Tolley® Exam Training

CTA ADVANCED TECHNICAL PAPER

TAXATION OF INDIVIDUALS

PRE REVISION QUESTION BANK

FA 2019

May and November 2020 Sittings

PQ720
CTA

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 2019).

Using this question bank

All the CTA exams, with the exception of the Awareness paper, are **3¼ hours** in length. The initial 15 minutes are pre examination reading time and during this time you are permitted to read the question paper and the legislation and **annotate the question paper** but will not be allowed to write in the answer folder. Calculators may be used during this period. There will be an announcement at the end of the fifteen minutes reading time after which you may start writing in the answer folder.

During the 3 hour writing period we recommend you initially **allocate 1.7 minutes per mark** to allow time for a final review stage at the end of each question.

10 mark question = 17 minutes
15 mark question = 25 minutes
20 mark question = 34 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 **write the answers out** yourself.

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

Reviewing your answers

It is essential to read through your answer when you have finished writing 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? You want those red ticks to be flowing freely onto your page!

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

You may be able to make some small corrections at this review stage – you may find you have missed out a vital word such as "not" or you may at this stage think of another point or two to add while reading 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.

Perhaps consider giving your answer to somebody else (even a non-tax person) to read. If they can understand the points you are trying to make, your communication skills are fine. Remember that you are writing letters / memos etc for someone else to read, so look at your work from the viewpoint of the reader. 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?

CONTENTS

QUESTIONS

CTA EXAMINATIONS

2020

TAX TABLES

INCOME TAX - RATES AND THRESHOLDS

	2019/20	2018/19
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 – 34,500
Higher rate band	37,501 – 150,000	34,501– 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 – 2,049	1 – 2,000
Scottish basic rate	2,050 – 12,444	2,001 – 12,150
Intermediate rate	12,445 – 30,930	12,151 – 31,580
Higher rate	30,931 – 150,000	31,581 – 150,000
Top rate	150,000 +	150,000 +

INCOME TAX - RELIEFS

	2019/20	2018/19
	£	£
Personal allowance(2)	12,500	11,850
Married couple's allowance(3)	8,915	8,695
- Maximum income before abatement of relief - £1 for £2	29,600	28,900
- Minimum allowance	3,450	3,360
Transferable Tax allowance for married couples and civil partners(4)	1,250	1,190
Blind person's allowance	2,450	2,390
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) From 6.4.18, the limit is £2 million, where over £1 million is invested in knowledge intensive companies.

CTA EXAMINATIONS

2020

TAX TABLES

ISA limits	**2019/20**	**2018/19**
Maximum subscription:	£	£
'Adult' ISAs	20,000	20,000
Junior ISAs	4,368	4,260

Pension contributions

	Annual allowance[(1)]	**Lifetime allowance**	**Minimum pension age**
	£	£	
2018/19	40,000	1,030,000	55
2019/20	40,000	1,055,000	55

Basic amount qualifying for tax relief £3,600

Notes (1) The annual allowance is tapered by £1 for every £2 of adjusted income above £150,000 for individuals with threshold income above £110,000. It cannot be reduced below £10,000.

Employer Supported Childcare

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

Notes (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

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

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

INCOME TAX - BENEFITS

Car benefits

Emissions	**2019/20[(1)]**	**2018/19[(1)]**
0 – 50 g/km	16%	13%
51 – 75 g/km	19%	16%
76 – 94 g/km	22%	19%
95 g/km or more	23% + 1% for every additional whole 5g/km above threshold	20% + 1% for every additional whole 5g/km above threshold
165 g/km or more	37%	
180g/km or more		37%

Fuel benefit base figure	**2019/20**	**2018/19**
	£24,100	£23,400

Notes (1) 4% supplement for diesel cars excluding those that meet the Real Driving Emissions Step 2 (RDE2) standard.

CTA EXAMINATIONS

2020

TAX TABLES

Van benefits

	2019/20	2018/19
	£	£
No CO_2 emissions	2,058	1,340
CO_2 emissions > 0g/km	3,430	3,350
Fuel benefit for vans	655	633

	2019/20	2018/19
Official rate of interest	2.5%	2.5%

INCOME TAX - SIMPLIFICATION MEASURES

Allowances

	2019/20	2018/19
	£	£
'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

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)(4)	6%
WDA on patent rights and know-how	25%
WDA on structures and buildings (SBA) (5)	2%

Notes (1) On first £1,000,000 of investment in plant & machinery (not cars) from 1 January 2019 to 31 December 2020 (£200,000 before 31 December 2018 & from 1 January 2021).
(2) The main pool rate applies to cars with CO_2 emissions of not more than 110 g/km (130 g/km for expenditure incurred before 1 April 2018).
(3) The special pool rate applies to cars with CO_2 emissions greater than 110 g/km (130 g/km for expenditure incurred before 1 April 2018).
(4) The special pool rate was 8% prior to 6 April 2019 (1 April 2019 for companies).
(5) The 2% rate applies to expenditure from 29 October 2018 on new qualifying non-residential structures and buildings on a straight-line basis.

100% First year allowances available to all businesses

1) New energy saving plant and machinery, and water efficient plant and machinery (until April 2020).
2) Capital expenditure incurred by a person on research and development.
3) New zero-emission goods vehicles (until April 2021).
4) New cars registered before 31 March 2021 if the car either emits not more than 50 g/km of CO_2 (75g/km before 1 April 2018) or it is electrically propelled.
5) Electric vehicle charging points expenditure incurred from 23 November 2016 until April 2023.

CTA EXAMINATIONS

2020

TAX TABLES

NATIONAL INSURANCE CONTRIBUTIONS

Class 1 limits	**2019/20**			**2018/19**		
	Annual	**Monthly**	**Weekly**	**Annual**	**Monthly**	**Weekly**
	£	£	£	£	£	£
Lower earnings limit (LEL)	6,136	512	118	6,032	503	116
Primary threshold (PT)/ Secondary threshold (ST)	8,632	719	166	8,424	702	162
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	46,350	3,863	892

	2019/20	2018/19
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%.

	2019/20	**2018/19**
Employment allowance		
Per year, per employer	£3,000	£3,000
Class 1A contributions	13.8%	13.8%
Class 1B contributions	13.8%	13.8%
Class 2 contributions		
Normal rate	£3.00 pw	£2.95 pw
Small profits threshold	£6,365 pa	£6,205 pa
Class 3 contributions	£15.00 pw	£14.65 pw
Class 4 contributions		
Annual lower profits limit (LPL)	£8,632	£8,424
Annual upper profits limit (UPL)	£50,000	£46,350
Percentage rate between LPL and UPL	9%	9%
Percentage rate above UPL	2%	2%

OTHER PAYROLL INFORMATION

Statutory maternity/adoption pay First 6 weeks @ 90% of AWE
Next 33 weeks @ the lower of £148.68 and 90% of AWE

Statutory shared parental pay /paternity pay For each qualifying week, the lower of 90% of AWE and £148.68

Student Loan Plan 1: 9% of earnings exceeding £1,577 per month
Plan 2: 9% of earnings exceeding £2,143 per month

Postgraduate Loan 6% of earnings exceeding £1,750 per month

National living/minimum wage (April 2019 onwards)

Category of Worker	**Rate per hour**	**Category of Worker**	**Rate per hour**
Workers aged 25 and over	£8.21	18–20 year olds	£6.15
21–24 year olds	£7.70	16–17 year olds	£4.35
		Apprentices	£3.90

CTA EXAMINATIONS

2020

TAX TABLES

CAPITAL GAINS TAX

	2019/20	**2018/19**
Annual exempt amount for individuals	£12,000	£11,700

CGT rates for individuals, trusts and estates

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

Notes (1) The rate is 18% if the gain is in respect of a residential property
(2) The rate is 28% if the gain is in respect of a residential property

Entrepreneurs' relief and Investors' relief(1)	**2019/20**	**2018/19**
Relevant gains (lifetime maximum)	£10 million	£10 million

Notes (1) The first claims for investors' relief can be made in 2019/20.

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

CTA EXAMINATIONS

2020

TAX TABLES

Lease percentage table

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

CORPORATION TAX

Financial year	**2019**	**2018**	**2017**
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**
From 4.1.11	20%	1/6

Limits	**From 1.4.19**	**From 1.4.18**
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

OTHER INDIRECT TAXES

	2019/20	**2018/19**
Insurance premium tax(1)		
Standard rate	12%	12%
Higher rate	20%	20%

Tobacco products duty	**From 29.10.18**	**Until 28.10.18**
Cigarettes	16.5% x retail price + £228.29 (or £293.95 (2)) per thousand cigarettes	16.5% x retail price + £217.23 (or £280.15 (2)) per thousand cigarettes
Cigars	£284.76 per kg	£270.96 per kg
Hand-rolling tobacco	£234.65 per kg	£221.18 per kg
Other smoking/chewing tobacco	£125.20 per kg	£119.13 per kg
Tobacco for heating from 1 July 2019	£234.65 per kg	N/A

Notes (1) Premium is tax inclusive (3/28 for 12% rate and 1/6 for 20% rate).
(2) The £293.95/£280.15 per thousand cigarettes is a minimum excise duty (if higher than the first calculation).

CTA EXAMINATIONS

2020

TAX TABLES

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INHERITANCE TAX

Death rate	40%[1]	**Lifetime rate**	20%

Notes (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

Notes (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 1.4.19**	**From 1.4.18**
>£0.5m - ≤ 1m	£3,650	£3,600
> £1m - ≤ 2m	£7,400	£7,250
> £2m – ≤ 5m	£24,800	£24,250
> £5m – ≤ 10m	£57,900	£56,550
> £10m – ≤ 20m	£116,100	£113,400
> £20m	£232,350	£226,950

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

2020

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 pay 15% on purchases of residential property valued > £500,000.

(3) First-time buyers purchasing a single dwelling as their only or main residence on or after 22.11.17 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)(4)	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% (for effective dates on or after 25 January 2019) 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. Where the effective date is on or after 25 January 2019 but the contract was entered into prior to 12 December 2018, the 3% (prior) rate will apply.

(3) For contracts entered into after 8 February 2018, where the effective date of the transaction is on or after 30 June 2018, there is a relief for first-time buyers where a 0% rate is applied to the first £175,000 of the purchase consideration.

(4) These rates apply where the effective date is on or after 25 January 2019. Prior to this date the 0% band was the same, £150,001-£350,000 was 3%, £350,001+ was 4.5%.

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+

Note (1) Residential leases are generally exempt

QUESTIONS

1. Arthur, a retired accountant, is a serial entrepreneur who holds shares and directorships in a number of companies.

Percival Ltd

In May 2019, Arthur disposed of shares in Percival Ltd for £1,500,000 making a gain of £1,200,000. He received £500,000 in cash and £1 million in non-convertible loan notes (to be redeemed in May 2022).

Percival Ltd is a property development company in which Arthur had held 12% of the ordinary shares since buying them several years ago. Arthur estimates that around 40% of its property portfolio is held for rental purposes, with the most recent accounts showing that 24% of turnover and 38% of the profits are attributable to lettings.

Lazarus Ltd and Milford plc

Arthur has been majority shareholder and managing director of Lazarus Ltd since the company was formed several years ago. In November 2019 the shareholders of Lazarus Ltd disposed of their shares to Milford plc, in exchange for an issue of new ordinary shares in Milford plc.

A condition of the offer was that Arthur would stay on as managing director of Lazarus Ltd for two years, but he then expects to resign and sell his shares in Milford plc. Arthur received 2% of the issued share capital of Milford plc which were worth £2,500,000 immediately after the exchange. The shares in Lazarus Ltd were acquired on formation for a nominal amount which may be ignored.

Edgar Ltd

Arthur owns 5% and Martha (Arthur's wife) owns 3% of the ordinary shares in Edgar Ltd, a company of which they are both directors. The company is expected to be sold for cash to a private equity investor by the end of 2020, by which time they will both have held their shares for three years. They anticipate making gains of £750,000 and £450,000 respectively.

Arthur also held non-voting 'A' ordinary shares in Edgar Ltd which he sold on 30 April 2019 for £500,000, making a capital gain of £400,000. These 'A' shares had been acquired in 2014. Martha made a capital gain on 30 April 2020 equal to her annual exempt amount for 2020/21.

Arthur and Martha, who are both higher rate taxpayers due to their directors' fees, are anxious to make maximum use of available reliefs at the earliest opportunity and take any steps necessary for that purpose. No claims for Entrepreneurs' Relief have been made to date and the couple have no other capital gains or losses other than as stated. Arthur had capital losses brought forward at 6 April 2019 of £150,000.

Requirement:

Write a letter to Arthur and Martha advising on the tax implications of the above transactions and recommending any actions to be taken. (20)

2. Following the late submission of a self-assessment tax return, HMRC has the power to levy penalties.

Requirement:

Draft notes:

1) **Describing the penalty regime covering the late submission of a personal tax return; and**

2) **Explaining, with examples, the circumstances under which HMRC may reduce the penalties charged.**

You do not need to consider the penalty regime in respect of returns containing errors or omissions. **(10)**

3. Your firm provides tax advice to a number of employees of Toptune Ltd.

Peter Piper is a full-time working director of Toptune Ltd, a UK trading company. Toptune Ltd has just won a lucrative contract based overseas in Erehwon. Work on the new contract will start in the summer of 2021. Peter will be seconded to Erehwon City and will leave the UK to commence full-time work on 2 July 2021. His wife and children will remain in the UK but will visit him in Erewhon. Peter will make occasional return visits to the UK and will spend his holidays in the UK but he will not return to the UK permanently until December 2024.

Peter’s salary is currently £3,000 gross per calendar month but this will increase to £3,500 per month from July 2021. In addition he will be paid a bonus of £5,000 for winning the contract which is payable on 1 June 2021. He will continue to be paid by the UK company during his stay in Erehwon.

He has telephoned the Tax Partner at your office because he is uncertain what effect the move will have on his Income Tax and National Insurance position. He knows he will have to pay a significant monthly contribution to the Erewhon Health Service and would prefer not to pay National Insurance in the UK as well if this is possible.

He also mentioned in the course of the conversation that he proposes to pay part of the salary increase into his stocks and shares ISA. He currently contributes £50 per month and he would like to increase this to £750 per calendar month.

James Jones, another employee of Toptune Ltd, has just returned from a secondment in Utopia which commenced on 6 April 2016. Unfortunately, the Utopian operation was not successful, and James returned to the UK on 6 April 2020 following the closure of the Utopian office.

Due to the economic climate, there was no post open to James within Toptune Ltd and the company terminated his contract on 12 September 2020 without the contractual three month notice period but offering a payment of £150,000. James’ employment contract did not provide for any payment to be made in lieu of notice.

James left the company on 12 September 2020. His salary prior to leaving was £4,000 per month.

James has telephoned the Tax Partner you assist to request a meeting to discuss how the termination payment will be treated for tax purposes. This is the first time the company has made such a payment and no one in the Human Resources department of Toptune Ltd can advise him.

Your file shows that James is 40 years old and in good health.

The UK does not have any tax treaties or reciprocal social security agreements with either Erewhon or Utopia.

It is now November 2020.

Requirement:

Write briefing notes for the Tax Partner who is to meet with both employees next week to explain:

1) **How Peter will be charged to UK Income Tax and National Insurance on his income from Toptune Ltd in the period from 6 April 2021 until his return to the UK, including an estimate of his Income Tax and National Insurance liability on his earnings to date of departure. You should also include details of any notification that should be made to HMRC and comment on his proposals concerning his ISA.** (11)

2) **How James' termination payment will be taxed including issues that HMRC may raise in connection with the payment.** (4)

Total (15)

4. Sheena Steeple has brought you the information regarding her 2019/20 capital transactions which will enable you to complete her 2019/20 tax return.

On 4 January 2020 her family building company, Roofix Ltd, was put into liquidation. Sheena owned 10,000 ordinary £1 shares in the company. 5,000 of these shares were acquired in 1989 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 2005 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 2016 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 2019 Sheena sold her Rolex watch to her sister. She had purchased this in the Far East in 2003 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 2019 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 2006 for £58,000.

3) In July 2019 Sheena sold her vintage sports car for £65,000, which she had bought in 1991 for £10,000.

Sheena's income for the year ended 5 April 2020 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 2019 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 2005. 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 2010 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 2020 was a company pension of £15,000 from which tax of £500 has been deducted. In the year to 5 April 2019 his total earnings were £50,000 with PAYE deducted of £9,403.

In 2019/20 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 2020.** (17)

2) **Explain Bill's Income Tax and Capital Gains Tax position for 2019/20 and explain how the loss on the shares in Roofix Ltd can be used.** (3)

Total (20)

5. A client of your firm, Mr Sands, sold a property known as 'Lakeside' on 30 September 2019. He originally purchased Lakeside on 1 October 1999 at a cost of £68,500. Legal fees incurred on acquisition were £2,500. Mr Sands renovated the property at a cost of £10,000 and eventually moved into Lakeside on 1 April 2000 following the sale of his previous home.

On 1 October 2003, Mr Sands started a new job and was required to spend the first two years working overseas and then to work within the UK but away from Lakeside. He let Lakeside from 1 September 2004 to 1 October 2010.

He returned to the UK on 30 September 2005 and rented a property near to his place of work until he left his job on 1 October 2010 to start his own business. His tenant vacated the property, and Mr Sands returned to Lakeside on that date. He immediately converted the double garage into an office for the exclusive use of his business. Conversion costs were £5,000. The garage is estimated to be around one tenth of the total floor area of the property.

Mr Sands purchased a new house and moved from Lakeside on 1 April 2013, relocating the business into new premises. Lakeside was let again from 1 October 2015 until 30 September 2019 when it was sold for £435,000. Mr Sands incurred £5,000 disposal costs.

The only other income he received in the tax year 2019/20 was investment income of £51,000 and he made no other gains during the year.

Requirement:

Calculate Mr Sands' Capital Gains Tax liabilities for 2019/20, assuming no other chargeable gains were made in the year and all available Capital Gains Tax reliefs are claimed. You should provide explanations where appropriate. (15)

6. The senior partner of your firm has just been contacted by a long standing client, Mr Carraway, who has requested a meeting to discuss the tax implications of some Seed Enterprise Investment Scheme (SEIS) opportunities which have been suggested to him.

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 2019, 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 2019/20 was £162,000. His income in 2020/21 is expected to be similar to 2019/20.

Requirement:

Draft a briefing note for the senior partner of your firm giving an overview of the tax advantages for an investor of the Seed Enterprise Investment Scheme (SEIS), and applying the SEIS rules to the potential investment opportunities identified, suggesting any relevant planning points.

(15)

Assume you are writing in May 2020.

7. Your client, 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:

Write a letter to Mr Walker explaining the Capital Gains Tax and Income Tax implications of each of the three proposals for the sale of the farm. (20)

8. In 2019/20, Mr Smith sold his investments in three companies. He has never been an employee or director of any of the companies. Details of the disposals are as follows:

Ace Minerals plc

Ace Minerals plc is a quoted company. The following events have occurred:

12 March 2001 – Mr Smith purchased 5,000 Ordinary £1 shares in Old Gravel plc for £30,000.

9 August 2012 – Mr Smith purchased 10,000 Ordinary £1 shares in Ace Minerals plc for £70,000.

12 December 2015 – Old Gravel plc was taken over by Ace Minerals plc and shareholders in Old Gravel plc received two Ordinary £1 shares in Ace Minerals plc and £2 cash for each Ordinary £1 Old Gravel plc share held. The value at this time of each £1 Ordinary share in Ace Minerals plc was £3.

9 July 2016 – Rights issue of one for three in Ace Minerals plc. Mr Smith sold his rights nil paid for £15,000. The market value of his existing holding was £130,000.

2 March 2019 – Ace Minerals plc made a bonus issue of one £1 Ordinary share and one £1 Preference share for every two £1 Ordinary shares. Following the bonus issue, the value of the Ordinary shares was £3 each and the value of the Preference shares was £1 each.

1 April 2019 – Mr Smith sold his Preference shares in Ace Minerals plc for £12,000. The value of an Ordinary share at this date was £3.90.

2 July 2019 – Mr Smith sold his Ordinary shares in Ace Minerals plc for £150,000.

Oxton Interiors Ltd

Mr Smith purchased 10,000 shares in Edgy Interiors Ltd in April 2013 for £150,000. Edgy Interiors Ltd was taken over on 8 July 2015 by Oxton Interiors Ltd, which issued £200,000 5% loan stock worth £210,000 to Mr Smith in exchange for his shareholding. The loan stock is not convertible.

Mr Smith sold his loan stock for £225,000 on 1 November 2019.

Smart Supplies Ltd

Mr Smith purchased 10,000 Ordinary £1 shares in Smart Supplies Ltd on 1 September 1993 for £31,000. The company operates a scrip dividend policy whereby shareholders are given the option to either accept dividends in cash or in new fully paid Ordinary £1 shares. Mr Smith accepted all dividends in cash apart from the following:

1 March 2005 – Mr Smith opted for scrip dividends and received 1,000 shares instead of a cash dividend of £4,000. The market value of the new shares was £5,000.

1 March 2009 – Mr Smith opted for scrip dividends and received 900 shares instead of a cash dividend of £6,000. The market value of the new shares was £6,100.

On 1 July 2013 – Smart Supplies Ltd made a one for two rights issue at £5 which Mr Smith took up.

Mr Smith sold his entire holding in Smart Supplies Ltd for £95,000 on 3 February 2020.

Mr Smith did not make any other disposals in the tax year and his basic rate band was fully utilised by other income.

Requirement:

Calculate the Capital Gains Tax which is payable on the disposal of Mr Smith's investments in 2019/20. (10)

9. Brenda Barlow had been working for Safe Bank plc, a large UK bank listed on the London Stock Exchange, as a branch manager in Edinburgh for nine months when they announced that they were closing the branch at which she was based. She was offered a job in Safe Bank plc's head office in London and started there on 1 October 2019. The offer included a one-off payment of £15,000, to help with the costs of relocating, and a £15,000 pay rise so that her gross salary after the move was £80,000.

In addition, Mrs Barlow was given the use of a company flat for her first year in London. The annual rateable value of the flat is £18,000. Safe Bank plc bought the flat four years ago for £320,000 and has made no improvements to it. Its market value at 1 October 2019 was £360,000.

On moving to London, Brenda also took advantage of the corporate membership to a public gym, which Safe Bank plc provides at an average cost to them of £460 per staff member per annum (fees are paid monthly).

Private medical insurance was provided for the whole year at a cost to Safe Bank plc of £90 per month. She also benefited from a free annual health check, which cost Safe Bank plc £250 and a mobile phone.

On moving to London, Mrs Barlow was given a company car with a list price of £24,990 and CO_2 emissions of 90 g/km. No petrol has been provided for private use. When based in Edinburgh she used her own car to travel to business meetings. In the period from 6 April 2019 to 30 September 2019 she travelled 1,620 miles which were reimbursed at a rate of 55p per mile.

Head office has an in-house staff canteen which provides meals to all staff at an average cost per staff member of £1,500 per annum. Safe Bank plc operates an occupational pension scheme into which employees contribute 5% of their gross salary.

Requirement:

Calculate, with explanations, Mrs Barlow's taxable employment income for 2019/20.

You should also briefly explain the National Insurance treatment of each item.

(15)

10. Your client Gianlucca Balducci, an Italian domiciled individual, has provided you with the information you need to complete his Self Assessment Tax Return for the year ended 5 April 2020.

Mr Balducci 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 2019/20 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 2019/20 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 2020. The gain on the flat was 215,000 Euros and net rental income for 2019/20 was 33,600 Euros.

Mr Balducci has 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 2019 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 2019/20 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 2019/20, 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)

11. Clients of your firm, 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 2019/20	Days Let 6.4.20 to 31.8.20	Income received 2019/20
			£
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 2019. The properties cost £450,000 to build.

2) During 2019/20, 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 2019 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 2020.

4) They also paid insurance costs of £400, utility costs of £5,000 and cleaning costs of £2,000 in 2019/20 across the four properties. They first started advertising the properties on 10 April 2019 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 2019/20.

The Lodge

1) This property qualified as furnished holiday accommodation in 2018/19. Additional income of £3,000 was received in 2019/20 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 2019/20.

The Gatehouse

1) The Gatehouse is let unfurnished on a short assured tenancy and the monthly rent payable from 6 April 2019 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 2019 to 5 August 2019. Mr and Mrs Gibson agreed to reduce the rent payable to £450 per month from 6 August 2019 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 2020. The cost of these amounted to £2,000 and Mr and Mrs Gibson received an invoice for this in June 2020 which they paid in July 2020.

3) Insurance costs of £300 and legal fees of £500 in relation to the revised rental agreement were incurred in 2019/20. 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 2019/20. 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 2018/19.

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 2019/20. Mr and Mrs Gibson incurred travelling costs of £2,000 for them and their two children to visit the property in July 2019. 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 2018/19.

Villa in Italy

1) Mr and Mrs Gibson ceased letting this property on 6 December 2019 and advertised the property for sale. They sold the property on 6 March 2020 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 2019 to 5 December 2019. They also incurred cleaning costs of £1,300 during let periods.

3) They originally purchased the property for £400,000 on 7 June 2018. They previously made a capital gain of £100,000 on the sale of a furnished holiday let in March 2018 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 are keen to secure qualifying status of their furnished holiday let properties and wish to take full advantage of any elections available. They did not make any other capital gains in the year. They have other income and are higher rate taxpayers and they would like to make use of any reliefs available to reduce tax payable.

Requirement:

1) Calculate the taxable property income for 2019/20 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)

12. Your firm has three clients who 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 2012 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 2012 until 5 April 2019. 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 2019 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 2019 and they both returned to Spain on 3 January 2020. Mr and Mrs Jones will resume their normal pattern of visits to the UK in 2020/21.

<u>Mr Smith</u>

Mr Smith left the UK on 10 October 2019 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 2019/20 and has confirmed he will visit the UK for 28 days in 2020/21.

Requirement:

Write a technical note to the tax partner setting out how the Statutory Residence Tests will apply to each client and concluding on their residence status for UK tax purposes for 2019/20 and 2020/21. Where relevant, you should also consider whether the split year treatment would apply. (20)

13. Mr Wrex is 75. He is domiciled and resident in the UK. He retired from work in 2009, 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 2019/20, 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 2019/20. (10)

14. Sue McDonnel is a founder shareholder of Phips Ltd, an unquoted trading company. She became a director of the company in August 2010.

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
01/06/2007	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.
01/05/2009	40	Nil	1 for 3 bonus issue.
01/09/2013	60	80,000	Purchased from a third party investor at arm's length.
01/12/2015	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.
01/01/2019	55	Nil	Gifted by Mrs McDonnel's husband who took early retirement from the company in June 2018. He originally acquired 100 shares at £1,000 per share in April 2014 and 100 at £2,200 per share in December 2014, 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 £9,000 per share which will be paid as follows:

£5,000 per share payable in cash immediately;

£1,000 payable in cash on the first anniversary of the sale;

£1,000 payable in cash on the second anniversary of the sale; and

£2,000 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 2008. Between April 2008 and April 2010 the whole of the property was let at full rent to the previous owners. Since April 2010 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:

Prepare a briefing note for the tax partner in advance of a meeting with Mr and Mrs McDonnel. This should include:

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

3) **An explanation of the potential for Entrepreneurs' Relief on the proposed sale of the business premises.** (7)

Total (20)

15. A client of your firm, Lisa Forster, has accepted a new job with VXY Ltd. Her annual salary will be £55,000. In addition to this she will be provided with a benefits package made up of a number of benefits as follows:

1) Pension contributions. She can choose for VXY Ltd to make contributions to a defined benefit scheme on her or her husband's behalf.

2) Healthcare plan. VXY Ltd offers private medical care for employees and their spouses under a group scheme where they contract with the insurance company directly to provide cover.

3) Dental cover. The dental cover will be in Lisa's name and VXY Ltd will reimburse her with the cost.

4) Health screening assessment and medical check-up. These are arranged and paid for by VXY Ltd.

5) Life assurance. This provides a death benefit for Lisa. VXY Ltd contract with the insurance company and pay premiums directly.

6) A place for Lisa's two year old daughter at the nursery provided by VXY Ltd at their premises. The nursery is available to all employees.

7) Cycle to Work Scheme. Lisa would have the use of a bicycle for cycling to work. The scheme is available to all employees.

8) Computer. This will be for use in her own home, including private use.

Lisa is keen to identify the tax treatment of the benefits. Her husband is not an employee of VXY Ltd.

Requirement:

Write a letter to Lisa outlining the Income Tax and National Insurance consequences for her of each of the available benefits. (15)

ANSWERS

1. ARTHUR AND MARTHA

T Advisers
Our Address

Mr & Mrs A Brown
Your Address

Date

Dear Arthur & Martha

YOUR SHARE TRANSACTIONS

I write to advise you of the tax consequences of your share transactions and to put forward suggestions for optimising capital gains tax entrepreneurs' relief ('ER') and loss relief and to advise you on the timing of tax payments and available elections.

To qualify for ER on a disposal of shares in a trading company;

1) The company must be your "personal company" which means that you must hold at least 5% of the ordinary share capital and voting rights. In addition, you must be entitled to at least 5% of the distributable profits and 5% of the assets available on a winding up and/or be entitled to at least 5% of the proceeds on the disposal of the ordinary share capital; and

2) You must be an officer or employee of the company.

These conditions must be fulfilled for a period of 24 months prior to the disposal.

A "trading" company is one in which any non-trade activities are not substantial (interpreted by HMRC as meaning not more than 20%).

ER is not automatic and must be claimed by the first anniversary of the 31 January following the tax year in which the gain arose - ie 31 January 2022 for disposals in 2019/20.

There is a £10 million "lifetime gains cap" for ER.

Where ER applies, the rate of capital gains tax on eligible gains is fixed at 10%.

Investors' relief will not apply to any of the disposals. In order to qualify for this relief, you need to have subscribed for the shares on or after 17 March 2016 and may not be a paid director of the company.

Percival Ltd

With regard to the disposal of your shares in Percival Ltd, the gain on the disposal is £1.2 million. The consideration you received was partly in cash (being 1/3 of the consideration) and partly in loan notes (being 2/3 of the consideration).

Because the loan notes received in exchange for your shares are "qualifying corporate bonds", the proportion of the gain arising which relates to the bonds (being 2/3 x £1.2 million = £800,000) can be deferred until the loan notes are redeemed.

The CGT position will be as follows:

	2019/20	2022/23
	£	£
Chargeable gains	400,000	800,000
Less: AEA	(12,000)	(12,000)
Less: Loss b/fwd	(150,000)	
Taxable gains	238,000	788,000
CGT @ 20%	47,600	157,600
	Due 31.1.21	Due 31.1.24

Prima facie it would appear that the gain on the cash element will not qualify for entrepreneurs' relief because more than 20% of the activities of Percival Ltd are non-trading activities (being property letting).

However, it will be worth me reviewing the accounts just to make sure there are no grounds for an ER claim; please could you therefore let me see the accounts for the last 3 years as soon as possible.

Lazarus Ltd /Milford plc

Assuming the exchange of shares is made for bona fide commercial reasons, no capital gain arises on the disposal of shares in Lazarus Ltd in exchange for shares in Milford plc. This is due to the company reorganisation provisions in the capital gains legislation.

While you would have qualified for ER on a sale of Lazarus Ltd (assuming it is a trading company) as you are a director and hold a material interest, you do not hold a material interest in Milford plc as your holding is less than 5%. Therefore if you dispose of your shares in Milford plc in 2 years time, the gain will not qualify for ER and the resulting gain would be taxed at the capital gains tax rate ruling at the time, currently 20%.

There is however an election which may be made whereby the reorganisation rules are disapplied. If you make this election you would pay CGT for 2019/20 based on the market value of the shares acquired in Milford plc of £2,500,000 and then pay tax at 10% with the benefit of ER. When you sell your shares in Milford plc, the gain or loss will be calculated by reference to a base cost of £2,500,000.

The downsides of an election are that:

1) CGT in respect of your shares in Milford plc is £250,000 (£2,500,000 @ 10%) which would be payable on 31 January 2021 despite you not having made a final disposal and having the cash in your hands (although you do of course have the cash proceeds from the sale of the Percival shares);

2) If the shares reduce in value, that will not affect this gain.

However, if no election is made and the shares are eventually disposed of for more than £2,500,000, the CGT payable at 20% would be over £500,000. The potential CGT saving of £250,000 would therefore appear to outweigh the downside to making the election, provided you sell your shares in Milford plc as intended. That would therefore be my recommendation.

An election in respect of the disposal of shares in Lazarus Ltd must be made by 31 January 2022. Since the election creates a liability which would not otherwise be payable until after you sell your shares in Milford plc, you would have the choice of making the election early and paying the CGT due on 31 January 2021 or waiting until nearer the deadline. However, interest would run on the amount payable from the normal date for payment.

Edgar Ltd

The gain of £400,000 on the disposal of your ‘A’ shares in Edgar Ltd will qualify for ER (on the assumption that it is a trading company). Even though the ‘A’ shares are non-voting, you are a director of Edgar Ltd and hold a material interest in the company via your ordinary shares. The CGT payable at 10% will therefore be £40,000 (due on 31 January 2021).

A husband and their wife are treated separately for ER purposes. Therefore, whilst Martha is a director, Edgar Ltd is not her personal company as she only owns 3% of the shares. Her disposal will not therefore qualify for ER and the rate of tax on the resulting gain will be 20%.

Transfers of assets between spouses are treated as giving rise to no gain/no loss. If Martha transfers her shares to you and you make the subsequent disposal of the joint 8% holding, the full gain will qualify for ER. This is because you already own 5% of the ordinary shares in Edgar Ltd.

The CGT payable will therefore be at 10% on the £1,200,000 giving a £120,000 payable on 31 January 2022.

Assuming that you dispose of your ordinary shares in Edgar Ltd before 6 April 2021, a claim for ER must be made by 31 January 2023.

The above transactions utilise your available ER as follows:

	£
Percival Ltd	Nil
Lazarus Ltd	2,500,000
Edgar Ltd Ords	1,200,000
Edgar Ltd “A” Ords	400,000
	4,100,000
ER lifetime limit	(10,000,000)
Limit remaining	5,900,000

I hope this answers your queries.

Yours sincerely

MARKING GUIDE

TOPIC	***MARKS***
General conditions for ER relief on disposal of shares	*1½*
Definition of trading company	*½*
Description of claim	*½*
Relief	*1*
IR does not apply	*½*
<u>Percival Ltd</u>	
Apportioning gain	*½*
Gain deferral re QCBs	*½*
Calculations	*2*
Explaining why ER not due	*1*
Consider reviewing accounts	*½*
<u>Lazarus Ltd/Milford plc</u>	
Identifying share-for-share exchange	*½*
ER available on disposal of Lazarus Ltd shares	*½*
No relief on disposal of Milford plc shares	*½*
Possible election	*½*
Position if election made	*1*
Disadvantages of election	*1½*
Recommendation	*½*
Position re election	*1*
<u>Edgar Ltd</u>	
Identifying gain on A shares qualifies for ER	*1*
Position re Martha's shares	*1*
Recommendation re transfer of Martha's shares	*1*
CGT payable	*½*
Claim deadline	*½*
Utilisation of ER	*1*
Format	*½*
TOTAL	***20***

Examiner's report:
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As a general observation, candidates did not devote sufficient time to carefully reading the question before framing their answers. A good number of candidates gave incorrect or incomplete answers on the basis that CGT entrepreneurs' relief was not due as Arthur was not an employee or director, when this is implicit from the first line of the question.

Many answers ignored the loss brought forward.

Many candidates correctly advised the disapplication of the 'paper for paper' rule on the takeover of Lazarus (by election under section 169Q), appreciating that the shares received in Milford would not qualify for ER when disposed of.

In the case of Edgar, some candidates appreciated that Arthur qualified for ER and Martha did not, though a significant number incorrectly stated that as they were connected persons their holdings were combined for ER purposes so that both qualified. Some advised the transfer of shares by Martha to Arthur to secure relief but others advised a transfer in the opposite direction despite the fact that the question states that they would sell their shares in Edgar Ltd in 2020 and therefore Martha would not have held the shares transferred for 24 months and so would still not have qualified.

Finally, many candidates stated that Arthur was not entitled to ER on his non-voting 'A' ordinary shares in Edgar Limited, while a minority correctly concluded that since Edgar was Arthur's 'personal company' (as he owned over 5% of the ordinary voting shares) and he was a director (which is all section 169I(2)(c) and (6)(a)&(b) require) relief was due.

2. PENALTIES

The legislation covering the late filing penalty regime can be found at Sch. 55 FA 2009.

The filing deadline for an individual's tax return is 31 January following the end of the year of assessment or three months from the date of issue whichever is the later. If the return is submitted after this date, an immediate penalty of £100 will be charged irrespective of whether there is any tax outstanding.

After 3 months, a penalty of £10 per day can be levied for a period of up to 90 days from the date on a notice issued by HMRC giving a maximum of £900. This is charged in addition to the initial £100 penalty.

A further automatic penalty arises if the return is not submitted within 6 months of the penalty date (being the day after the filing date) equal to the greater of £300 and 5% of the tax due.

If the return has still not been submitted within 12 months of the penalty date, there is a further automatic penalty which depends on why the return has not been made.

As a minimum, the penalty is the greater of 5% of the tax due and £300. However, if as a result of the failure to submit the return information is withheld which would have enabled or assisted HMRC to assess the taxpayer's liability, the penalty can be significantly greater. If the withholding of the information is deliberate and concealed then the penalty is the greater of 100% of the tax due and £300.

If the withholding is deliberate but not concealed then the penalty is the greater of 70% of the tax charged and £300.

Increased percentages may apply where the deliberate withholding of information relates to an offshore matter such as income arising on assets held overseas or an offshore transfer.

These penalties may be reduced where the taxpayer makes either a prompted or unprompted disclosure.

<u>Circumstances under which HMRC may reduce the penalties charged</u>

HMRC (or failing them a Tribunal) may consider a reduction in the penalty charged if it can be shown there is a reasonable excuse for the late filing of the return.

Reasonable excuse generally excludes insufficiency of funds, reliance on a third party and failure to remedy the problem within a reasonable time after the excuse has ceased (Sch 55 FA 2009 Para 23).

Generally, HMRC regards reasonable excuse as an exceptional event outside the taxpayer's control such as postal strikes preventing a paper return reaching them on time or severe illness of the taxpayer preventing timely submission of the return.

Any appeal re the imposition of the penalty will ultimately be decided by the First-tier Tribunal and a number of cases decided at this tribunal have shown that HMRC may be applying the principle too rigidly.

There follows 2 examples to illustrate this:

Colin Humphreys – the taxpayer relied on HMRC advertising campaign regarding filing deadlines without realising that additional software was required. Hence his paper return was filed late. On appeal it was found he had a reasonable excuse.

A T Davies – the taxpayer had allowed four clear days for the receipt of his tax return by HMRC but postal delays had meant it had taken longer. Again, HMRC was forced to reduce the penalty to zero on appeal.

Tutorial Note:

The question did not specifically ask for reference to case law.

CIOT MARKING GUIDE

TOPIC	***MARKS***
Penalty Regime:	
Initial Penalty	*1*
Daily Penalties	*1*
6 Month Penalty	*1*
12 Month Penalty	*1*
Penalty for deliberate withholding of information	*2*
Penalty Reduction:	
Reasonable Excuse	*1*
Statutory exclusions	*1*
Examples	*2*
TOTAL	***10***

Examiner's report:
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Most candidates produced good answers to this question. They knew where to find the legislation that applied and presented it clearly.

It was however disappointing that no candidates referred to recent cases on reasonable excuse.

3. TOPTUNE LTD

NOTES FOR PARTNER REGARDING THE EMPLOYEES OF TOPTUNE LTD

Residence

Under the Statutory Residence Test (SRT), an individual is resident in the UK if he satisfies either the automatic residence test or the sufficient ties test.

In general, an individual is either resident or not resident in the UK for a whole year. However in a number of cases, including employees going to work abroad, a split-year treatment applies and the tax year can be split into a resident part and a non-resident part.

Peter

Peter is currently resident in the UK and will be resident in the UK in 2021/22 under the automatic residence test as he works full-time in the UK.

He is being seconded to work full-time in Erewhon from July 2021 until December 2024. During this period he will only return to the UK for short social visits.

It is likely that he will be non-resident for 2022/23 and 2023/24 under the automatic overseas tests. Given that he is working full-time abroad (meaning an average of at least 35 hours per week), he will be allowed to return to the UK for no more than 90 days in the year of which no more than 30 days may be spent working in the UK.

He will revert to UK residence in 2024/25. It is likely that split year treatment will apply in both the year of departure and the year of return. In 2021/22 the split year treatment will apply under Case 1 as Peter is leaving the UK to work full-time overseas. In 2024/25 the split year treatment will apply under Case 6 as Peter will be coming to the UK after ceasing full-time work abroad.

Accordingly Peter will be non-resident from 2 July 2021, his first overseas workday, until the cessation of his overseas employment. This is subject to the proviso that he does not breach the ‘return days’ rules.

He will be chargeable to income tax and National Insurance in full on his earnings in the period from 6 April 2021 to 1 July 2021 but his earnings thereafter will not be taxable in the UK.

Because he is a company director he will be charged to National Insurance on an annual basis.

His tax and National Insurance liability will be as follows:

	£
Salary: 3 x £3,000	9,000
Bonus	5,000
	14,000
Less: Personal Allowance	(12,500)
Taxable	1,500
Tax due @ 20%	300

National Insurance:	£
Total earnings	14,000
Less: Primary threshold	(8,632)
	5,368
NIC due @ 12%	644

With regard to Class 1 National Insurance contributions, as Peter’s family are remaining in the UK, he is likely to remain ordinarily resident in the UK for NIC purposes. This will mean that he will continue to be liable for Class 1 NICs for the first 52 weeks following his departure from the UK.

Once his liability to Class 1 NICs has ceased, Peter may wish to make Class 3 voluntary contributions to maintain his entitlement to certain benefits on his return to the UK.

On his departure from the UK, Peter should submit a form P85 and he can make a claim for repayment of any PAYE overpaid to the date of departure. His employer should request an NT (no tax coding) to operate against his salary.

A UK resident individual can make annual contributions to a stocks and shares ISA totalling £20,000. Peter is proposing to make contributions totalling £6,900 (3 x £50 + 9 x £750) which is within the annual limits.

However he is precluded from making contributions as a non-resident, so he should contact his ISA provider and arrange to suspend contributions.

James

It is likely that some of the payment will be taxed under s.403 ITEPA 2003.

Where a termination payment is made before the expiration of the contractual notice period, the payment needs to be divided into:

- Post-employment notice pay (PENP), and
- Amounts which are not PENP

PENP is taxable in full with no exemption. In James' case the PENP will be the salary he would have received if he had worked his three months notice period. This amounts to £12,000 and is taxable in full. The £12,000 will also be subject to Class 1 NIC.

The balance of the termination payment of £138,000 will be taxable under s.403 ITEPA 2003.

This is something that might be closely examined by HMRC to see if there is anything beyond the contract which suggests that the payment is contractual (for example a history of making such payments). We are told that no similar payments have been made previously, so s.403 is likely to apply.

The first £30,000 will be exempt from tax leaving £108,000 of this part of the payment as taxable.

Toptune Ltd should withhold tax from the payment under PAYE. PAYE should apply to the taxable amount of £120,000.

If the payment is made before the employer issues the form P45, income tax must be deducted using the employee's tax code.

If the payment is made after the form P45 has been issued, tax is deducted using tax code "0T" on a week one/month one basis. This code does not give the benefit of any allowances and applies progressive tax rates, which allows basic, higher and additional rate tax to be withheld from the payment.

No part of the payment taxable under s.403 ITEPA 2003 is subject to Class 1 NICs. However, since the termination payment is after 5 April 2020, the amount subject to income tax of £108,000 will be subject to Class 1A NICs, payable by the employer.

MARKING GUIDE

TOPIC	***MARKS***
Part 1)	
Outline of residence	*1*
Consideration of Peter's residence	*1*
Application of split-year treatment	*1*
Conclusion - NR from first overseas workday	*1*
Earnings to July subject to tax and NI	*½*
NI on annual earnings period	*½*
Calculation of IT	*1*
Calculation of NIC	*1*
Likely to be ordinarily resident for NIC	*½*
Liable to Class 1 NIC for 52 weeks	*1*
Possibility of Class 3 NIC	*½*
Need to submit P85	*½*
ISA contribution within limits	*½*
Cannot make ISA contribution when NR	*1*
Part 2)	
Identify payment needs to be split	*½*
Identify PENP taxable in full & subject to Class 1 NIC	*½*
Amount of PENP	*½*
Consideration of whether contractual - eg history of payments	*½*
Balance taxable subject to £30,000 exemption	*½*
£120,000 subject to PAYE	*½*
Tax code – Pre/Post P45	*½*
NIC position	*½*
TOTAL	***15***

Examiner's report:
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Most candidates seemed to be aware of the general effect of Peter Piper's secondment overseas. However, few candidates demonstrated an ability to move from the general concepts of residence to the specific as would be expected in a memo to a partner. A significant number of candidates tried to apply the remittance basis as applies to non-domiciliaries despite this not being raised as an issue in the question.

Most candidates made no attempt to frame their answers as if writing to a partner, instead most opted to write essay style about the issues arising. Indeed the overall standard of written presentation of answers by candidates was poor.

The second part of the question concerning termination payments was generally well answered.

4. 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 2020 – 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 2019/20 or 2018/19. She only returned to work in April 2019, so a claim for 2018/19 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 ER as no indication that Sheena is an officer or employee of the company.

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	(12,000)
Taxable gain	2,500
CGT due @ 10% (basic rate taxpayer)	250

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	250
Total tax due	950
Less: Tax paid	(2,600)
Tax repayable	(1,650)

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 2019/20 or 2018/19.

As part of his income was charged at the higher rate of 40% in 2018/19, he will be better off claiming the loss against his 2018/19 income.

He will not use any of the loss against the 2019/20 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 2019/20 as this has been correctly taxed at source.

MARKING GUIDE

TOPIC	***MARKS***
<u>Part 1)</u>	
<u>Shares in Roofix Ltd:</u>	
– 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*
<u>Loan guarantee:</u>	
– Payment of interest – capital loss	*1*
– Conditions	*1*
– £5,000 capital loss	*½*
<u>Director's loan account:</u>	
– Qualifying purpose	*1*
– £7,500 capital loss	*½*
<u>Rolex:</u>	
– Wasting chattel	*½*
– No allowable loss	*½*
<u>Shares in Windowbox Ltd:</u>	
– Calculation	*½*
– No ER as not an officer or employee	*½*
<u>Sports car:</u>	
– Wasting chattel	*½*
– Exempt	*½*
<u>Calculation of CGT:</u>	
– Taxable gain	*1*
– Tax @ 10%	*1*
<u>Income tax:</u>	
– Aggregate income	*½*
– S.131 relief	*½*
– PA	*½*
– Tax	*1*
Overall repayment	*1*
<u>Part 2)</u>	
Acquired shares from wife so can claim S.131	*1*
Possible claims 19/20 or 18/19	*1*
Advise 18/19 – 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.

5. MR SANDS

	£
Gross proceeds	435,000
Less: Costs of disposal	(5,000)
	430,000
Less: Purchase cost	(68,500)
Less: Acquisition expenses	(2,500)
Less: Enhancement expenditure £(10,000 + 5,000)	(15,000)
Gain	344,000
Less: PPR Relief (W)	(253,700)
	90,300
Less: Lettings Relief (W)	(40,000)
Chargeable gain	50,300
Less: Annual exempt amount	(12,000)
Taxable	38,300
CGT @ 28%	10,724

Working

PPR relief:

	Occupation	Absence	Letting
October 1999 to March 2000 (N1)	6		
April 2000 - September 2003	42		
October 2003 - September 2005 (N2)	24		
October 2005 - September 2009 (N3)	48		
October 2009 - September 2010 (N4)	12		
October 2010 - March 2013 (N5)	27	3	
April 2013 - September 2015		30	
October 2015 – March 2018		30	30
April 2018 – September 2019 (N6)	18		
Totals	177	63	30

Notes:

N1) Deemed occupation under ESC D49.
N2) Deemed occupation while working abroad.
N3) Deemed occupation while working in UK (max 4 years).
N4) Up to 3 years for any reason.
N5) 30 months actual occupation during which 10% of the property is used exclusively for business. Therefore, 30m x 10% = 3m equates to absence.
N6) Last 18 months = deemed occupation.

PPR relief:		£
£344,000 x 177/240		253,700
Lettings relief:		
Lowest of:		
PPR relief	253,700	
Gain in the let period		
£344,000 x 30/240	43,000	
Maximum	40,000	
Therefore		40,000

MARKING GUIDE

TOPIC	***MARKS***
Calculation of gain on disposal of property	*2*
<u>Calculation of private residence relief:</u>	
Deemed occupation - D49	*1*
Actual occupation	*1*
Deemed occupation - employed abroad	*1*
Deemed occupation - away in UK	*1*
Deemed occupation - any reason	*1*
Deemed occupation - last 18 months	*1*
Identification of part occupation for business use	*1*
Correct calculation of business use restriction	*1*
<u>Calculation of lettings relief:</u>	
Ignoring letting when covered by PPR	*1*
Correct calculation of letting relief	*1*
<u>Calculation of tax due:</u>	
Deduction of AEA	*1*
Correct rate	*1*
Presentation	*1*
TOTAL	***15***

6. MR CARRAWAY

BRIEFING NOTE FOR SENIOR PARTNER

Prepared by: Tax Manager
Subject: Mr Carraway – Tax issues relating to potential SEIS investments

Statutory references are to ITA 2007 unless stated otherwise.

Overview of SEIS tax relief

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 2020/21. Relief would be available on this investment, either in the current year or it could be carried back to 2019/20.

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 2020/21 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 2019/20, a claim under s.257AB can be made to treat all or part of the investment made in 2020/21 as if the shares were issued in 2019/20. 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 2020/21	*1*
Potential to carry back for income relief in 2019/20	*1*
Carry back against 2019/20 capital gain	*1*
Reinvestment of gain only, not proceeds	*1*
Reduce investment below substantial threshold	*1*
Presentation	*1*
TOTAL	***15***

Examiner's report:
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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.

7. MR WALKER

Firm's headed notepaper
Mr Walker
Address
Date
Dear Mr Walker

Tax implications relating to the potential sale of the farm

I am writing to advise you of the tax position under each of the three proposals offered by the developer.

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 you have actively farmed and;
- The additional land which you purchased and have let on a renewable licence.

As you are occupying the farmhouse as your 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 you have actively farmed will be subject to CGT, but you should qualify for Entrepreneurs' Relief (ER), which reduces the tax rate chargeable on gains of up to £10 million to 10%.

To qualify for this relief you need to have made a material disposal of 'business assets'. Business assets in your case means an asset used in your business at the time it ceased to be carried on. As the disposal of the whole farm would inevitably mean a cessation of your farming business, the gains on the land and any agricultural outbuildings should qualify for ER.

However, the land which is currently let on an annual licence has not been used in your farming business and will therefore not qualify for ER. Without a claim to ER, the CGT rate applicable on the chargeable gain, after deducting the annual exempt amount of £12,000, will be 20% (some of the gain will be taxed at 10% if your 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 your 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 your 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 you have 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 you have farmed will be subject to CGT. However, if you continue farming activities on the remaining land, the gain on the first disposal will not qualify for ER as there is no disposal of the business.

You would either need to dispose of, or cease completely, one or both of your 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 you would be ceasing your farming business on the second disposal, a claim for ER should be available in respect of the gain on that land.

In this situation, you 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 to would be charged to income tax rather than CGT.

Provided you have continued to occupy the farmhouse as your 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 you receive 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 your 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.

Yours sincerely
A N Adviser

CIOT MARKING GUIDE

TOPIC	***MARKS***
<u>Proposal 1:</u>	
Farmhouse – PPR exemption applies	*½*
PPR curtilage	*½*
Gain on land actively farmed – valid ER claim	*1*
Material disposal/Business assets	*1*
Cessation of farming activities	*½*
Grazing land – capital receipt	*1*
Non ER qualifying – not used in trade	*½*
CGT annual exempt amount	*½*
Marginal rates of CGT without ER	*1*
Anti-avoidance S.517B – gains treated as income	*1*
Main purpose	*1*
<u>Proposal 2:</u>	
No ER claim on initial disposal	*1*
Need to dispose of or cease, business for valid ER claim	*1*
Marginal rates of CGT apply	*½*
ER 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	*1*
TOTAL	***20***

Examiner's report:
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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 Entrepreneurs' 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.

8. MR SMITH

Workings

W1) Ace Minerals plc – Ordinary shares

	£
Disposal proceeds	150,000
Less: Cost (W2)	(74,638)
Gain	75,362

W2) Section 104 holding

Date	Shares	Cost
		£
9 August 2012	10,000	70,000
12 December 2015 (W3)	10,000	22,500
	20,000	92,500
9 July 2016 (W4)		(9,569)
	20,000	82,931
2 March 2019 (W5)	10,000	(8,293)
	30,000	74,638
2 July 2019 (Sale)	30,000	(74,638)
	Nil	Nil

W3) Takeover of Old Gravel plc

	£
Cash received (5,000 x £2)	10,000
Value of shares received (10,000 x £3)	30,000
Total	40,000
Acquisition cost of the new shares (30,000/40,000 x £30,000)	22,500

W4) Sale of rights

The proceeds are greater than £3,000 and 5% of the value of the shares, therefore the proceeds are not "small". A part disposal therefore arose.

Acquisition cost relating to rights issue:	
£92,500 x 15,000/(15,000 + 130,000)	9,569

W5) Bonus issue March 2019

Value of revised shareholdings:

	£
Ordinary shares (20,000 + 10,000) x £3	90,000
Preference shares 10,000 x £1	10,000
	100,000
Base cost allocated to Preference shares	
= £82,931 x 10/100	8,293

W6) Oxton Interiors Ltd

Gain on receipt of loan stock (qualifying corporate bond (QCB)) chargeable when the loan stock is sold. Gain on loan stock exempt from CGT.

	£
Proceeds (market value of QCB on takeover)	210,000
Cost	(150,000)
Capital gain	60,000

W7) Smart Supplies Ltd

	£
Disposal proceeds	95,000
Less: Cost (W8)	(71,750)
Gain	23,250

W8) Section 104 holding

Date	Shares	Cost
		£
1 September 1993	10,000	31,000
1 March 2005 (W9)	1,000	5,000
1 March 2009 (W10)	900	6,000
	11,900	42,000
1 July 2013 (1:2 rights issue @ £5)	5,950	29,750
	17,850	71,750
3 February 2020 (Sale)	(17,850)	(71,750)
	Nil	Nil

W9) Scrip issue

Base cost of shares is market value of share as this is at least 15% greater than the cash dividend foregone.

W10) Scrip issue

Base cost of shares is equal to the cash dividend foregone.

SUMMARY

	£
Ace Minerals plc (W1)	75,362
Oxton Interiors Ltd (W6)	60,000
Smart Supplies (W7)	23,250
Total Chargeable Gains	158,612
Less: Annual Exempt Amount	(12,000)
Taxable Gains	146,612
CGT @ 20%	29,322

CIOT MARKING GUIDE

TOPIC	***MARKS***
Ace Minerals Ltd:	
Use of acquisition cost and disposal values	*½*
Cost Aug 2012	*½*
Calculation of cost relating to takeover	*1*
Calculation of cost relating to rights sold	*1*
Base cost re bonus issue	*1*
Oxton Interiors Ltd:	
Calculation of frozen gain	*1*
QCB exempt	*1*
Smart Supplies Ltd:	
Cost in September 1993	*½*
Use of MV re first scrip	*1*
Use of cash dividend re second scrip	*½*
Base cost of rights issue	*½*
Calculation of gain	*½*
CGT computation:	
Deduct AEA	*½*
Correct rate	*½*
TOTAL	***10***

Examiner's report:
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Most candidates made a reasonable attempt at this question with a few candidates answering very well.

With respect to Oxon Interiors Ltd, the majority of candidates were able to correctly identify that the gain on the receipt of the loan stock became chargeable when the loan notes were sold and that the gain on the loan notes was exempt from Capital Gains Tax.

Candidates generally made a good attempt at calculating the Capital Gains Tax charge on the disposal of Smart Supplies Ltd although a number were not able to treat the enhanced scrip divided correctly.

Few candidates were able to correctly calculate the Capital Gains Tax charge on the disposal of Ace Minerals Ltd with most unable to calculate the reduction in base cost as a result of the rights issue and the bonus issue.

9. BRENDA BARLOW

Calculation of Brenda Barlow's taxable employment income

	Workings	£
Salary	W1	72,500
Benefits:		
Payment for relocation	W2	15,000
Accommodation	W3	12,062
Gym	W4	230
Private medical insurance	W5	1,080
Annual health check	W6	Nil
Mobile phone	W7	Nil
Company car	W8	2,749
Mileage	W9	162
Staff canteen	W10	Nil
Pension contributions	W11	(3,625)
Total taxable employment income		100,158

Workings

W1) Salary

	£
6 months at £65,000	32,500
6 months at £80,000	40,000
	72,500

W2) Payment for relocation

There is an exemption under s.271 ITEPA 2003 for the first £8,000 of qualifying expenses paid by an employer when an employee has to change their main residence as a result of their job changing location.

However, s.271 only applies where the employer has paid the expense directly or reimburses the employee for expenses incurred. Here the payment is made before the expenses are incurred and there is no condition that the funds are spent on the costs of relocating. Therefore, no exemption is available, and the payment is subject to Income Tax and Class 1 National Insurance.

W3) Provision of accommodation

This is not job related accommodation as it is not necessary, provided for security reasons or for better performance.

The benefit is calculated as:

	£
Annual rateable value	18,000
Add: Additional charge	
£(320,000 – 75,000) x 2.5%	6,125
	24,125
x 6/12 (available 6 months only)	12,062

This benefit will be subject to Class 1A NICs payable by the employer.

W4) Gym membership

As membership is of a public gym, the cost of providing the membership will be a taxable benefit. Class 1A NICs will be payable on the benefit by the employer.

The membership was provided for 6 months and the benefit for 2019/20 is therefore, £460 x 6/12 = £230.

W5) Private medical insurance

The provision of private medical insurance is a taxable benefit. It will also be subject to Class 1A NICs. The taxable benefit is £90 x 12 = £1,080.

W6) Annual health check

The provision of annual health screening is not subject to Income Tax or NICs.

W7) Mobile phone

The provision of a mobile phone is not subject to Income Tax or NIC.

W8) Company Car

	£
List price of car	24,990
CO_2 of 90 g/km =	22%
Benefit £(24,990 x 22% x 6/12)	2,749

The benefit is subject to Class 1A NICs payable by the employer.

W9) Excess mileage payment

Only payments up to the HMRC approved mileage limits are made free of tax and NICs.

	£
Payments: 1,620 x 55p	891
Less: Approved (1,620 x 45p)	(729)
Taxable excess	162

This amount is chargeable to Class 1 NIC on the employee & employer.

W10) Staff canteen

The provision of an in house staff canteen to all employees is not subject to Income Tax or NIC.

W11) Pension contributions

The employee contribution to Safe Bank plc's occupational pension scheme will be deducted from gross salary and will reduce the income subject to income tax. There is no such deduction from Class 1 NICs.

The deductible amount for income tax is £72,500 x 5% = £3,625.

CIOT MARKING GUIDE

TOPIC	***MARKS***
Salary	*1*
Relocation expenses	*2*
Accommodation:	
Not job-related and why	½
Annual value	½
Additional charge	½
Use cost and not MV as less than 6 years ownership	½
Apportion 6/12	½
IT and NIC treatment	½
Gym membership	½
Private medical insurance:	
Benefit based on cost of providing	½
Class 1A NIC	½
Annual health check	½
Mobile phone	½
Company car:	
List price	½
% based on CO_2 emissions	½
Apportion 6/12	½
Class 1A NIC	½
Mileage payment:	
Tax free 45p	½
Excess taxable	½
Excess subject to Class 1 NIC	½
Staff canteen - Available to all employees	*1*
Pension contributions:	
Occupational – deduct from gross salary	½
No deduction for NIC	½
Calculation of contribution	½
Total taxable employment income	½
TOTAL	***15***

Examiner's report:
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Most candidates identified and correctly calculated Brenda's salary for the year although a few candidates did not allow for a full year's salary despite the question asking for employment income for 2019/20.

The majority of candidates thought that the payment for relocation would be covered under s.271 ITEPA and so the first £8,000 would be subject to an exemption. However, they did not consider s.271 in enough detail as this section only applies when the employer has paid the expenses directly or reimburses the employee for relocation expenses that they have suffered. Only the best candidates identified that in this case, as a payment is made to the employee before any expenses are incurred, there would be no exemption and the full payment would be subject to Income Tax and Class 1 National Insurance.

Most candidates correctly calculated the amount of employment income relating to the various benefits with common mistakes being not calculating the correct time period for benefits, for instance medical cover is provided for the whole year, and also not correctly identifying the exempt benefits.

The amount of employment income relating to the excess mileage payments was calculated correctly by most candidates however only good candidates correctly stated that as a cash payment this would be subject to Income Tax and Class 1 National Insurance rather than Class 1A.

Candidates lost out on marks by not mentioning the National Insurance treatment of the items of employment income which was specifically asked for. To be awarded marks the comments needed to be specific rather than 'Class 1A National Insurance is applied to benefits'.

10. MR BALDUCCI

Income tax calculation 2019/20

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 2019/20

Assume the remittance basis is NOT claimed:

			Residential property
		€	£
Gains arising in the year:	Flat	215,000	179,167
Less: Annual exempt amount			(12,000)
Taxable gain			167,167
Capital gains tax at 28%			46,807
Total tax: £12,857 + £46,807			59,664

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	2010/11	Yes – present in UK more than 183 days	8
8	2011/12	Yes	7
7	2012/13	Yes	6
6	2013/14	Yes	5
5	2014/15	Yes	4
4	2015/16	Yes – present in UK more than 183 days	3
3	2016/17	No	-
2	2017/18	Yes – present in UK more than 183 days	2
1	2018/19	Yes	1

As Mr Balducci has been resident for 7 of the 9 tax years before 2019/20, 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 2019/20:

	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 2019/20:

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	59,664
Tax saved by making a remittance basis election	25,761

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*
Layout & presentation	*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.

11. 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	(24,000)
Taxable gain	176,000
Capital gains Tax @ 28%	49,280

Entrepreneurs' 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 (W2).

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 2020. This will be an allowable deduction in 2020/21.

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 entrepreneurs' 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 2020 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 Entrepreneurs' 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.

12. MR AND MRS JONES

TECHNICAL NOTE RE THE STATUTORY RESIDENCE TEST

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.

Automatic Overseas Tests

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.

Automatic Residence Test

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

I have considered the tests for the clients in question and my conclusions are below:

Mr and Mrs Jones

Mr and Mrs Jones have been non-resident since they left the UK in May 2012. As such, neither of them has been UK resident in the three tax years prior to 2019/20.

In 2019/20 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 2019/20.

Mrs Jones spent 70 days in the UK during 2019/20, 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 2019/20, 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 2019/20.

As Mr and Mrs Jones are only intending to spend 42 days in the UK in 2020/21, they should qualify for the second automatic overseas test and be treated as non-resident for tax purposes in 2020/21.

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 2019/20, so he meets the requirements of the first automatic UK test. Mr Smith will therefore be UK resident for tax purposes in 2019/20.

Mr Smith may automatically qualify for split year treatment in 2019/20 if all of the following conditions are met:

1) He was UK resident in 2018/19; and
2) He will be non-UK resident in 2020/21 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 2019/20.

With regard to 2020/21, 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 2020/21.

CIOT MARKING GUIDE

TOPIC	***MARKS***
General	
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
Jones	
Mr and Mrs Jones not resident for last 3 years	½
Mr Jones satisfies automatic overseas test	½
Mr Jones non-resident	1
Mrs Jones does not meet automatic overseas test	½
Daughter's property considered a home in the UK	1
Neither Condition A or 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 2020/21 under automatic overseas test	1
Smith	
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 2019/20	1
Does not meet automatic overseas tests in 2020/21	½
Does not meet automatic residence test in 2020/21	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 2020/21	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 2019/20 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.

13. MR WREX

Income Tax Computation 2019/20	NS £	Dividends £	UK Tax £
UK state pension	6,549		
UK private pension	10,200		850
Foreign pension	40,000		
UK dividends		1,650	
Foreign dividends		4,200	
Total income	56,749	5,850	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 2019/20			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 £	£
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	*1*
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 2019/20	*1*
Presentation	*½*
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.

14. SUE MCDONNEL

Briefing Note to Tax Partner

Subject: Potential CGT liability for Mr and Mrs McDonnel on the sale of Phips Ltd and associated business premises.

Outlined below is a summary of the Capital Gains Tax (CGT) liability arising on the proposed sale of Phips Ltd on the assumption that no advance planning is undertaken. This is followed by notes highlighting planning opportunities on the proposed sale together with the tax implications of the disposal of the business premises.

Potential gains:

Mr McDonnel:

Shareholding			145
			£
Cash sale proceeds	Note 1	£7,000 per share	1,015,000
Base cost	Note 2		(180,444)
			834,556
Annual exempt amount			(12,000)
Taxable gains			822,556
20%	Note 3		164,511

Mrs McDonnel:

Shareholding				355
EIS exempt shares	Note 4			(160)
Taxable shares				195
				£
Cash sale proceeds	Note 1	£7,000 per share		1,365,000
Base cost	Note 5			(152,444)
Gains on share disposal:				1,212,556
Held over capital gain falling back into charge	Note 7		15,000	
Annual exempt amount	Note 8		(12,000)	
Taxable gains			3,000	1,212,556
10%	Note 9			121,256
20%	Note 10		600	

Note 1

In the absence of any election, the taxable consideration will consist of the initial and deferred cash of £5,000 and £2,000 per share. The balance of £2,000 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 of the cash consideration is 7,000/9,000 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 Entrepreneurs' Relief (ER) as he was not an employee or director of the company at the point of sale.

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 2013	60	80,000	
December 2015	80	28,000	(Note 6)
January 2019	55	88,000	(Note 2)
Total		196,000	

The base cost is apportioned between the cash and share consideration in the ratio 7,000:2,000. The cash element is 7,000/9,000 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 ER 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 ER. 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 ER, 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 ER 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%.

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 ER.

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

The restriction to ER 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 ER

ii) Sue McDonnel only became a director in August 2010 so the shareholder/ director (or employee) condition for ER 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 2010.

iii) The remaining post August 2010 portion of the gain should qualify for an element of ER. Where rent has been paid by Phips Ltd then the proportion of the gain qualifying for ER is further restricted. As half market rent has been charged then the ER 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 ER 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 ER 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 ER	*1*
The period when the whole property was let to third parties will be excluded from ER on a time apportionment basis	*1*
Restriction for rent charge	*½*
Restriction proportionate to market rent	*1*
Mark for briefing note style addressed to partner. Reasonably technical and highlighting key issues in note form	*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 ER.

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 ER on a share sale including statutory references. The only requirement was to identify whether or not ER was applicable*

15. LISA FORSTER

Tax Advisers
Our Address

Lisa Forster
Her Address

Date

Dear Lisa

Benefits Package – VXY Ltd

I understand that you require confirmation of the tax treatment of the benefits that you will be provided with by VXY Ltd.

To be taxable, a benefit must be provided 'by reason of employment'. Benefits provided to a member of an employee's family are chargeable on the employee, unless the family member is also an employee. Therefore, any benefit provided to your husband will be treated as being provided to you for tax purposes.

I have outlined the treatment of the specific expenses you have mentioned below.

1) Pension contributions

If your employer were to make contributions to a pension scheme on your behalf you will not suffer any Income Tax or National Insurance liability in respect of this. You will not be entitled to any further tax relief in respect of the contributions, although you must take these contributions into account when considering the annual allowance. The annual allowance is the maximum amount of your pension savings that can benefit from tax relief each year.

If VXY Ltd paid pension contributions into a registered pension scheme on behalf of your husband this would be a taxable benefit and would be subject to Class 1 National Insurance contributions.

2) Healthcare plan

Your employer will contract with the insurance provider directly therefore you will have no liability to pay for any insurance or treatment personally and you would not receive any funds in respect of this. Consequently, the provision of the cover is not treated as employment earnings or expenses. The provision of the medical treatment or insurance is a benefit in kind and you will be taxable on the cash equivalent of the benefit.

The cash equivalent of the benefit is the cost to your employer of providing the cover less any amount paid by you towards its provision. As the medical insurance policy is a group policy covering a number of employees, the overall cost of the benefit is apportioned based on the amount that relates to each employee. If this is not clear from the policy documents, the apportionment can be made on a just and reasonable basis.

You will pay Income Tax on the cash equivalent of the benefit, but you would have no National Insurance liability in respect of this.

3) Dental cover

As the dental cover will be in your name, you will contract with the provider and have a personal liability for payment. Therefore, this would be treated as an expense payment and you would be taxable on the cash equivalent of this benefit, being the amount reimbursed by your employer.

Income Tax and Class 1 National Insurance will be payable by you and any tax due would be collected from your salary via payroll under PAYE.

4) Health screening assessment and medical check-up

As long as you only receive one health screening assessment and one medical check-up per tax year the provision of these would be exempt from tax and National Insurance.

5) Life assurance

As VXY Ltd will pay the insurance provider directly, the provision of life insurance would not be a taxable benefit for you.

6) Workplace Nursery

The provision of the place at the nursery meets the conditions for this benefit to be exempt from tax and National Insurance.

7) Cycle to Work Scheme

You will not have any Income Tax or National Insurance liability in respect of this benefit, provided the scheme meets certain conditions.

These conditions stipulate that bicycles or equipment are available to all employees and the bicycles or equipment are used mainly for 'qualifying journeys'. A journey counts as a qualifying journey if all or part of the journey is between home and your workplace or if all or part of the journey is between workplaces.

8) Computer

When you are lent an asset by your employer for private use, this may give rise to a taxable benefit. The cash equivalent of the benefit is subject to Income Tax, but there are no National Insurance consequences for you.

The cash equivalent of the benefit is the greater of the annual value of the asset and the amount paid by your employer in providing the asset, less any contribution made by you. The ‘annual value’ is 20% of the market value of the asset at the time it was first made available to any employee. If the asset is lent to the employee part way through the tax year, the cash equivalent must be apportioned on a daily basis.

However, there is no taxable benefit on the private use of certain assets, provided the employer retains ownership of the asset and as long as the private use of the asset is not significant. HMRC’s guidance stipulates that where a computer is provided by an employer because it is necessary for an employee to be able to carry out the duties of the employment either at home, whilst travelling or whilst at work, it is highly unlikely that any private use made of that equipment will be significant when compared with the business need for providing the computer in the first place.

I hope this summary is helpful and if you require any further clarification of any of the points, please do not hesitate to contact me.

Yours sincerely

Tax Adviser

CIOT MARKING GUIDE

TOPIC	***MARKS***
General rules	*1*
Tax treatment of benefits:	
Pension contributions	*3*
Health Care Plan	*1½*
Dental Cover	*1½*
Health Screening/Check-up	*1*
Life Assurance	*1*
Workplace Nursery	*1*
Cycle to Work Scheme	*2*
Computer	*2*
Presentation	*1*
TOTAL	***15***

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This question required candidates to write a letter providing advice on the tax treatment of a benefits package.

Candidates were generally able to demonstrate a good knowledge of the basic rules.

The rules relating to the healthcare plan, dental cover, health screening assessment and medical assessment were generally covered well. Some candidates confused the cycle to work scheme with the payment of authorised mileage rates for bicycles or with the rules for loans to employees.

A few candidates correctly identified the tax treatment of benefits but lost marks by failing to mention the National Insurance consequences of the benefits.