,000 from which tax of £500 has been deducted. In the year to 5 April 2020 his total earnings were £50,000 with PAYE deducted of £9,403.

   In 2020/21 Bill realised other capital gains of £5,000, after deducting his annual exempt amount.

Requirement:

1) **Calculate, with explanations where necessary, Sheena's Income Tax and Capital Gains Tax liability for the year ended 5 April 2021.** (17)

2) **Explain Bill's Income Tax and Capital Gains Tax position for 2020/21 and explain how the loss on the shares in Roofix Ltd can be used.** (3)

Total (20)

2. Mr Carraway is considering the following potential investment opportunities.

The first opportunity is to invest £50,000 in a company, Newpod Ltd, which has been set up by a business associate. The associate has confirmed that Newpod Ltd will be a qualifying company for the purposes of SEIS, and the shares issued will qualify for SEIS relief. As part of the offer, Mr Carraway has been invited to become a director and attend the monthly board meetings for which he will receive modest remuneration.

The second opportunity is to invest through an SEIS fund arrangement whereby suitable investors are sought and the funds are invested into various qualifying companies through a fund manager. Mr Carraway has indicated that he is keen to invest in one of these funds, but has suggested that he may sell any shares purchased, or give them to his wife, in the following year.

He has also mentioned that he has recently set up a company, Hulleaf Ltd, which to date has only issued one subscriber share to Mr Carraway. Before trading commences, it is planned that further shares will be issued to raise capital and these shares will be issued equally to Mr Carraway and two unconnected individuals. Mr Carraway would like his share of the funding to be a treated as an SEIS investment.

Mr Carraway has invested widely in the past, including some property investments, but has not to date made any qualifying SEIS investments. In July 2020, he sold one of his property investments, a holiday home, for £425,000. This produced a chargeable capital gain of £78,500. His taxable income during 2020/21 was £162,000. His income in 2021/22 is expected to be similar to 2020/21.

Requirement:

Explain, in overview, the tax advantages for an investor of the Seed Enterprise Investment Scheme (SEIS) and applying the SEIS rules to the potential investment opportunities identified, suggest any relevant planning points.

(15)

Assume you are writing in May 2021.

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

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

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

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

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

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

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

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

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

Requirement:

Explain the Capital Gains Tax and Income Tax implications of each of the three proposals for the sale of the farm. (20)

4. Gianlucca Balducci is an Italian domiciled individual.

He came to the UK to take up permanent employment on 1 September 2017. His only previous visit to the UK was a full-time extended secondment to work in the UK subsidiary of his Italian employer from 3 September 2010 to 23 December 2015. During this period he elected to use the remittance basis.

Mr Balducci's P60 from his UK employer shows gross salary for 2020/21 of £65,000 with tax deducted under PAYE of £19,507. His P11D shows that he received benefits worth £11,549 in the year.

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

During 2020/21 he decided that, as he wanted to stay in the UK until retirement, he would sell the flat he owns in Rome. He has never lived in this flat; it has always been rented to tenants. The flat was sold for 495,000 Euros on 31 March 2021. The gain on the flat was 215,000 Euros and net rental income for 2020/21 was 33,600 Euros.

Mr Balducci had one foreign bank account which is held at a branch in Italy. On 1 July 2018 he transferred 60,000 Euros from this account to a new bank account in Jersey. He nominated as much as possible of the transfer to be capital. He then transferred the balance on the Jersey account to his UK bank account on 1 July 2020 to fund a prospective property purchase. Immediately before the cleansing transfer, the balance on the Italian account was 255,098 Euros which comprised:

Tax Year	Euros	
2017/18	158,100	Italian employment income 74,555 Euros. Bank interest of 2,345 Euros (no Italian tax was deducted at source). Inheritance of 50,000 Euros. Rental income of 31,200 Euros.
2018/19 (to 1 July 2018)	96,998	Bank interest of 875 Euros (no Italian tax was deducted at source). Rental income of 11,200 Euros. Proceeds of 84,923 Euros from the sale of Italian shares acquired in 2001 (gain of 67,596 Euros).
Balance at 1 July 2018	255,098	
Transfer to UK	(60,000)	
C/fwd	195,098	

He received total interest on this account of 2,400 Euros for the 2020/21 tax year, which was paid gross.

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

Requirement:

Calculate the UK Income Tax and Capital Gains Tax payable by Mr Balducci for 2020/21, assuming that he makes any beneficial claims or elections. You should explain any claims or elections that are made and can ignore the effect of any double taxation relief that may be available. (20)

5. Mr and Mrs Gibson let residential properties in the UK and in the EEA. Most lettings are to holidaymakers.

They have provided you with the following schedule which sets out the number of days that each property has been let to holidaymakers plus the income received:

	Days Let 2020/21	Days Let 6.4.21 to 31.8.21	Income received 2020/21 £
1 The Hawthorns	61	37	13,000
2 The Hawthorns	80	34	11,400
3 The Hawthorns	55	40	11,900
4 The Hawthorns	61	75	12,500
The Lodge	50	12	4,000
The Gatehouse	-	-	-
Villa in France	95	35	15,000
Villa in Spain	106	21	18,000
Villa in Italy	80	-	14,000

The figures shown above do not include any lettings to guests for periods which exceeded two weeks.

In addition to the above, you have been provided with the following information:

The Hawthorns

1) Numbers 1-4 The Hawthorns are four identical properties built by Mr and Mrs Gibson which were first let as furnished holiday accommodation on 1 September 2020. The properties cost £450,000 to build.

2) During 2020/21, in addition to the lettings noted above, Number 3 was let to a family for 30 days who then stayed for a further 7 days due to unexpected illness. Additional rental of £1,100 was received from this letting of 37 days. Number 4 was let to a family for an extended holiday of 42 days for £2,000.

3) Personal funds were used to build the four properties. The Gibsons decided to release equity from the properties in December 2020 and secured a mortgage of £200,000 against all four properties, at which time they were worth a total of £600,000. They have used these funds to build an extension on their own home. They incurred mortgage interest costs of £1,500 under this mortgage in the period to 5 April 2021.

4) They also paid insurance costs of £400, utility costs of £5,000 and cleaning costs of £2,000 in 2020/21 across the four properties. They first started advertising the properties on 10 April 2020 and incurred expenditure of £5,000 in relation to this.

5) Capital expenditure of £29,500 in respect of furniture for these properties was incurred in 2020/21.

The Lodge

1) This property qualified as furnished holiday accommodation in 2019/20. Additional income of £3,000 was received in 2020/21 as the property was let to a retired couple for a period of six months.

2) Insurance costs of £300, advertising costs of £1,000, utility costs of £700 and cleaning costs of £500 were paid in 2020/21.

The Gatehouse

1) The Gatehouse is let unfurnished on a short assured tenancy and the monthly rent payable from 6 April 2020 was £500 per month, payable on the 6th of each month. The tenants were having financial problems and did not pay any rent from 6 May 2020 to 5 August 2020. Mr and Mrs Gibson agreed to reduce the rent payable to £450 per month from 6 August 2020 and to accept a payment of £30 per month towards the outstanding rent. The tenants have adhered to this agreement.

2) Repairs were carried out to the roof of the property in March 2021. The cost of these amounted to £2,000 and Mr and Mrs Gibson received an invoice for this in June 2021 which they paid in July 2021.

3) Insurance costs of £300 and legal fees of £500 in relation to the revised rental agreement were incurred in 2020/21. Mr and Mrs Gibson also purchased a replacement fitted cooker for £500 and a dishwasher, which cost £400, for the property. There was no dishwasher in the property prior to this.

Villa in France

Insurance costs of £600, utility costs of £2,700, agent's commission of £3,000 and cleaning costs of £1,000 were paid in 2020/21. Mr and Mrs Gibson also added a conservatory to the property, during the year, at a cost of £25,000. The villa qualified as furnished holiday accommodation in 2019/20.

Villa in Spain

Insurance costs of £1,200, utility costs of £3,000, agent's commission of £4,000 and cleaning costs, arising during let periods, of £1,500 were paid in 2020/21. Mr and Mrs Gibson incurred travelling costs of £2,000 for them and their two children to visit the property in July 2020. They stayed in the property for the full month and spent a small proportion of their time dealing with local agents regarding the management of the property. The villa qualified as furnished holiday accommodation in 2019/20.

Villa in Italy

1) Mr and Mrs Gibson ceased letting this property on 6 December 2020 and advertised the property for sale. They sold the property on 6 March 2021 for £500,000.

2) They paid insurance costs of £1,000, utility costs of £2,000 and agent's commission of £3,000 in the period from 6 April 2020 to 5 December 2020. They also incurred cleaning costs of £1,300 during let periods.

3) They originally purchased the property for £400,000 on 7 June 2019. They previously made a capital gain of £100,000 on the sale of a furnished holiday let in March 2019 and elected to roll over this gain into the purchase of the villa in Italy. This villa has qualified as furnished holiday accommodation throughout their period of ownership.

Mr and Mrs Gibson did not make any other capital gains in the year. They have other income and are higher rate taxpayers.

Requirement:

1) **Calculate the taxable property income for 2020/21, taking advantage of any available elections and reliefs, and any Capital Gains Tax payable on the disposal of the villa in Italy.** (17)

2) **Explain the elections available to owners of furnished holiday accommodation to assist in meeting the qualifying criteria.** (3)

Total (20)

6. The following individuals need their residence status to be reviewed for UK tax purposes.

<u>Mr and Mrs Jones</u>

Mr and Mrs Jones sold their UK home in May 2013 when Mr Jones retired and they moved permanently to Spain. They have been regarded as non-resident for UK tax purposes for the period from May 2013 until 5 April 2020. They own a villa in Spain that they use as their main residence. With the sale proceeds from their former UK home they purchased a UK rental property which has been let since purchase.

Mr and Mrs Jones habitually visit the UK each year for 28 days from 1 August and 14 days from 20 December. On both occasions they stay with their daughter and her family. On 22 November 2020 Mrs Jones came back to the UK for medical treatment and stayed with her daughter whilst she recovered from an operation. Her husband joined her on 20 December 2020 and they both returned to Spain on 3 January 2021. Mr and Mrs Jones will resume their normal pattern of visits to the UK in 2021/22.

<u>Mr Smith</u>

Mr Smith left the UK on 10 October 2020 to take up an employment contract abroad. The employment contract is for an initial two-year period and is for 30 hours per week. His salary package entitles him to four weeks paid holiday, medical benefit and also accommodation for the period of the contract. Mr Smith has not exceeded his contracted hours; however, he has worked voluntarily raising funds for a local charity. He does not get paid for this work, which averages eight hours per week.

Mr Smith has a property in the UK that has been occupied by his sister since he left the UK. The main bedroom of the UK property is set aside for Mr Smith's occupation when he visits the UK and he leaves some of his personal possessions there. After starting his job overseas, Mr Smith visited the UK for a further 14 days in 2020/21 and has confirmed he will visit the UK for 28 days in 2021/22.

Requirement:

Explain how the Statutory Residence Tests will apply to each of the above individuals and conclude on their residence status for UK tax purposes for 2020/21 and 2021/22. Where relevant, you should also consider whether the split year treatment would apply. (20)

7. Mr Wrex is 75. He is domiciled and resident in the UK. He retired from work in 2010, having spent most of his working life abroad, employed by an overseas company. Mr Wrex receives a foreign pension from this employment and still owns 5% of the ordinary share capital of his former employer. There is no double taxation agreement between the UK and the foreign country where his employer is based.

In 2020/21, Mr Wrex received a UK state pension of £6,549, a UK private pension of £10,200 from which tax of £850 was deducted and a foreign pension of £40,000 from his former employer from which foreign tax of £12,000 was deducted. In addition, he received UK dividends of £1,650 and foreign dividends from shares in his former employer of £4,200 from which no foreign tax had been deducted.

Requirement:

Calculate, with explanations where relevant, the tax payable by Mr Wrex for 2020/21. (10)

8. Sue McDonnel is a founder shareholder of Phips Ltd, an unquoted trading company. She became a director of the company in August 2011.

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

Date	Shares acquired	Amount paid £	Notes on acquisition history
01/06/2008	120	15,000	Subscription under the Enterprise Investment Scheme (EIS) on which Income Tax relief was given. Full Capital Gains Tax deferral was claimed in relation to an earlier gain arising on the sale of an investment property.
01/05/2010	40	Nil	1 for 3 bonus issue.
01/09/2014	60	80,000	Purchased from a third party investor at arm's length.
01/12/2016	80	8,000	Exercise of Enterprise Management Incentive scheme share options. Exercise price of £100 per share. Market value at date of grant was £350 per share. The shares were unrestricted and the market value on exercise was £2,200 per share.
01/01/2020	55	Nil	Gifted by Mrs McDonnel's husband who took early retirement from the company in June 2019. He originally acquired 100 shares at £1,000 per share in April 2015 and 100 at £2,200 per share in December 2015, which both represented full market value. He has retained the balance of 145 shares.

An offer has been made by Driver plc, a UK subsidiary of a large US corporation, to acquire the whole of Phips Ltd. The offer price is £4,500 per share which will be paid as follows:

£2,500 per share payable in cash immediately;

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

£500 payable in cash on the second anniversary of the sale; and

£1,000 to be satisfied by the issue of new shares in Driver plc immediately.

Mrs McDonnel also owns a large production facility which was acquired in April 2009. Between April 2009 and April 2011, the whole of the property was let at full rent to the previous owners. Since April 2011 three quarters of the property has been let to Phips Ltd at half market rent and the rest has been let at a commercial rent to a third party. As part of the acquisition of the shares of Phips Ltd, Driver plc has indicated that they would wish to purchase the property and a capital gain will arise.

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

Requirement:

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

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

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

Total (20)

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

9. Jessica Jones (a UK citizen) sold her internet start-up company to a large US multinational two years ago. Since the sale, Jessica has moved from London to America and married a US citizen. She is not resident in the United Kingdom for the 2020/21 tax year.

Jessica is planning on selling her flat in London and has a potential purchaser. The sale is likely to be completed by 31 December 2021. The profit should be in the region of £1 million.

Jessica's income for 2020/21 is given below

Income	Amount received in 2020/21
	£
Interest from UK bank account	1,200
Interest from US bank account	2,400
Dividends from UK share portfolio	1,800
Gains on UK shares	5,000
Rent (less expenses of £800) from London flat	3,800

The following extracts from the UK-US treaty are relevant:

"Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State."

"Income derived by a resident of a Contracting State from real property, including income from agriculture or forestry, situated in the other Contracting State may be taxed in that other State."

"…dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the dividends are beneficially owned by a resident of the other Contracting State, the tax so charged shall not exceed, except as otherwise provided…. (b) 15 per cent. of the gross amount of the dividends in all other cases."

Requirement:

1) **Explain how the UK tax system applies to the income and gains of a non-resident, and what provisions are in place to limit double taxation.** (6)

2) **Explain whether the income and gains identified by Jessica will be subject to tax in the UK, and how this tax will be charged.** (14)

Total (20)

10. John Smyth is a UK resident and domiciled taxpayer with taxable income of £200,000 a year. John has undertaken the following transactions in order to minimise his UK Income Tax and Capital Gains Tax liabilities:

<u>Alpha Ltd</u>

In November 2018 John and a friend set up Alpha Ltd, a property investment company that is tax resident in Cyprus. John subscribed £75,000 for 70% of the company's share capital and his friend subscribed £25,000 for the other 30%.

The company purchased holiday apartments and land for development in Cyprus, some of which were rented out with annual rental profits of £15,000, £25,000 and £30,000 during 2018/19, 2019/20 and 2020/21 respectively. On 1 September 2020 Alpha Ltd sold an apartment block resulting in a capital gain of £60,000 and the proceeds will be used for future overseas developments. No dividends have ever been paid by Alpha Ltd.

<u>Beta Ltd</u>

In June 2020 John transferred £200,000 cash to professional trustees resident in the Isle of Man. The trustees used the cash to subscribe for the entire issued share capital of Beta Ltd, a non-UK company. The company has invested its capital in an offshore bank account and various interest yielding securities. The company received interest income of £10,000 during year ended 5 April 2021 but paid no dividends.

<u>Gamma Ltd</u>

In 2017 John subscribed £10,000 for a 10% holding in his brother's company, Gamma Ltd. He has subsequently loaned the company a further £100,000 to keep the company going by providing working capital. Gamma Ltd is a manufacturing company and had gross assets of around £500,000 in February 2021, but as the result of escalating debts, its net assets were only £50,000 at that time. It is likely that Gamma Ltd will cease trading in 2021.

John and his brother decided to issue John with 100,000 new £1 ordinary shares at par in March 2021 in satisfaction of his outstanding debt. This took John's shareholding to 110,000 out of the 250,000 shares in issue. John has been told that if the company ceases to trade he may be able to set the loss on his £110,000 investment in Gamma Ltd against his income.

<u>Delta Ltd</u>

John was also the sole shareholder and director of Delta Ltd, a UK property development company. John had subscribed £1,000 in April 2011 for his 100% shareholding. Delta Ltd had been trading until the end of 2018 when the UK property market took a downturn. The company ceased trading in March 2019 when the last property was sold.

Since then the company's main asset has been a cash balance of £1,500,000. After the settlement of liabilities, £1,250,000 was distributed to John in May 2020, shortly after the appointment of a liquidator.

John was advised by his previous accountant that he would only pay CGT at 10% on the liquidation of Delta Ltd. As far as John is aware, no HMRC clearances were applied for when Delta Ltd was liquidated. He informs you that he will probably set up another property company when the UK property market recovers.

Requirement:

Explain the UK Income Tax and Capital Gains Tax consequences of the transactions that John has undertaken. (20)

11. Mr Porter is currently aged 56 and is considering making a net payment to a personal pension scheme of £100,000 during 2021/22.

The only contributions he has made to date are £12,000 in 2019/20, when he first became a member of a registered scheme, and £16,000 in 2020/21 (both net amounts).

His earnings in each of 2019/20 and 2020/21 were £100,000 and for the current year (2021/22) will be £180,000. His other taxable income is negligible and can be ignored.

He expects to retain this level of earnings until his planned retirement at age 65.

Requirement:

1) **Explain the tax reliefs available on personal pension contributions and how relief is given, and the consequences of Mr Porter making a current year contribution of £100,000 into his personal pension.** (12)

2) **Explain the tax consequences of using an ISA or non-qualifying life policy as an alternative or additional means of making retirement provisions.** (8)

Total (20)

12. Mr and Mrs Barclay have provided the following information relating to a number of asset disposals during the year ended 5 April 2021:

    Mrs Barclay sold an antique dresser for £8,500 and a painting for £5,400 both of which were left to her by her father on his death in 1999. The dresser was valued for probate at £2,750 and the painting was valued at £7,200.

    At auction, Mr Barclay sold a generator for £16,000 which had cost £9,000 and had been used 75% of the time in the family farming business, and 25% privately. Capital allowance claims had been made for the business use of the generator.

    They sold, at auction, joint property comprising an antique desk for £9,800, purchased in 1997 for £3,400 and an antique table for £23,750, which originally cost £2,500.

    They also gave the second of a matching pair of vases to their son Mark in February 2021, the first they had given to Mark's wife in March 2020. The vases had recently been valued at £10,000 each, or £23,500 together, and had originally cost them £5,200 in total.

    Requirement:

    Calculate Mr and Mrs Barclay's net Chargeable Gains for 2020/21. (10)

13. Ansell Ltd is a printing company with issued share capital at 31 May 2020 of 1,000 ordinary shares of £1 each, all of which were owned by Mr Brian, who is also a director of the company. Mr Brian subscribed for the shares at £100 per share when the company was formed in 1999. Mr Brian is a higher rate taxpayer.

Mr Brian's son Charles has been employed by the company on a commercial salary since 2017 after graduating from university. On 1 June 2020, Mr Brian arranged for the company to issue 500 shares to Charles for which Charles paid par value. Mr Brian is 65 and his intention is for Charles to take over the running of the business in three or four years time and to eventually inherit Mr Brian's shares.

A valuation specialist has provided an open market value for tax purposes on 2 June 2020 as follows:

	Shares	Value per share
		£
Mr Brian	1,000	600
Charles	500	200
	1,500	

Requirement:

Explain the Income Tax and Capital Gains Tax implications for Mr Brian and for Charles of the issue of shares to Charles, including:

1) **Calculations of the amounts of any Capital Gains Tax payable by Mr Brian, including any reliefs which may be claimed; and**

2) **Identification and explanation of any actual or potential exposure to Income Tax, any exceptions which might apply and any notifications which may be required.**

You are not required to consider the settlement provisions in Chapter 5, Part 5 ITTOIA 2005 nor to comment on National Insurance. (15)

14. Mr Hans Orff, has been UK resident since 2012/13 but has never been domiciled in the UK.

Hans has four foreign bank accounts:

Account A – Set up prior to becoming UK resident with capital of £500,000. The only transaction since then occurred on 1 October 2020 when Hans paid £300,000 to his UK solicitors, towards a house purchase.

Account B – Set up in April 2014 with capital of £1,000. The account produces around £10 of income per year. Based on earlier tax advice, he has claimed the remittance basis for the years 2012/13 to 2019/20 and has nominated £1 of the interest on Account B for the purposes of S.809C ITA 2007.

Account C – Opened on 1 May 2020 with the proceeds of the sale of a foreign property for £1 million, of which £200,000 represents the capital gain. Hans acquired the property in 2003. On 9 October 2020 Hans withdrew £500,000 from the account to assist with his UK house purchase.

Account D – Contains various amounts of foreign income which have arisen in 2020/21. During a trip to Holland in September 2020, Hans bought a painting for his new house costing £200,000 which he paid for from this account. The painting was shipped to the UK and arrived on 30 September 2020, at which time the account contained:

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

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

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

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

Hans expects to pay his Remittance Basis Charge for 2020/21 from Account D on 31 January 2022.

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

Requirement:

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

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

3) **Briefly discuss the nomination of income/gains in Hans' 2020/21 tax return (as required by S.809C(2) ITA 2007), in the light of the previous advice Hans received.** (4)

Total (20)

15. Simon began employment as the sales director of Energen Ltd, an unquoted trading company, in February 2020. Simon receives a salary of £110,000 per annum and in November 2020 was awarded a cash bonus of £25,000, following strong sales figures during the year to 31 October 2020.

Prior to joining the company, Simon had been self-employed but his business had been unsuccessful. To assist in repaying a bank loan and overdraft, Energen Ltd advanced interest free loans to Simon in the sums of £17,000 and £3,000 on 5 May 2020. Repayments made to the company prior to 5 April 2021 amounted to £2,200 on the larger loan and £550 on the smaller loan.

Simon agreed to move permanently to an office of the company in Scotland from 1 November 2020 and was given the use of a flat owned by the company. The flat cost £85,000 10 years ago and has an annual value of £600. The flat was valued at £175,000 at the time it was occupied by Simon. The flat was furnished by the company at a cost of £9,000. Simon was required to pay £100 per month towards the cost of the accommodation.

From 1 May 2020 Simon was supplied with a car (registered on 1 May 2020), with a list price of £36,000. As a condition of supplying the vehicle, Simon agreed to contribute £6,000 to the capital cost. The car has CO_2 emissions level of 122 g/km. Private petrol is also supplied by the company. Simon contributed £200 towards insuring the vehicle, to allow his wife to have occasional use. During the winter of 2021 the car was off the road for two weeks for repairs, following an accident. Simon used his own car in this period and the company paid him mileage allowances of £1,090, representing 2,180 business miles at a rate of 50 pence per mile.

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

In May 2020, Simon was granted a non-tax advantaged option to acquire 1,000 Energen Ltd shares at £1.50 per share from an Employee Benefit Trust funded by the company and which regularly buys and sells shares from employees. The option could be exercised at any time in the next 10 years. The market value of the shares at the time the option was granted was £1.70 per share. Simon exercised the option in March 2021 when the market value of the shares was £2.70.

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

Requirement:

1) **Compute the taxable employment income of Simon for 2020/21.** (11)

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

Total (15)

ANSWERS

1. SHEENA STEEPLE

CAPITAL GAINS TAX

Shares in Roofix Ltd

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

She will therefore be treated as disposing of the shares at the date specified in the claim (probably 4 January 2021 – the commencement of liquidation), and reacquiring those shares at market value on that date which is effectively nil.

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

While the restriction on the set off of losses under s.24A ITA 2007 potentially applies to loss claims under s.131, no restriction applies here as the loss claim is less than £50,000.

Sheena could claim the loss against income of 2020/21 or 2019/20. She only returned to work in April 2020, so a claim for 2019/20 is unlikely.

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

Loan Guarantee

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

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

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

A capital loss of £5,000 therefore arises.

Director's Loan Account

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

Rolex watch

HMRC will consider the Rolex to be a wasting chattel. A wasting chattel is exempt from capital gains tax, and hence the loss will not be an allowable loss.

Shares in Windowbox Ltd

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

No BADR as no indication that Sheena is an officer or employee of the company.
No IR as Sheena did not subscribe for these shares on/after 17 March 2016.

Vintage sports car

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

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

Gains summary

	£
Windowbox Ltd	29,000
Less:	
Loss on shares in Roofix Ltd	(2,000)
Loss on loan guarantee	(5,000)
Loss on directors' loan	(7,500)
Chargeable gains	14,500
Less: Annual Exempt Amount	(12,300)
Taxable gain	2,200
CGT due @ 10% (basic rate taxpayer)	220

INCOME TAX

	£
Director's fees	20,000
Rental Income	4,000
	24,000
Less: Loss under s.131 ITA 2007	(8,000)
Net income	16,000
Less: Personal allowance	(12,500)
Taxable income	3,500
Tax	
Income tax due @ 20%	700
Capital gains tax due	220
Total tax due	920
Less: Tax paid	(2,600)
Tax repayable	(1,680)

Bill's Position

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

He can offset the loss of £16,000 arising on the Roofix Ltd shares against his income of 2020/21 or 2019/20.

As part of his income was charged at the higher rate of 40% in 2019/20, he will be better off claiming the loss against his 2019/20 income.

He will not use any of the loss against the 2020/21 capital gains so these will be subject to tax at 10% giving rise to a liability of £500 (£5,000 x 10%).

He will have no further liability on his pension income in 2020/21 as this has been correctly taxed at source.

MARKING GUIDE

TOPIC	***MARKS***
Part 1)	
Presentation and higher skills	*½*
Shares in Roofix Ltd:	
– *Make claim under S.24*	*1*
– *Effect of claim*	*1*
– *S.131 relief for loss on subscribed shares*	*1*
– *Mention of restriction / £50,000 rule*	*½*
– *Effect of S.131*	*1*
– *Capital loss relief on gifted shares*	*½*
Loan guarantee:	
– *Payment of interest – capital loss*	*1*
– *Conditions*	*1*
– *£5,000 capital loss*	*½*
Director's loan account:	
– *Qualifying purpose*	*1*
– *£7,500 capital loss*	*½*
Rolex:	
– *Wasting chattel*	*½*
– *No allowable loss*	*½*
Shares in Windowbox Ltd:	
– *Calculation*	*½*
– *No BADR or IR*	*½*
Sports car:	
– *Wasting chattel*	*½*
– *Exempt*	*½*
Calculation of CGT:	
– *Taxable gain*	*1*
– *Tax @ 10%*	*1*
Income tax:	
– *Aggregate income*	*½*
– *S.131 relief*	*½*
– *PA*	*½*
– *Tax*	*1*
Overall repayment	*1*
Part 2)	
Acquired shares from wife so can claim S.131	*1*
Possible claims 20/21 or 19/20	*1*
Advise 19/20 – 40%	*½*
No loss against gains – tax at 10%	*½*
No further tax on pension income	*½*
TOTAL (MAX)	***20***

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

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

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

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

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

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

2. MR CARRAWAY

Statutory references are to ITA 2007 unless stated otherwise.

Overview of tax advantages for an investor in SEIS

SEIS is a tax advantaged venture capital scheme for early stage companies carrying on, or preparing to carry on, a new qualifying trade.

Investors meeting the relevant conditions will be able to claim a reduction in income tax equal to 50% of the amount invested in qualifying shares. The relief can be claimed against the current year's income tax liability or against the previous year's income tax liability. The maximum investment on which income tax relief can be claimed is £100,000.

There is an exemption from CGT where an individual realises gains on the disposal of chargeable assets and the amount of the gain or any part of it is used for a SEIS investment on which income tax relief is claimed in respect of the same tax year. The amount of the exempt gain is 50% of the available SEIS expenditure.

In addition, gains on the disposal of SEIS shares are exempt from CGT if held for at least three years from the date of issue.

If a loss is realised on disposal, the loss for CGT purposes is reduced by the amount of any SEIS relief claimed. The allowable loss can be set against net income of either the year of disposal or the previous year.

Newpod Ltd

As no SEIS investments have been made to date, the investment of £50,000 is within the annual investment limit for 2021/22. Relief would be available on this investment, either in the current year or it could be carried back to 2020/21.

There are restrictions within s.257BA which mean that an investor may not be an employee of the issuing company. However s.257BA(2) specifically excludes directors from the definition of an employee. Therefore, if Mr Carraway becomes a director of the company, this will not preclude the investment from qualifying for relief.

There are also restrictions in s.257FE which apply where the investor receives value from the issuing company. However s.257FH(11) confirms that the investor is not treated as receiving "value" from the issuing company where the payment is reasonable remuneration for services as a director.

SEIS Fund

There are no restrictions on the number of investments which can be made, but the total value of all SEIS investments in the year is subject to the overriding limit of £100,000. If Mr Carraway decides to go ahead with the Newpod Ltd investment, only £50,000 will be available to invest in the fund arrangements.

Under s.257FA, SEIS relief is withdrawn if an investor disposes of the shares within a three year period from the date of issue. It is not, therefore, possible to invest in order to obtain the relief and then to sell the shares the following year. However, there is an exemption within s.257FA(4) which allows the relief to be retained if the disposal is to a spouse or civil partner. Therefore, if Mr Carraway transfers the shares to his wife, the income tax relief will not be withdrawn.

Hulleaf Ltd

One of the conditions in s.257BB is that the investor must not have a “substantial interest” in the issuing company from incorporation to three years after the date of the share issue.

“Substantial interest” is defined in s.257BF and means either:

i) More than 30% of the share capital or voting power of the company; or

ii) Rights entitling the individual to receive more than 30% of the assets available to equity holders on a winding up of the company; or

iii) Control of the company. The current holding of subscriber shares when no other shares have been issued and the company has not commenced trading, nor preparing to trade, is ignored.

However, if each of the three investors takes an equal share then Mr Carraway will hold 33.3% of the issued share capital and therefore, he will have a substantial interest in the company and be prevented from claiming SEIS relief on this investment.

Planning opportunities

Mr Carraway should have sufficient income tax liabilities in 2021/22 against which to set the full relief available under SEIS should he invest the maximum £100,000. The relief available to him would be £50,000.

However, as he made no SEIS investments in 2020/21, a claim under s.257AB can be made to treat all or part of the investment made in 2021/22 as if the shares were issued in 2020/21. Provided income tax relief is available in that year, then the investment would qualify to exempt part of the £78,500 chargeable gain arising in that year.

To qualify for the maximum exemption, it would not be necessary to have invested the full proceeds - it is the gain that is reinvested so a carry back of £78,500 would provide maximum relief. In which case 50% of the gain, i.e £39,250, would be exempt from CGT.

It is possible that the Hulleaf Ltd investment could qualify for SEIS relief if arrangements were made to reduce the individual shares below the substantial interest threshold, such as the involvement of another investor.

CIOT MARKING GUIDE

TOPIC	*MARKS*
General description of SEIS relief	*1*
Income tax relief available	*1*
CGT relief available	*1*
Newpod Ltd:	
S.257BA relief not available to employee/directors exempt	*1*
Receipt of value, director's remuneration excluded	*1*
SEIS fund:	
No restrictions on number of investments	*½*
Relief withdrawn if shares sold	*½*
Exemption on spouse transfer	*½*
Hulleaf Ltd:	
Identifying substantial interest	*1*
30% share cap/issued/voting	*½*
30% assets winding up	*½*
Control of company	*½*
Planning:	
Relief available in 2021/22	*1*
Potential to carry back for income relief in 2020/21	*1*
Carry back against 2020/21 capital gain	*1*
Reinvestment of gain only, not proceeds	*1*
Reduce investment below substantial threshold	*1*
Presentation and higher skills	*1*
TOTAL	***15***

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This question was designed to test candidates' ability to provide advice to a potential SEIS investor and specifically asked for an overview of the tax advantages for an investor and the application of the SEIS rules to some specific investments.

A number of candidates spent time summarising all the rules and qualifying conditions for a company and investor, which was not asked for as marks were only available for the tax advantages. The shares to be issued by Newpod Ltd were stated as qualifying for SEIS relief, so it could reasonably be assumed that his investment would qualify without detailed analysis.

Although it was intended that Hulleaf Ltd would qualify if it were not for the substantial shareholding, this may not have been clear so credit was given where qualifying conditions were considered. The better performing candidates were those that focused on the specific investment opportunities and tax reliefs available.

3. MR WALKER

Proposal 1

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

- The farmhouse and outbuildings,
- The land which has been actively farmed by Mr Walker and;
- The additional land which Mr Walker purchased and has let on a renewable licence.

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

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

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

To qualify for this relief Mr Walker needs to have made a material disposal of ‘business assets’. Business assets in this case means an asset used in his business at the time it ceased to be carried on. As the disposal of the whole farm would inevitably mean a cessation of the farming business, the gains on the land and any agricultural outbuildings should qualify for BADR.

However, the land which is currently let on an annual licence has not been used in Mr Walker’s farming business and will therefore not qualify for BADR. Without a claim to BADR, the CGT rate applicable on the chargeable gain, after deducting the annual exempt amount of £12,300, will be 20% (some of the gain will be taxed at 10% if his taxable income falls below the higher rate threshold).

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

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

Proposal 2

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

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

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

and the remaining assets included in the final sale being:

- The remaining 45 acres of farmland; and
- The farmhouse and outbuildings

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

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

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

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

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

Proposal 3

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

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

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

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

CIOT MARKING GUIDE

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

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

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

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

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

4. MR BALDUCCI

Income tax calculation 2020/21

Assume the remittance basis is NOT claimed:

	Non savings	Interest	Dividends
	£	£	£
Employment income £(65,000 + 11,549)	76,549		
Rental from flat in Rome £(33,600/1.2)	28,000		
UK bank interest		1,225	
Italian bank interest (£2,400/1.2)		2,000	
UK dividends			2,000
	104,549	3,225	2,000
Less: Personal allowance (W1)	(7,613)		
	96,936	3,225	2,000
Tax			
£37,500 x 20%			7,500
£59,436 x 40%			23,774
500 x 0%			Nil
£2,725 x 40%			1,090
£2,000 x 0%			Nil
			32,364
Less: Tax credits:			
PAYE			(19,507)
Income tax payable			12,857

W1) Personal allowance

Restricted as net income > £100,000.

	£	£
Full PA		12,500
Net income: £(104,549 + 3,225 + 2,000)	109,774	
Restriction:		
£(109,774 – 100,000) / 2		(4,887)
PA given		7,613

Capital gains tax calculation 2020/21

Assume the remittance basis is NOT claimed:

			Residential property
		€	£
Gains arising in the year:	Flat	215,000	179,167
Less: Annual exempt amount			(12,300)
Taxable gain			166,867
Capital gains tax at 28%			46,723
Total tax: £12,857 + £46,723			59, 580

Remittance basis for non-domiciliaries

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

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

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

	Tax year	UK resident at any time in the tax year	Tax years in which resident
9	2011/12	Yes	8
8	2012/13	Yes	7
7	2013/14	Yes	6
6	2014/15	Yes	5
5	2015/16	Yes – present in UK more than 183 days	4
4	2016/17	No	-
3	2017/18	Yes – present in UK more than 183 days	3
2	2018/19	Yes	2
1	2019/20	Yes	1

As Mr Balducci has been resident for 7 of the 9 tax years before 2020/21, if he elects for the remittance basis to apply he will pay the RBC of £30,000. As he was not resident in the UK before 2010/11 he will not meet the 12 year residency test.

Under S.809C ITA 2007 Mr Balducci will need to nominate some of his income and gains to which the remittance basis charge applies.

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

Assume the remittance basis IS claimed:

Income tax calculation 2020/21:

	Non savings	Interest	Dividends
	£	£	£
Employment income	76,549		
UK bank interest		1,225	
UK dividends			2,000
	76,549	1,225	2,000
Less: Personal allowance (N/A)	(Nil)		
	76,549	1,225	2,000
Tax			
£37,500 x 20%			7,500
£39,049 x 40%			15,620
£500 x 0%			Nil
£725 x 40%			290
£2,000 x 0%			Nil
			23,410
Less: Tax credits:			
PAYE			(19,507)
Income tax payable			3,903

Capital gains tax calculation 2020/21:

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

W2) Remittance

Prior to the remittance, Mr Balducci had made a cleansing transfer of 60,000 Euros. At that time his Italian account contained at least 141,822 Euros of capital, being the Italian employment income before he became UK resident, the inheritance of 50,000 Euros and the cost of the Italian shares (17,327 Euros). Consequently, he would have nominated the whole of the transfer to be capital.

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

Total tax payable:

	£
Income tax	3,903
Capital gains tax	Nil
Remittance basis charge	30,000
Total	33,903
Total tax paid by NOT claiming remittance basis	59,580
Tax saved by making a remittance basis election	25,677

CIOT MARKING GUIDE

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

Examiner's report:
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This question involved comparing the client's total liability under the remittance and arising basis.

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

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

Most candidates attempted to calculate the Capital Gains tax due.

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

5. MR & MRS GIBSON

Part 1

The property income will be calculated on the cash basis because receipts from each of the UK property business (including the furnished holiday let income) and the overseas property business do not exceed £150,000.

Income from UK Furnished Holiday Let business (1 – 4 The Hawthorns)

Income:	£	£
£(13,000 + 11,400 + 11,900 + 12,500 + 1,100 + 2,000)		51,900
Less: Expenditure		
Mortgage interest (W1)	nil	
Insurance	400	
Advertising	5,000	
Utility costs	5,000	
Cleaning	2,000	
Capital expenditure	29,500	
		(41,900)
Profit from UK FHL property business		10,000

Note: Capital expenditure on furniture in a FHL will be an allowable deduction under the cash basis.

Income from UK property business (The Lodge and The Gatehouse)

Income:	£	£
£4,000 + £3,000 + £500 + (£450 + £30) x 8		11,340
Less: Expenditure		
Insurance £(300 + 300)	600	
Advertising	1,000	
Cleaning	500	
Repairs (W2)	500	
Utility costs	700	
Legal costs	500	
		(3,800)
Profit from UK property business		7,540

Note: Income = rents received in the tax year.

Income from EEA FHL property business (W3)

Income	£	£
£(15,000 + 18,000 + 14,000)		47,000
Less: Expenditure		
Insurance (W4)	2,700	
Agents commission £(3,000 + 4,000 + 3,000)	10,000	
Repairs (Cost of conservatory is capital)	-	
Utility costs (W5)	7,450	
Travelling costs (W6)	-	
Cleaning £(1,000 + 1,500 + 1,300)	3,800	
		(23,950)
Profit from EEA FHL property business		23,050

Capital Gains Tax on disposal of Villa in Italy

	£
Disposal proceeds	500,000
Less: Base cost (W7)	(300,000)
	200,000
Less: Annual exempt amount x 2	(24,600)
Taxable gain	175,400
Capital gains Tax @ 28%	49,112

Business Asset Disposal Relief is unlikely to be available as although the property qualified as furnished holiday accommodation throughout the period of ownership, there does not appear to be the disposal of a whole or part of a business or any cessation of business.

Notes:

Properties meeting qualifying conditions:

1 The Hawthorns	On averaging (see below).
2 The Hawthorns	Yes, let for 114 days.
3 The Hawthorns	Yes – per HMRC practice the days let can include 37 day holiday as original let less than 31 days and stay extended due to exceptional and unforeseen circumstances.
4 The Hawthorns	Yes – rental for 42 day period does not count towards occupancy condition but does not preclude qualification as it does not exceed 155 days.
The Lodge	No – fails availability condition as not available to be let as furnished holiday accommodation for 210 days during the year and fails long-term letting conditions as let for periods of over 31 days, for more than 155 days during year, therefore averaging election or period of grace elections not available.
The Gatehouse	No – long-term let.

Averaging election:

1 The Hawthorns	98	
2 The Hawthorns	114	
3 The Hawthorns	132	
4 The Hawthorns	136	
	480	
Divided by 4	120	This exceeds 105 days so all properties can qualify

Days let are based on the first year of letting.

Workings:

W1) Mortgage interest

Even though Mr and Mrs Gibson's capital account is not overdrawn, the interest on the loan will not be eligible for relief because the funds are not used for a business purpose.

W2) Repairs

The roof repair was not paid until July 2021. This will be an allowable deduction in 2021/22.

The replacement of the fitted cooker will be allowed as a repair to the property. However, the dishwasher represents capital expenditure.

W3) EEA properties meeting qualifying conditions

Villa in France	Yes, period of grace election
Villa in Spain	Yes
Villa in Italy	Yes, period of grace election

W4) Insurance

		£
Villa in France		600
Villa in Spain	£(1,200 x 11/12)	1,100
Villa in Italy		1,000
		2,700

W5) Utilities

		£
Villa in France		2,700
Villa in Spain	£(3,000 x 11/12)	2,750
Villa in Italy		2,000
		7,450

W6) Travel cost

Travelling costs not allowable as journey was not mainly in relation to the property business.

W7) Base cost

	£
Purchase cost	400,000
Less: Rolled-over gain	(100,000)
Base cost	300,000

Part 2

There are two elections which owners of furnished holiday accommodation can make to help them reach the occupancy threshold of 105 days per year. If they have more than one property the averaging election is available and if they have a property that reaches the occupancy threshold in some years but not in others, they can use a period of grace election.

Where an owner has a number of properties that are let as furnished holiday accommodation each of them must separately reach the availability threshold and the pattern of occupation condition, but if some are individually let for less than 105 days, owners can elect to apply the letting condition to the average rate of occupancy of the properties. They can only average across the properties in a single business and are unable to average UK and EEA properties.

A period of grace election allows owners to treat a property as qualifying in a year where they genuinely intended to meet the occupancy threshold but were unable to meet it. In the year before the first year they want to be treated as a qualifying year, the property must have reached the occupancy threshold, either on its own or because of an averaging election. If, in the following year the property still doesn't meet the occupancy threshold then, providing an election has been made for the earlier year, that year can also be treated as a qualifying.

The time limit for both elections is one year from 31 January following the end of the tax year.

CIOT MARKING GUIDE

TOPIC	***MARKS***
Part 1	
Calculation of UK FHL income:	
Application of qualifying conditions	*4*
Averaging election	*1*
Rental income	*½*
General basic expenses	*½*
Mortgage interest relief	*1*
Calculation of UK property income:	
Rental income	*1*
General basic expenses	*½*
Calculation of repairs	*1*
Calculation of EEA FHL income:	
Qualifying properties/Period of grace election	*1½*
Rental income	*½*
General basic expenses	*½*
Restriction for private use	*1*
Conservatory not allowable	*½*
Travelling costs not allowable	*½*
Calculation of CGT on disposal of Villa in Italy:	
General	*1*
Base cost	*1*
Availability of business asset disposal relief	*1*
	17
Part 2	
Elections available:	
General	*1*
Averaging election	*1*
Period of Grace election	*1*
	3
TOTAL	***20***

Examiner's report:
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This question required candidates to calculate taxable property income and Capital Gains Tax on the disposal of a furnished holiday let property. Candidates were also required to explain the elections available to owners of furnished holiday accommodation.

Candidates were mostly able to demonstrate a good knowledge of the qualifying rules for furnished holiday accommodation although few were able to apply the rules correctly to the properties. A number of candidates advised that a period of grace election could be made for The Hawthorns despite the fact that the properties had not been let in the previous year.

Many candidates also incorrectly apportioned the days required for qualification and applied this to the days let for the period to 5 April 2021 rather than considering the days let in the first year of letting.

Generally candidates were able to identify the correct deductions for expenses including the treatment of mortgage interest and the repairs expenditure.

Common errors included the incorrect calculation of rental income for The Gatehouse and a failure to restrict expenses for private use of the villa in Spain.

The majority of candidates were able to correctly calculate the capital gain on the disposal of the villa in Italy and were able to identify that furnished holiday lets could qualify for Business Asset Disposal Relief although few considered whether there was a disposal of a whole or part of a business or any cessation of business.

Most candidates were able to outline the elections available to owners of furnished holiday accommodation however a number of candidates incorrectly indicated that owners could average the days let over a number of tax years.

6. MR AND MRS JONES

The Statutory Residence Test (SRT) is used to determine whether a person is regarded as resident or non-resident for UK tax purposes.

The SRT considers the amount of time an individual spends in the UK and any other connections they have with the UK and is divided into three parts, namely:

1) Automatic overseas tests
2) Automatic residence test
3) Sufficient ties test.

The tests are applied in strict order; if none of the automatic overseas tests apply, the person is not conclusively non-resident. If none of the UK tests apply, the person is not conclusively resident. Residence is then determined by the sufficient ties test.

<u>Automatic Overseas Tests</u>

A person will be conclusively non-resident if they meet any of the three automatic overseas tests, namely:

1) A person is resident in one or more of the previous three tax years but present in the UK for less than 16 days in the current tax year; or

2) A person is non-resident in all of the previous three tax years and present in the UK for fewer than 46 days in the current tax year; or

3) A person meets the “work abroad” condition.

The “work abroad” condition is met where a person works abroad for an average of at least 35 hours per week (averaged over the whole tax year) and does not have any “significant breaks” from overseas work. A “significant break” will occur where the individuals has a period of 31 or more continuous days during which he does not work more than 3 hours on any day.

The person must not be present in the UK for 91 days or more in the tax year and must spend less than 31 days working in the UK.

<u>Automatic Residence Test</u>

A person will be conclusively resident if they meet any of the three UK tests, namely:

1) A person is present in the UK for 183 days or more in the current tax year; or
2) A person has a home in the UK; or
3) A person carries out full-time work in the UK for a period of at least 365 days.

A person will be regarded as having a home in the UK where they are present in that home on at least 30 separate days during the tax year, and whilst they have a home in the UK, there is a period of at least 91 consecutive days when either of the following two conditions are met:

A) Condition A - they do not have an overseas home, or

B) Condition B - they do have an overseas home but are present in that home on less than 30 separate days during the tax year.

Sufficient Ties Tests

The sufficient ties test looks at both the number of days spent in the UK in a tax year and the number of "ties" an individual has with the UK.

The ties are defined in the tax legislation as:

1) Family
2) Available accommodation
3) Work
4) UK presence (more than 90 days in the UK either of the last two tax years)
5) Country

Mr and Mrs Jones

Mr and Mrs Jones have been non-resident since they left the UK in May 2013. As such, neither of them has been UK resident in the three tax years prior to 2020/21.

In 2020/21 Mr Jones spent 42 days in the UK and Mrs Jones spent 70 days in the UK. Mr Jones fulfills the requirements of the second automatic overseas test - i.e. he spent less than 46 days in the UK and was not resident in the previous 3 years. Therefore, Mr Jones will be non-resident for UK tax purposes for 2020/21.

Mrs Jones spent 70 days in the UK during 2020/21, so does not meet the requirements of any of the automatic overseas tests.

Their UK property is rented out and is not available for their personal use but their daughter's property could be considered to be a home in the UK if either of Condition A or B above is met. However, as Mrs Jones has an overseas home and is present there on more than 30 separate days during the tax year, neither Condition A nor B is met.

Mrs Jones does not meet any of the automatic UK tests. Her residence status will therefore be determined by the sufficient ties test.

In 2020/21, Mrs Jones spent 70 days in the UK. She was not resident in any of the three preceding tax years, so she is an "Arriver". An Arriver with 70 days of presence would require at least four ties to be regarded as resident in the UK.

Mrs Jones has available accommodation in the UK, she but does not meet any of the other ties. As such, she will not be regarded as resident in the UK for 2020/21.

As Mr and Mrs Jones are only intending to spend 42 days in the UK in 2021/22, they should qualify for the second automatic overseas test and be treated as non-resident for tax purposes in 2021/22.

Tutorial Note:

Full credit would be given if it was assumed that the daughter's property was not a home but merely available accommodation.

Mr Smith

The first step is to apply the automatic overseas tests.

Mr Smith does not meet the first two automatic overseas tests.

The third automatic overseas test is met if an individual works sufficient hours overseas during the tax year. Mr Smith is only contracted for 30 hours per week. His voluntary work is not regarded as employment and is therefore not brought into account. As such, Mr Smith does not meet any of the automatic overseas tests.

The next step is to look at the automatic residence test. Mr Smith spent more than 183 days in the UK in 2020/21, so he meets the requirements of the first automatic UK test. Mr Smith will therefore be UK resident for tax purposes in 2020/21.

Mr Smith may automatically qualify for split year treatment in 2020/21 if all of the following conditions are met:

1) He was UK resident in 2019/20; and
2) He will be non-UK resident in 2021/22 under the third automatic test, and
3) He works sufficient hours abroad - i.e. minimum of 35 hours per week.

Mr Smith does not meet the minimum number of hours for overseas work, so he will not qualify for split year treatment. As such, Mr Smith will be UK resident for the whole of 2020/21.

With regard to 2021/22, Mr Smith does not meet any of the automatic overseas tests as he does not work sufficient hours overseas.

Neither does he meet any of the automatic UK tests. While it could be argued that he still has a home in the UK, he also has a home abroad in which he was present on 30 separate days.

His residence status will therefore be determined by the sufficient ties test.

Mr Smith has been resident in at least one of the previous three tax years, so he is a “Leaver”. A Leaver with 28 days of presence would require at least four ties to be regarded as resident in the UK.

The only ties he meets are the accommodation tie and the UK presence tie. As there are insufficient ties, Mr Smith will be regarded as non-resident for 2021/22.

CIOT MARKING GUIDE

TOPIC	***MARKS***
Presentation and higher skills	*1*
<u>General</u>	
SRT has three tests	½
Tests applied in specific order to determine residence	½
Details of automatic overseas tests	½
Details of work abroad condition	*1*
Details of automatic residence test	½
Conditions of having a home in the UK	*1*
Details of sufficient ties tests	½
<u>Jones</u>	
Mr and Mrs Jones not resident for last 3 years	½
Mr Jones satisfies automatic overseas test	½
Mr Jones non-resident	½
Mrs Jones does not meet automatic overseas test	½
Daughter's property considered a home in the UK	½
Neither Condition A nor B is met	½
Mrs Jones does not meet automatic residence test	½
Sufficient ties test considers days and ties	½
Mrs Jones is an "Arriver"	½
Needs 4 ties to be resident	½
Only has accommodation tie so non-resident	*1*
Non-resident in 2021/22 under automatic overseas test	*1*
<u>Smith</u>	
Unpaid voluntary work not taken into account	½
Does not meet automatic overseas tests	½
183+ days in UK = UK resident	*1*
Split year treatment if 3 conditions met	½
Details of the 3 requirements for split year treatment	*1*
Does not meet sufficient hours test so no split year for 2020/21	*1*
Does not meet automatic overseas tests in 2021/22	½
Does not meet automatic residence test in 2021/22	½
A "Leaver" as UK resident in any of last 3 years	½
Needs 4 ties to be UK resident	½
Only has accommodation and presence ties so non-resident in 2021/22	*1*
TOTAL	***20***

Examiner's report:
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In the main, this question was well answered and it was pleasing to see the general knowledge level regarding the Statutory Residence Test (SRT). Most candidates identified where the SRT was in the legislation and were able to give a good summary of both the automatic tests and the sufficient ties test. However, whilst some candidates were able to outline how the tests worked in theory, they could not accurately apply them to the three individuals' circumstances.

A significant number of candidates misread the question when looking at the number of days Mr Jones spent in the UK in 2020/21 and lost marks for failing to identify that he was automatically overseas resident.

The area where most candidates struggled was on the full time work abroad condition. Several thought that the voluntary work counted as employment, when it does not.

The other area that was poorly answered was the application of split year treatment. The better candidates knew that this now applies automatically under the SRT if certain conditions are met. Most had a good idea what the conditions were, but incorrectly concluded that it applied to Mr Smith in both years, when in fact he was not entitled to split year treatment at all.

Candidates should ensure they read the question carefully, as several wasted time writing about the non-resident landlord scheme. The question was about how the SRT would apply to each client and asked for a conclusion on their residence status. It did not also ask for a summary of how their income would be taxed as a result of their residence status.

A few candidates spent time explaining the NIC consequences, which was not part of the question.

7. MR WREX

Income Tax Computation	NS	Dividends	UK Tax
2020/21	£	£	£
UK state pension	6,549		
UK private pension	10,200		
Foreign pension	40,000		
UK dividends		1,650	
Foreign dividends		4,200	
Total income	56,749	5,850	
Less: Personal allowance	(12,500)		
	44,249	5,850	
37,500 x 20%			7,500
6,749 x 40%			2,700
2,000 x 0%			Nil
3,850 x 32.5%			1,251
Total tax liability			11,451
Less: DTR			
Lower of			
Foreign tax suffered		12,000	
UK tax on foreign income (W)		10,312	
			(10,312)
Revised Tax Liability			1,139
Tax deducted at source			(850)
Tax payable 2020/21			289

To calculate the unilateral relief on the foreign tax suffered, it is necessary to compare Mr Wrex's UK tax liability with and without his foreign pension. The total foreign tax credit allowed is restricted to the lower of the difference between Mr Wrex's UK tax liabilities in both computations and the actual foreign tax suffered.

Working:

Liability without foreign pension	NS	Dividends	UK Tax
	£	£	£
Total income as stated above less foreign pension of £40,000	16,749	5,850	
Less: PA	(12,500)		
	4,249	5,850	
4,249 x 20%			850
2,000 x 0%			Nil
3,850 x 7.5%			289
Total tax liability			1,139
Tax liability with foreign pension			11,451
Tax liability without foreign pension			(1,139)
UK tax on foreign income			10,312

CIOT MARKING GUIDE

TOPIC	***MARKS***
Correct inclusion of all income	*1½*
Necessary to compare tax liability with & without foreign pension to calculate foreign tax credit relief due	*1*
Personal allowance	*½*
Correct calculation of total tax payable including foreign pension before DTR	*2*
Correct calculation of total tax payable without foreign pension	*2*
Calculation of UK tax on foreign income	*1*
Calculation of foreign tax credit relief	*1*
Total tax payable 2020/21	*1*
TOTAL	***10***

Examiner's report:
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This question was generally not answered well. Invariably those that tried to short cut working out the double tax allowed on the pension got it wrong. The question clearly required two calculations to calculate the DTA.

The most common error was candidates calculating how much UK tax was charged on the foreign pension based on their first calculation. This gives the incorrect answer as the foreign pension must be removed first from the overall income to calculate the tax liability, then work out the difference to find out the maximum double tax allowed from the UK tax liability on that income.

Once again a few candidates wasted time discussing NIC consequences for the individual, which was not a requirement of the question.

8. SUE MCDONNEL

Potential gains:

Mr McDonnel:

Shareholding			145
			£
Cash sale proceeds	Note 1	£3,500 per share	507,500
Base cost	Note 2		(180,444)
			327,056
Annual exempt amount			(12,300)
Taxable gains			314,756
20%	Note 3		62,951

Mrs McDonnel:

Shareholding				355
EIS exempt shares	Note 4			(160)
Taxable shares				195
				£
Cash sale proceeds	Note 1	£3,500 per share		682,500
Base cost	Note 5			(152,444)
Gains on share disposal:				530,056
Held over capital gain falling back into charge	Note 7		15,000	
Annual exempt amount	Note 8		(12,300)	
Taxable gains			2,700	530,056
10%	Note 9			53,006
20%	Note 10		540	

Total CGT = £53,546

Note 1

In the absence of any election, the taxable consideration will consist of the initial and deferred cash of £2,500 and £1,000 per share. The balance of £1,000 settled in the form of shares will be subject to a share for share exchange and will not be taxable immediately.

Note 2

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

The base cost relating to the cash consideration is 3,500/4,500 of the total i.e. £180,444.

Mrs McDonnel will be deemed to acquire the shares at her husband's original cost i.e. 55 shares at £1,600 p/s = £88,000.

Note 3

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

Note 4

The EIS shares will be exempt from CGT. The 40 bonus issue share will be added to the exempt EIS shares.

Note 5

Date	Shares	Cost	
		£	
September 2014	60	80,000	
December 2016	80	28,000	(Note 6)
January 2020	55	88,000	(Note 2)
Total		196,000	

The base cost is apportioned between the cash and share consideration in the ratio 3,500:1,000. The cash element is 3,500/4,500 x £196,000 = £152,444

Note 6

The CGT base cost will be the market value at the date of grant of the EMI share options

Note 7

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

Note 8

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

Note 9

Mrs McDonnel's gain will qualify for BADR as she is an office holder and has held more than 5% of the shares for the 2 years prior to disposal.

Note 10

The reinstated gain will be subject to 20% capital gains tax.

Planning Opportunities:

Sale of Shares

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

Mr McDonnel may transfer some or all of his shares to his wife prior to the sale. This will ensure that the whole of the capital gain benefits from BADR in the hands of Mrs McDonnel.

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

Property Disposal

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

After the sale of the shares Mrs McDonnel has £469,944 of her BADR lifetime limit available.

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

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

The restriction to BADR can be summarised as:

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

ii) Sue McDonnel only became a director in August 2011 so the shareholder/ director (or employee) condition for BADR is only satisfied from this date and so the gain on the associated disposal arising before this date does not qualify for the relief. It will therefore be necessary to time apportion the gain around August 2011.

iii) The remaining post August 2011 portion of the gain should qualify for an element of BADR. Where rent has been paid by Phips Ltd then the proportion of the gain qualifying for BADR is further restricted. As half market rent has been charged then the BADR is restricted by 50%.

CIOT MARKING GUIDE

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

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

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

Common problem areas were:

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

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

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

9. JESSICA JONES

Income tax

There are two ways that the UK subjects individuals to income tax. UK residents are subject to tax on their worldwide income, while non-residents are subject to tax on income with a UK source.

UK source income includes interest on UK bank accounts, rent from UK property, royalties from the UK and income from UK employment. The way tax on this income is collected is by taxing the income at source, by imposing a withholding tax and/or by requiring the individual to file a self-assessment tax return.

Capital gains tax

Non-UK residents can still be subject to UK capital gains tax if they:

- have been resident in the UK during at least four of the seven tax years prior to departure; and
- are non-resident in the UK for five years or less.

In this case any gains in the non-resident period (in respect of assets owned at departure) would be taxed in the year they resume residence.

There are similar rules in place for income tax, but these only apply for certain types of income that should not be relevant in Jessica's case.

Non-residents are also subject to tax on gains on sales of UK property.

How UK tax is calculated

There is a maximum limit for the UK tax liability of non-residents which in some circumstances will restrict the UK tax due, (see below).

Double taxation

As Jessica is resident for US income tax purposes, the US may also bring her worldwide income into tax. This means that the same income could be subject to tax in both countries.

The UK and the US have entered into a double tax treaty. The purpose of a treaty is to prevent double taxation while ensuring equitable taxing rights between the US and the UK. As a US resident the treaty should limit the tax Jessica will pay in the UK to certain UK source income.

Some UK source income, for example interest, is not taxable in the UK under the treaty. A claim for relief will need to be made under the treaty. No tax is withheld on interest from UK bank accounts.

As a US resident Jessica will be subject to tax on income and gains under the US domestic rules. If she pays US tax on amounts that the UK also subjects to tax she should be able to claim double taxation relief, so that she only pays tax once.

The UK-US treaty permits the UK to tax certain types of income and gains, but does provide that relief should be given for the tax paid where US tax is charged as well. Jessica should consult with her US accountant about how this will be calculated and claimed.

Looking at each item of Jessica's UK source income in turn:

Interest from a UK bank account

This is UK source income. However, the double tax treaty provides that only the US can tax this income.

Dividends

The UK does not levy a withholding tax on dividends although dividends paid to a non-resident are treated as having suffered tax at 7.5% of the amount of the dividend. The UK-US treaty limits the UK tax that can be suffered on a UK dividend to 15%. However, as the first £2,000 of dividend income is taxed at 0%, this will not be an issue in Jessica's case.

Rent from UK property

Jessica will be able to claim a deduction for the property allowance of £1,000, rather than the expenses of £800. This will give taxable property income of £3,600.

Jessica will be classed as a non-resident landlord and subject to income tax on her rental profits. The UK – US treaty provides that the UK can tax income from real property such as rents.

The income tax either needs to be withheld by Jessica's agent or tenant or she needs to apply to HMRC to receive the amounts without having tax deducted and report the income and pay tax under the self-assessment procedure.

As Jessica's UK tax affairs are up to date and she has retained ties to the UK, HMRC are likely to agree that she receive rents gross.

UK Income Tax Liability calculation

Jessica's maximum UK income tax liability on the above figures would be:

Tax deducted, including tax treated as withheld, from 'disregarded income'
£1,800 x 7.5% £135

Tax on property income ignoring personal allowance
£3,600 x 20% £720

The personal allowance is ignored in this calculation.

Total maximum liability £855

(Credit would be given against this liability for the £135 tax treated as withheld from the dividend income.)

Jessica's liability ignoring the maximum would be:

	£
Dividends	1,800
Property income	3,600
	5,400
Personal allowance	(12,500)
Taxable income	Nil

Accordingly, she should have no UK income tax liability for the 2020/21 tax year. As a non-resident UK citizen she will need to claim her personal allowance. If she has suffered any withholding taxes she should be able to claim a refund.

Gains on sales of shares

Capital gains on the sale of UK shares will not be subject to capital gains tax unless Jessica returns to the UK within 5 years. If she does return to the UK, the annual exempt amount will be available to reduce the gains chargeable.

Sale of London flat

There are two possibilities when Jessica sells her flat. She will be subject to UK capital gains tax on non-residents (NRCG) and (depending on when she returns to the UK) she could also be a temporary non-resident in which case she will have an additional liability when she returns to the UK.

In either case it is likely that principal private residence relief (PPR) will substantially reduce her gain.

If she does not return to the UK within 5 years, she will only be subject to tax on non-resident capital gains.

If Jessica sells the flat within 9 months of ceasing to live in the property as her main residence, it is likely that she will not pay capital gains tax. NRCG only applies to the gains on residential property from 6 April 2015. Under the PPR rules, the gain relating to the period when she occupied the property as her main residence and the gain relating to the last 9 months of ownership of a property that was once her main home is exempt from tax. Therefore if she sells within 9 months of ceasing to live in the property, there will be no taxable gain.

Otherwise, only some of the gain will be taxable. The gain will be calculated based on any increase in value between 5 April 2015 and the date of sale. A proportion of the gain, corresponding to the period of occupation since 6 April 2015 plus the last 9 months of ownership will be exempt.

In addition, Jessica can claim an annual exempt amount of £12,300 (2020/21 rate) to reduce the chargeable gain.

Even if she has no tax to pay Jessica must report the transaction to HMRC within 30 days of the completion of the conveyance.

If there is any CGT due, this must be paid within 30 days of completion.

If Jessica returns to the UK within 5 years, any capital gains made during her period of non-residence will become chargeable in the year she returns. This only applies to assets owned when she became non-resident.

The portion of the gain not charged as a non-resident capital gain will come within the scope of UK capital gains tax in her year of return.

Jessica will still be able to claim PPR, but in this case the whole gain on her flat will be potentially chargeable – not just the gain relating to after 5 April 2015.

MARKING GUIDE

TOPIC	***MARKS***
Presentation and higher skills	*1*
<u>Part 1</u>	
UK taxation of income	*1*
Examples of UK source income and method of taxation	*½*
CGT for non-UK residents	*1*
Max UK IT liability	*1*
UK/US double tax treaty - limits on taxation	*½*
Some income not taxable	*1*
Double tax relief	*<u>½</u>*
	6½
<u>Part 2</u>	
Treatment of interest	*1*
Treatment of dividends	*1*
Treatment of rent, including property allowance	*2*
Max liability	*2*
Alternative liability	*1*
Gains on shares	*½*
Gain on sale of flat	
– potential charges	*½*
– position if sold within 9 months	*1*
– NRCGT gain	*1*
– availability of AEA	*½*
– reporting requirement	*½*
– payment date	*½*
– interaction with temporary non residence	*<u>2</u>*
	13½
TOTAL	***20***

10. JOHN SMYTH

Alpha Ltd

The overseas property transaction undertaken through Alpha Ltd may come within the capital gains tax (CGT) anti-avoidance legislation in S.3 TCGA 1992. The legislation is designed to impose a CGT charge on participators (broadly shareholders) on the disposal of assets in non-UK resident companies.

The S.3 rules apply to companies which would be “close” if they were resident in the UK. A “close” company is one controlled by 5 or fewer shareholders. Alpha Ltd would be close if it were UK resident and is therefore within S.3.

The effect of S.3 is to attribute gains of the non-UK company to its UK shareholders in proportion to their percentage shareholding in the company.

Thus, 70% of the £60,000 gain would be chargeable on John in 2020/21, i.e. £42,000.

S.3 will not apply if it can be shown that the transaction was not part of arrangements, one of the main purposes of which was the avoidance of a liability to capital gains tax.

Tutorial Note:

It is possible that the transfer of assets abroad legislation might apply to the income arising to Alpha Ltd, although this would not apply if there was no tax avoidance purpose. The examiner did not mention this in his answer and intended this part of the question to focus on the capital gain. However, mention of s.720 would gain credit.

Beta Ltd

The investment in Beta Ltd via the Isle of Man trust would appear to fall within “transfer of assets abroad” anti-avoidance rules in S.720 ITA 2007.

The reason that the anti-avoidance rules apply is that John appears to have the power to enjoy the income of the company because the trustees (as sole shareholders) could force the company to pay a dividend. The trustees could then use their discretion to pay that income to him.

If HMRC are able to establish that the arrangements were effected with a view to avoiding UK tax on the interest income, S.720 applies. If John had invested directly in the offshore bank account, he would have been liable to tax on the interest received. Therefore it will be difficult to persuade HMRC that there is no tax avoidance motive to setting up the offshore trust.

The effect of S.720 is to tax the settlor (in this case, John) on the total £10,000 income of the company.

If it transpires that John has no “power to enjoy” the income of the trust, then the trust income will be taxed in the hands of any UK individual who receives a benefit from the trust.

Gamma Ltd

John has lost money in respect of his investments in Gamma Ltd.

John does not need to actually sell his shares to establish a capital loss. Instead, should the shares become worthless, he could make a claim that the shares have become “negligible in value”. He would then be deemed to dispose of them and reacquire them at the negligible value, thereby establishing a capital loss.

However, it does not appear that the shares have yet become negligible in value.

If John were to dispose of the shares at a loss, or make a valid negligible value claim, it would then be possible to set such a capital loss on the shares against his income by making a claim. This form of relief is however only available under limited circumstances.

John must have subscribed for shares in a qualifying trading company. The definition of a "qualifying trading company" for these purposes is a company which is unlisted and which carries on trading activities and does not carry on other activities to a substantial extent.

Gamma Ltd is a manufacturing company therefore it would appear to qualify.

The relief operates by setting the capital loss against general income in the year of the loss or the preceding year.

Where a loan to a trading company that has been used for trading purposes becomes irrecoverable, this would also result in a capital loss. However such a loss cannot normally be set against income.

However if there is a new issue of shares in satisfaction of the loan, such that the share issue is regarded as a share reorganisation this could potentially be treated as a "subscription". As such, relief for the capital loss against income referred to above could be obtained.

HMRC are likely to contend that satisfaction of the £100,000 loan by the issue to John of new shares is not a "bargain made at arm's length" on the basis that the company's net assets were only £50,000 compared to nominal share capital of £100,000.

If the share issue is not a share reorganisation, the special rules on the satisfaction of debts will apply. These will restrict the acquisition cost of the new shares to their market value. This is likely to be considerably less than the £100,000 nominal value of the shares, but nevertheless the capital loss arising could then potentially be set against John's income.

If the market value of the shares was, say, only £25,000, should the Gamma Ltd shares subsequently become negligible in value John would potentially make a capital loss of £35,000 (£10,000 plus £25,000). He could then claim for this loss to be set against his income.

The remaining loss on his loan of £75,000 would then be a capital loss which could only be set against capital gains in that and future years.

<u>Delta Ltd</u>

Normally payments by a company to its shareholders are taxed as income distributions (dividends). However a major exception to this rule is that payments following the appointment of a liquidator are capital distributions and subject to capital gains tax.

The tax rate on income distributions (in excess of the dividend allowance) for a taxpayer with income in excess of £150,000 a year is 38.1% as opposed to 20% capital gains tax or 10% where the shareholder qualifies for business asset disposal relief (BADR).

Thus, on the face of it, John would be making a capital gain of £1,249,000. Each individual has a lifetime limit of £1m of gains that can qualify for BADR. So, assuming John has not previously made any qualifying gains, the first £1m of this gain will taxed at 10% provided the disposal qualifies for BADR. The balance would be subject to CGT at 20%.

BADR is available as John is an officer or employee of the company holding at least 5% voting control, the company must also qualify as a trading company. These conditions normally need to have been satisfied for 24 months prior to the date of disposal. However, provided the company had been a trading company for 24 months prior to cessation of trading, a disposal within 3 years of cessation would also qualify for BADR.

Trading company status may be jeopardized by a large cash balance, although it appears that the cash balance was generated on the sale of the assets on cessation and was not present in the 24 months prior to the cessation of trade, so this should not be a problem in this case.

The other potential problem here is the anti-avoidance legislation aimed at 'Phoenix' arrangements.

This will potentially apply in respect of Delta Ltd, if within the 2 years following the distribution John is involved with the carrying on of a trade similar to that of Delta Ltd ie property development.

However the anti-avoidance provisions will only apply where it is reasonable to assume that the main (or one of the main) purposes of the winding up is to reduce John's income tax liability. This is a possibility when he pays less tax than if a dividend had been paid.

There is no formal clearance procedure so John will need to self-assess as to whether he believes the anti-avoidance provisions apply.

The risk therefore is that the £1.25 million payment (in excess of the amount subscribed) will be taxed as an income distribution at a rate of 38.1% = £475,869 as opposed to capital gains tax at a rate of 10% on £1m and 20% on £249,000 = £149,800. This would result in additional tax payable of £326,069

MARKING GUIDE

TOPIC	***MARKS***
Presentation and higher skills	*1*
<u>*Alpha*</u>	
– *Identify relevant anti avoidance legislation (s3)*	*1*
– *Applies to companies that would be close if UK R*	*1*
– *Explanation of effect of s3*	*1*
– *Calculation of gain*	*½*
– *Tax avoidance motive*	*1*
<u>Beta</u>	
– *Identify relevant anti avoidance legislation (s720)*	*1*
– *John has power to enjoy income*	*1*
– *Tax avoidance motive*	*1*
– *Effect of s720*	*1*
– *S731 might apply if John does not have power to enjoy income*	*1*
<u>*Gamma*</u>	
– *Explanation of negligible value claim*	*1*
– *Loss can be set vs income of CY or PY*	*½*
– *Conditions for loss to be set vs income*	*1*
– *Irrecoverable loan can be treated as capital loss*	*1*
– *Capital loss cannot be set vs income*	*½*
– *Unless share reorganisation*	*1*
– *Satisfaction of debt rules*	*1*
<u>*Delta*</u>	
– *Post liquidation distribution = capital*	*1*
– *Alternative = income distribution*	*½*
– *Availability of BADR*	*2*
– *Explanation of LL*	*1*
– *Calculation of CGT*	*1*
– *Anti avoidance rules: conditions*	*1*
– *Explanation of impact of rules*	*1*
– *Calculation of additional tax payable*	*1*
– *No formal clearance procedure*	*½*
TOTAL (MAX)	***20***

Examiner's comments

This proved a difficult question for many candidates and raises concerns about their ability to identify potential tax problems surrounding avoidance strategies adopted by clients and other advisers. Many even stated that there would be no UK tax implications for Mr Smyth's investments in Alpha Ltd and Beta Ltd. A reassuring number did however spot the potential CGT implication of the property disposal by the overseas close company (TCGA s.3).

Candidates failed to focus on the key issues concerning Mr Smyth's losses on his investments in Gamma Ltd.

The liquidation distribution by Delta Ltd was generally well answered as it provided candidates with the opportunity to recite what they knew about business asset disposal relief. Many however stated that property development was not a trade but an investment activity, a crucial distinction.

11. MR PORTER

Personal Pension

Mr Porter wishes to make a net payment to his personal pension in 2021/22 of £100,000 (gross equivalent £125,000). While tax relief is available on pension contributions, the limit on which relief is given is restricted. The maximum contribution available for any one tax year is 100% of earnings. Given his current earnings exceed his proposed gross contribution, this does not present a problem.

However, there is an "Annual Allowance" which effectively limits the level of contributions on which tax relief is given. The annual allowance for 2021/22 is £40,000. This annual allowance is tapered for 'high income' individuals who have 'threshold income' of above £200,000 (and adjusted income of above £240,000). Threshold income is earnings less gross pension contribution. Therefore, with earnings of £180,000 the tapering provisions will not apply to Mr Porter.

The annual allowance for the current year can be increased by any unused allowance in the past three years provided Mr Porter was a member of a registered scheme in that year.

For personal pension schemes, the payment to the scheme will be treated as made net of basic rate tax. This means that for the purposes of calculating unused allowances to be brought forward, Mr Porter's net payments of £12,000 and £16,000 are grossed up to £15,000 and £20,000 respectively.

Therefore, in addition to the annual allowance of £40,000 for 2021/22, Mr Porter can bring forward the unused allowance of £25,000 (£40,000 - £15,000) from 2019/20 and £20,000 (£40,000 - £20,000) from 2020/21. In 2019/20 his threshold income was below £110,000 (rate applicable pre 2020/21). In 2020/21 his threshold income was below £200,000. So the tapering provisions did not apply in either year. Therefore, the maximum gross contribution Mr Porter could make in 2021/22 without having an Annual Allowance charge is £85,000.

To contribute the gross £85,000 Mr Porter would make a net payment of £68,000 with the remaining £17,000 made up by HMRC.

Higher rate tax relief will be given on this gross contribution by extending his basic rate and higher rate tax bands. This has the effect of pushing his earnings down into a lower rate band. Therefore, assuming Mr Porter makes a gross pension contribution of £85,000, the 45% upper rate would only take effect for taxable income over £235,000 (so in Mr Porter's case would no longer apply).

Therefore, based on 2021/22 earnings of £180,000, a gross pension contribution of £85,000 would receive tax relief at an extra 25% on £30,000 and an extra 20% on the remaining £55,000.

The contribution would also reduce Mr Porter's adjusted net income below the £100,000 threshold, above which the personal allowance is withdrawn at £1 for every £2 of income. This effectively reinstates his personal allowance of £12,500 and provides a further 20% tax relief on £25,000 of contribution.

If Mr Porter were to make the suggested net payment of £100,000 to his personal pension scheme, the contribution would be grossed up to £125,000 (£100,000 x 100/80).

This contribution would exceed his available Annual Allowance in the year by £40,000 (£125,000 - £85,000) and would trigger an Annual Allowance Charge.

The £40,000 excess contribution is added to his income and taxed in the year. This “extra income” would fall within the 40% rate band, resulting in an Annual Allowance Charge of £40,000 x 40% = £16,000. In effect, this means that the extra tax relief Mr Porter obtained by extending the rate bands has been partially clawed back.

To avoid this, Mr Porter may wish to consider limiting the 2021/22 contribution to the net payment of £68,000 and investing the surplus using an alternative arrangement, two of which are outlined below;

1) Individual Savings Account (ISA)

ISA’s are tax favoured savings and investment accounts. They can be used to save cash, invest in stocks and shares or hold peer-to-peer loans (‘Innovative Finance’ ISAs). There is no minimum level of saving, and no requirement to hold the investment for a minimum period.

The maximum an individual can put into an ISA is £20,000 per tax year, which can be invested in a ‘stocks and shares’ ISA, a cash ISA or an Innovative Finance ISA or in any combination desired.

While ISAs do not benefit from tax relief upfront, they do provide a tax-free environment for accumulation of funds. Interest and dividends are received tax free and profits from investments are not subject to Capital Gains Tax.

On retirement, Mr Porter can either decide to take an income from the interest or returns on his ISA investments or he could realise a portion of the actual investments. This income will be tax free, whereas the income paid from his personal pension will be subject to tax.

2) Non-qualifying life policy

A single premium life assurance policy is one where an individual pays an amount (a single premium) to the insurer at the beginning of the policy. The policy will pay out a lump sum on its maturity or if the individual (or another life assured) should die.

It is possible to withdraw up to 5% of the premium paid annually from a single premium bond ‘tax-free’. Where the 5% maximum withdrawal has not been taken, it may be rolled forward for cumulative use in later years.

Gains on profits made on non-qualifying policies are often referred to as “chargeable event gains”, but they are subject to income tax rather than capital gains tax. A gain will only arise on death, maturity or full or partial surrender of the policy.

Where a chargeable event gain does arise, a basic rate taxpayer will not pay any additional income tax on the gain, unless, when it is added to other income for the year it falls within the higher rate tax band.

For retirement planning, the chargeable event gain is typically deferred until after retirement when income is likely to be reduced. Any gain on either full or partial surrender, would normally then fall within the basic rate band and become effectively exempt from tax.

CIOT MARKING GUIDE

TOPIC	***MARKS***
Presentation and higher skills	*1*
<u>Part 1)</u>	
<u>Personal Pension Contribution:</u>	
Maximum determined by relevant earnings	*1*
Annual allowance restriction	*½*
Tapered annual allowance	*1*
Carry forward of unused allowances	*1*
Identification of unused allowances available	*1*
Available gross contribution limit	*1*
Effect of grossing up	*½*
Identifying maximum actual payment	*½*
Relief given by extending BR/HR band	*½*
Effective relief for restoring personal allowance	*1*
Explaining annual allowance charge	*1*
Identifying the excess grossed up contribution	*1*
Calculating the annual allowance charge on full payment	*<u>1</u>*
	12
<u>Part 2)</u>	
<u>ISA:</u>	
Description of ISA investments	*1*
Identifying maximum allowable investment	*1*
No tax relief upfront	*1*
Tax free accumulation	*½*
Potential tax free income on retirement	*½*
<u>Non-qualifying life policy:</u>	
Annual withdrawals of 5%	*1*
Chargeable event gains subject to income tax	*1*
Charge only for higher rate taxpayers	*1*
Defer gains until retirement to avoid higher rate charge	*<u>1</u>*
	8
TOTAL	***20***

Examiner's report:
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This was generally well answered with signs that most candidates had a reasonable understanding of the reliefs and limits on contributions and were well prepared in this area.

In part 2 the better candidates compared the suggested alternatives to pension arrangements commenting on the lack of relief going in and potential to defer taking income until after retirement. Candidates who did not give much consideration to this part of the question, or who made general comments such as the lower age limits, scored lower marks and in some cases affected an otherwise strong answer to part 1.

12. MR & MRS BARCLAY

	Mrs Barclay	Mr Barclay
	£	£
Antique dresser (W1)	4,167	
Painting (W2)	(1,200)	
Generator (W3)		5,250
Antique desk (W4)	Exempt	Exempt
Antique table (W5)	9,792	9,792
Vases (W6)	4,575	4,575
Capital gains (before annual exempt amounts)	17,334	19,617

Workings

W1) Antique dresser

	£
Proceeds	8,500
Less: Cost (Probate value)	(2,750)
Gain	5,750
Restricted to 5/3 x £(8,500 - 6,000)	4,167

W2) Painting

	£
Deemed proceeds	6,000
Less: Cost (Probate value)	(7,200)
Allowable loss	(1,200)

W3) Generator

	Business 75%	Non-business 25%
	£	£
Proceeds (£16,000)	12,000	4,000
Less: Cost (£9,000)	(6,750)	(2,250)
Gain	5,250	1,750
	Chargeable	Exempt

Note:

The asset is a wasting chattel and would normally be exempt. However, the exemption does not apply where capital allowances have been claimed.

W4) Antique desk (joint asset)

	Mrs Barclay	Mr Barclay
	£	£
Proceeds	4,900	4,900
Less: Cost	(1,700)	(1,700)
Gain	3,200	3,200

Gain exempt as proceeds < £6,000

W5) Antique table (joint asset)

	Mrs Barclay	Mr Barclay
	£	£
Proceeds	11,875	11,875
Less: Cost	(1,250)	(1,250)
Gain	10,625	10,625
Restricted to 5/3 x £(11,875 - 6,000)	9,792	9,792

W6) Vases (set of 2 - joint asset)

	Mrs Barclay	Mr Barclay
	£	£
Proceeds (£23,500 apportioned)	11,750	11,750
Less: Cost	(2,600)	(2,600)
Gain	9,150	9,150
Restricted to 5/3 x £(11,750 - 6,000)	9,583	9,583
Lower gain applies	9,150	9,150
Taxed in 2019/20	4,575	4,575
Taxed in 2020/21	4,575	4,575

Note:

Under s.262(4) TCGA, as a set of assets has been disposed of to connected persons (being Mark and his wife), the 2 separate transactions are treated as one for CGT purposes (with the resulting gain then apportioned between Mr & Mrs Barclay).

In this case, it would be necessary to revisit the CGT computation on the gift of the vase to Mark's wife in 2019/20 which would originally have been based on the value of one of the vases (being £10,000).

CIOT MARKING GUIDE

TOPIC	***MARKS***
<u>Antique dresser:</u>	
Calculation of gain	*½*
5/3rds rule	*½*
<u>Painting:</u>	
Calculation of loss	*½*
Deeming proceeds to be £6,000	*1*
<u>Generator:</u>	
Identifying part chargeable	*½*
Calculation of business only proportion of gain	*½*
<u>Antique Desk:</u>	
Calculation of gains	*½*
Identifying gain exempt as proceeds less than £6,000	*1*
<u>Antique Table:</u>	
Calculation of gain	*½*
5/3rds rule	*½*
<u>Vases:</u>	
Identification of connected disposal	*½*
Correct disposal value of the set	*½*
Calculation of gain arising on disposal as single set	*½*
5/3rds rule	*½*
Split between two disposals	*1*
Calculation of net chargeable gains	*1*
TOTAL	***10***

Examiner's report:
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The question was testing the chattels rules in a number of given scenarios. Most candidates knew some of the rules but not all of them. The chattels restrictions were mainly calculated based on the joint gains calculation whereas both husband and wife are entitled to separate exemptions and the limits should have been calculated on the individual gains.

13. ANSELL LTD

TAX IMPLICATIONS OF SHARES ISSUED TO CHARLES

By arranging for the issue of 500 shares to Charles, Mr Brian has diluted the value of his holding in Ansell Ltd.

If he had gifted part of his own shareholding to Charles, this would have been treated as a disposal for Capital Gains Tax (CGT) purposes.

Where a disposal is on other than “arm’s length” terms, the CGT rules deem the disposal to have been for a consideration equal to the market value of the asset gifted (even though no actual consideration has been received).

Where the parties are “connected persons”, the transaction is automatically deemed to be not at “arm’s length” and the market value rule applies. A parent and their son or daughter are “connected” for CGT purposes.

While Mr Brian has not made any actual disposal of his own shares, the legislation contains “value shifting” provisions (S.29 TCGA 1992), which prevents avoidance of CGT where shareholdings are diluted through share issues.

The legislation states that:

> “If a person having control of a company exercises his control so that value passes out of shares in the company owned by him or a person connected with him …. and passes into other shares in …. the company, that shall be a disposal of the shares …out of which the value passes …”

By arranging for 500 shares to be issued to Charles, value has passed out of Mr Brian’s own shareholding which was formerly 100% of the issued share capital and into Charles’ shares.

Where the consideration received is less than what could have been obtained on arm’s length terms, the transaction is treated as having taken place with consideration deemed to be equal to the market value of what is acquired by Charles less any amount paid by Charles.

The valuation specialist has calculated the market values of the shares acquired by Charles at £100,000.

Mr Brian’s CGT liability for 2020/21 on the deemed disposal is calculated as follows:

	£
Deemed consideration (100,000 – 500)	99,500
Less: Cost	
£100,000 x 99,500/(99,500 + 600,000)	(14,224)
Gain	85,276
Less: Annual exempt amount	(12,300)
Taxable gain	72,976

As Mr Brian has owned 5% or more of the ordinary share capital of Ansell Ltd and been a director of the company for the last 2 years, he meets the conditions of eligibility for CGT business asset disposal relief (BADR).

BADR works by reducing the rate of CGT to only 10%. If Mr Brian claims BADR, his CGT liability would therefore be £7,298. If he chooses not to make a claim for BADR, CGT would be payable at 20%, increasing the CGT due to £14,595.

There is a lifetime limit of £1m for eligible gains on which BADR may be claimed. If Mr Brian has claimed BADR on any previous gains, this might limit the availability of BADR on this gain.

Alternatively, gift relief may be claimed in respect of gifts of business assets. A business asset for this purpose includes shares in an unlisted trading company. A claim for gift relief must be made jointly by the transferor and the transferee.

The relief operates by reducing the transferor's gain by the amount deferred and, instead of the transferee acquiring the shares at market value, the consideration which is deemed to have been given is also reduced by the deferred gain. In effect, the transferee inherits the transferor's CGT base cost.

If gift relief is claimed, Charles' acquisition cost would be £(99,500 - 85,276 + 500) = £14,724. The effect of the claim is to increase Charles' gain if he were to dispose of his shares. However, given that Charles is an employee and the company is his "personal company", any gain he makes would also be eligible for BADR once he has owned the shares for 2 years.

As Mr Brian intends for Charles to take over the business and inherit his shares, it seems unlikely that he will dispose of his shares unless the company were sold. Therefore, it would be advisable to claim gift relief rather than incur liability.

As Charles is an employee of the company, the shares awarded to him could fall within the rules covering "employment related securities" (ERS). This would mean that the value of the shares received by Charles would potentially be liable to income tax as employment income.

However, there is an exception from the ERS legislation for shares acquired in the normal course of family, domestic or personal relationships. Since Charles is Mr Brian's son and the issue of shares to him is part of Mr Brian's succession plans for him to take over the running of the company, the exception would appear to apply here.

For the same reason, the acquisition does not appear to be in the nature of a reward for services and the acquisition of the shares therefore does not appear to give rise to any income tax liability for Charles.

There is normally a statutory requirement to report the acquisition of ERS online to HMRC, but if the above exception applies the acquisition is not reportable.

CIOT MARKING GUIDE

TOPIC	***MARKS***
General explanation of CGT on gifts / connected parties rules	*2*
Recognition of S.29 value shifting issue	*2*
CGT calculation:	
Base cost	*1*
Annual exempt amount	*1*
Business Asset Disposal Relief conditions	*1*
Effect of a claim for BADR	*1*
Gift Relief conditions	*1*
Effect of a joint claim under S.165	*1*
Advising which claim to be made	*1*
Consideration of whether share award is within ERS	*1*
Recognition of ERS exception	*1*
Whether acquisition reportable	*1*
Presentation and higher skills	*1*
TOTAL	***15***

Examiner's report:
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The responses to the question suggest that a main aspect of the question i.e. the CGT value shifting provisions were not understood by most candidates. Some candidates recognised that the issue of shares to Mr Charles involved a CGT disposal by Mr Brian and that this was in the nature of a gift. Probably less than 10% of candidates considered the value shifting provisions in s.29 TCGA 1992 specifically but perhaps 50% of candidates considered a later acquisition of Mr Brian's shares on his retirement. The comments in the question concerning Mr Brian's succession plans for Ansell Ltd were included to hint that the issue of shares to Mr Charles was part of those plans and not intended as an employment reward.

The question specifically asked for the taxation implications of the "issue" of shares to Mr Charles, but many candidates interpreted this as a transfer of shares.

That said, if they correctly considered and described the business asset disposal relief and gift relief provisions, marks would have been earned (usually 4 in total). A mark would also have been earned for at least recognising that the issue of shares was a CGT disposal by Mr Brian even if value shifting was not specifically recognised. Some candidates went on to correctly calculate the gain.

Many candidates assumed that Mr Charles' acquisition was by reason of his employment, without giving any consideration to whether that was so, as a question of fact. Given that many candidates will be dealing with the affairs of private companies where this type of situation may well arise, they should be able to distinguish a situation where such an acquisition was clearly not by reason of employment. Candidates were rewarded for a consideration of whether or not the shares were RCAs and therefore whether PAYE applied.

14. HANS ORFF

1)

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

Account A

Account A contains 'clean' capital which has remained untouched since Hans became UK resident. The capital of £300,000 brought from this account to the UK on 1 October 2020 to assist with Hans' house purchase is not a taxable remittance.

Account C

The £500,000 withdrawn from Account C on 9 October 2020 to assist with the house purchase is clearly money or property brought to or received or used in the UK for the benefit of a 'relevant person' (Hans) and is therefore a remittance under Condition A in S.809L(2) ITA 2007.

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

As a result, condition B at S.809L(3)(a) is also met as the property, service or consideration is income or chargeable gains. The amount treated as remitted is the amount of the income or chargeable gains (S.809P(2)). However the amount taxable is limited to the amount of the gain under S.809P(12) so that Hans will be liable to CGT for 2020/21 on £200,000.

Account D

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

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

These rules are set out as a series of steps:

Step 1:

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

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

Step 2:

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

Step 3:

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

Step 4:

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

Step 2:

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

Step 3:

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

Step 4:

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

Step 2:

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

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

Under S.809V, the £30,000 brought to the UK and paid directly to HMRC to meet the 2020/21 RBC is not treated as a remittance.

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

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

2)

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

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

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

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

3)

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

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

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

Tutorial Note:

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

CIOT MARKING GUIDE

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

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

15. SIMON

1) TAXABLE EMPLOYMENT INCOME 2020/21

		£
Salary		110,000
Bonus		25,000
Loan benefit	W1	384
Accommodation benefit	W2	1,438
Car	W3	7,673
Fuel	W4	6,064
Mileage	W5	109
Personal liabilities		953
Share option	W6	1,200
Employment income		156,821

Workings

W1) Loan benefit

	£
Loan advanced 5.5.20	20,000
Loan outstanding 5.4.21	17,250
	37,250
Average x ½	18,625
Benefit = £18,625 x 2.25% x 11/12	384

W2) Accommodation benefit

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

W3) Car benefit

	£
List price	36,000
Less: Capital contribution (max)	(5,000)
	31,000
@ [(120 – 75)/5] = 9 + 18 = 27%	8,370
x 11/12 (1.5.20 – 5.4.21)	7,673

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

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

W4) Fuel benefit

	£
£24,500 x 27% x 11/12	6,064

W5) Mileage

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

W6) Share option

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

Notes:

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

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

2) NATIONAL INSURANCE

Earnings for National Insurance purposes are broadly the same as for Income Tax.

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

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

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

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

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

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

CIOT MARKING GUIDE

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

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

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

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

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

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

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