

Tolley[®] Exam Training

CTA ADVANCED TECHNICAL PAPER

OWNER MANAGED BUSINESSES (OMB)

PRE REVISION QUESTION BANK

FA 2019

May and November 2020 Sitzings

PQ722
CTA

Tolley[®]

Tax intelligence
from LexisNexis[®]

INTRODUCTION

This Pre Revision Question Bank for the Advanced Technical OMB 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 time. 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?

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1	Blue and White Partnership	IT & NIC for partnership making a loss
2	Potts Book Dealers Ltd	CT computation incl. Adj to profit and CAs
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5	Ruff & Ready Ltd	IT & NIC on EMI option. CT deduction
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15	Cash Basis	Cash basis

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TAX TABLES



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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.

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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

Adjusted net income >£50,000
Adjusted net income >£60,000

Withdrawal rate

1% of benefit per £100 of income between £50,000 and £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.

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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

Official rate of interest	2019/20	2018/19
	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
		2
		3+
		£350 per month
		£500 per month
		£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 CO₂ 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 CO₂ 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 CO₂ (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.

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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

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%
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- 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

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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

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Lease percentage table

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

CORPORATION TAX

Financial year	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).

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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	£5,000
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.

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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. You act as accountant and tax adviser to the Blue and White partnership.

For many years the partnership comprised Mr Ward (currently aged 69) and Mr Mellor (currently aged 37) who shared profits and losses in the ratio 3:2 (Ward:Mellor).

On 1 September 2018 Mr Horton (currently aged 33) was admitted as a partner, from which date profits and losses have been shared 5:4:1 (Ward:Mellor:Horton). Prior to his admittance as a partner, Mr Horton was employed as a manager by the partnership, at an annual salary of £60,000, payable on the last day of each month.

A car, which was used partly for the purposes of the business, was purchased personally on 1 February 2019 by Mr Mellor for £32,870. The car has CO₂ emissions of 170 g/km and it is estimated that there will be 50% business use.

Taxable results (before capital allowances in respect of the above car) are as follows:

	£	
Year to 31 January 2019	(90,000)	loss
Year to 31 January 2020	145,750	profit

None of the partners receive income or gains from any other sources.

Requirement:

- 1) **Calculate the Income Tax and National Insurance liabilities of all three partners for 2018/19 and 2019/20 on the assumption that relief for losses is claimed against taxable income of these two years only. You should clearly identify any unused losses and any overlap relief arising. You are NOT required to comment on Class 2 National Insurance; and** (10)
 - 2) **Explain and give details of any alternative methods of loss relief for each individual partner, specifying any relevant time limits or possible restrictions.** (5)
- Total (15)

2. Your firm acts as accountants and tax advisers to Potts Book Dealers Ltd. The company has traded for a number of years, preparing accounts to 31 January each year. However, the company decided to change its accounting date to 31 October and prepared statutory accounts for the nine months to 31 October 2019.

The profit and loss account for this period shows the following:

	£	£	<u>Notes</u>
Turnover		1,200,000	
Cost of sales		<u>(794,000)</u>	
Gross Profit		406,000	
 <u>Employment costs</u>			
Wages and salaries	100,000		(1)
Pension contributions	<u>7,500</u>		(2)
		(107,500)	
 <u>Establishment costs</u>			
Rent	5,000		(3)
Rates	2,200		
Light, heat and power	2,000		
Insurance	1,000		
Repairs	<u>13,000</u>		(4)
		(23,200)	
 <u>General administrative expenses</u>			
Telephone expenses	2,000		
Printing, postage and stationery	800		
Accountancy fees	2,200		
Charitable donations	1,000		(5)
General overhead expenses	7,000		(6)
Bad debts	<u>(800)</u>		(7)
		(12,200)	
 <u>Depreciation costs</u>			
Depreciation	6,500		
(Profit)/loss on disposal of fixed assets	<u>(1,200)</u>		(8)
		(5,300)	
 <u>Other income</u>			
Dividends received	10,800		(9)
Release of regional grant	200		(10)
Bank interest receivable	800		
Rental income	<u>5,200</u>		
		17,000	
Net profit		<u>274,800</u>	

Notes

- 1) Salaries include £9,500 payable as a bonus to Mr Potts, the sole shareholder, as first discussed and agreed at a meeting in February 2020 and £10,000 in respect of a contractual bonus payable to the company sales manager. The sales manager's bonus is payable in two equal instalments in March 2020 and September 2020.
- 2) Pension contributions include payments made in the period of £6,000 and pension contributions accrued of £1,500 which were paid in November 2019.
- 3) Includes £1,500 of rent paid which relates to the sublet warehouse space.
- 4) Includes £1,800 on replacement shop front windows and £3,000 set aside for essential repairs which have not yet been contracted for.

- 5) Represents a cash donation to a charity.
- 6) Includes:
 - £200 agent's fees in obtaining a patent for trading purposes;
 - £100 in respect of a late tax return filing penalty; and
 - £500 physiotherapy treatment for employee who had been injured whilst at work.

- 7) The provision for bad debts account contains the following:

	<u>Debit</u>		<u>Credit</u>
	£		£
Bad debts written off	2,500	Provision b/f	4,000
Profit and loss account	800	Bad debt recovered	2,300
Provision c/f	3,000		

- 8) A van, which had originally cost £16,000, was sold in August 2019 for £4,000. A replacement delivery van, with a total purchase price of £24,000, was purchased on 1 September 2019. This was the only capital addition in the year and the general pool tax written down value at 31 January 2019 was £6,000.
- 9) The dividends received arose as follows:
 - On 1 February 2019 the company received a dividend of £2,700 from its 2% interest in a quoted trading company.
 - On 1 March 2019 the company received a dividend of £8,100 from its wholly owned subsidiary.
- 10) The company received a regional grant of £6,000 towards the new delivery van which was purchased on 1 September 2019 (see Note 8 above). The grant has been capitalised in the draft accounts and is being released to the profit and loss account over five years on a straight line basis in order to match the 20% straight line depreciation policy.

Requirement:

- 1) **Prepare the Corporation Tax computation of Potts Book Dealers Ltd for the period ended 31 October 2019, with brief explanations of any adjustments; and** (16)
 - 2) **Explain when Potts Book Dealers Ltd will need to file its return for the period and the consequences of failing to file the return on time.** (4)
- Total (20)

3. Alex, Baqir, Colin and Dave have traded in partnership as a firm of design consultants for a number of years. They have now decided to incorporate the business on 1 July 2020 and trade via a limited company. The partnership prepares accounts to 30 June annually and currently makes profits in the region of £600,000.

At the same time as the incorporation, Alex will retire and sell his interest in the partnership.

You have been provided with the following historic information:

- 1) 1 July 2009 – Alex and Baqir commenced to trade and acquired business premises for £100,000. The profit and capital sharing ratio was agreed to be 50:50.
- 2) 1 July 2014 – Colin joined the partnership at which time the property was re-valued in the accounts to £180,000. The profit and capital sharing ratio from that point was 2:2:1 (Alex:Baqir:Colin).
- 3) 1 July 2015 – The profit and capital sharing ratio was changed to 4:3:3 (Alex: Baqir:Colin), although the property was not re-valued in the accounts.
- 4) 1 January 2020 – Dave joined the partnership at which time the property was re-valued in the accounts to £230,000 and the profit and capital sharing ratio was changed to 3:2:2:1 (Alex:Baqir:Colin:Dave).

The property is currently estimated to be worth £270,000. The goodwill is estimated to be worth £450,000, although it has never been recognised or included in the accounts. All assets and liabilities of the partnership will be transferred to the company in exchange for the issue of 4,000 shares valued at £100 per share and cash consideration of £400,000.

It is anticipated that the partnership balance sheet at 1 July 2020 will be as follows:

	£
Property (at 1 Jan 2020 valuation)	230,000
Goodwill (No value included)	0
Fixed Assets	40,000
Current Assets	50,000
Creditors	<u>(10,000)</u>
	<u>310,000</u>

Alex will sell his interest in the partnership to the company for cash consideration of £300,000 payable in equal annual instalments over the next two years.

Baqir will take 2,000 shares in the company, valued at £100 per share, in exchange for his interest in the partnership.

Colin will take 1,500 shares in the company, valued at £100 per share, in exchange for his interest in the partnership plus £50,000 left on loan account and payable as and when cash is available.

Dave will take 500 shares in the company, valued at £100 per share, in exchange for his interest in the partnership plus £50,000 left on loan account and payable as and when cash is available.

All partners are higher rate taxpayers and none will make any other disposals of assets for Capital Gains Tax purposes in 2020/21. In addition, none of the partners have ever previously disposed of a business in which they have been involved.

Requirement:

Discuss the Income Tax and Capital Gains Tax implications of the above partnership incorporation. You should include Capital Gains Tax computations for each partner, identifying any reliefs available and claims or elections that could be made. Income Tax calculations are not required. (20)

4. The Woodchester Golf and Country Hotel is a leisure and hotel complex located in the West of England. Your client, Kevin Oliver, is a contractor at the hotel who has been involved in the maintenance of the grounds and buildings for a number of years. He provides maintenance services all year round to the hotel, via his own limited company, Kevin Oliver Maintenance Ltd, although the company does do work for other businesses on an occasional basis.

At a recent meeting you had with Kevin he raised concerns regarding the regular monthly income that his company receives from the hotel for providing these maintenance services. The hotel pays his company gross without deduction for any Income Tax or National Insurance.

A friend in the local pub has mentioned something called 'IR35' and said Kevin might as well get a full-time job at the hotel anyway considering the amount of time he spends working there.

You have been provided with the following financial information for the year ended 5 April 2020:

	<u>Kevin Oliver Maintenance Ltd</u>
	£
<u>Income</u>	
Fees received from the hotel	60,000
Fees received from other businesses	<u>7,000</u>
	<u>67,000</u>
<u>Outgoings</u>	
Own salary	8,000
Wages paid to wife	7,000
Pension contributions	5,000
Sundry admin expenses	1,500
Dividends paid	<u>15,000</u>
	<u>36,500</u>

In addition Kevin was provided with a van and fuel throughout the year by his company, which was available for both business and private use.

Requirement:

- 1) **Prepare a memorandum for discussion with Kevin summarising what factors you will need to consider and any further information you will require to advise him whether IR35 will apply to his relationship with the hotel; and** (9)

 - 2) **Calculate the Income Tax and National Insurance liabilities for Kevin Oliver and Kevin Oliver Maintenance Ltd that will arise if it is decided that IR35 applies to the income received from the hotel.** (6)
- Total (15)

5. Dan Delyon is a director of Ruff & Ready Ltd which is a client of your firm.

On 1 June 2019 the majority shareholder in Ruff & Ready Ltd, Orson Kart, personally granted Dan an option to acquire 1,000 ordinary shares (the option shares) in the company at their par value of £1 each. Dan gave no consideration for the grant of the option, which was a qualifying EMI option. The option shares are not restricted.

By March 2020 negotiations for the sale of the company had reached an advanced stage and an agreement reached subject to contract. This triggered the vesting of the option under the terms of the option agreement, which Dan then exercised on 6 April 2020. The price offered by the prospective purchaser of £50 per share was acceptable to the shareholders of Ruff & Ready Ltd, but unfortunately the purchaser was unable to finance the deal and it fell through. The market value of the option shares, as agreed with HMRC Shares and Assets Valuation, was £20 per share as at 1 June 2019.

Under the terms of the option agreement, Dan is obliged to reimburse the company for any PAYE/Employers' National Insurance Contributions incurred on the exercise of the option.

On 1 February 2019 the company paid £3,000 professional fees for drawing up the option agreement. The company's year-end is 31 March.

Dan's director's salary, which is his only source of income, is £75,000 per annum.

Requirement:

Write a letter to Orson setting out the Income Tax, PAYE/National Insurance and Corporation Tax implications of granting and exercising the option for Dan and/or the company, giving the amounts and timing of liabilities, reporting requirements and any other action that needs to be taken.

You are not required to comment on any Capital Gains Tax aspects. (15)

Assume you are writing on 1 May 2020.

6. The Grange Hotel Ltd is an hotelier company which makes up its accounts to 30 April each year. It is not a member of a group. In its accounting period ended 30 April 2020 it incurred the following expenditure on plant and machinery, mainly for its new hotel extension. Disposals were also made as shown.

	£
<u>New extension</u>	
Lift	300,000
Central heating	250,000
Electrical wiring, transformers and switchgear	265,000
Cold water system	255,000
 <u>Other</u>	
Cost of demolition/removal of outdoor heated swimming pool, pumps etc.	20,000
Car 'A' (bought new on 1 June 2019) with CO ₂ emissions of 50 g/km	18,000
Car 'B' with CO ₂ emissions of 105 g/km	22,000
Car 'C' with CO ₂ emissions of 140 g/km	25,000
Moveable outdoor gazebo for use by smokers	15,000
Furniture	30,000
Paintings and murals	22,000
 <u>Disposals</u>	
Car 'D' (cost £12,000, acquired 31 March 2016, CO ₂ emissions 125g/km)	2,000
Car 'E' (cost £28,000, acquired 31 March 2016, CO ₂ emissions 170 g/km)	10,000

The tax written down values at 30 April 2019 were as follows:

	£
Main pool	165,000
Special rate pool	140,000

During its year ended 30 April 2018, The Grange Hotel Ltd paid £20,000 for the design of a new website. Form CT600 was filed on-line on 31 January 2019 to which a note was appended containing the following statement:

“During the year the company incurred expenditure of £20,000 for the design of its website which has been written off to the profit and loss account in accordance with generally accepted accounting practice. No adjustment has been made in the Corporation Tax computation for this item, which may not be in accordance with current HMRC guidance.”

A letter from the company’s tax inspector dated 31 March 2020 has been received by the company, and copied to your firm, stating that the view of HMRC is that the costs of setting up a website are capital expenditure in line with Anglo-Persian Oil Company Ltd v Dale [1931] 16 TC 253 and that a ‘discovery’ assessment is appropriate under para 41, Sch 18 FA 1998.

Requirement:

- 1) **Prepare a capital allowances computation for The Grange Hotel Ltd for its year ended 30 April 2020 allocating the additions, disposals and any other adjustments to the correct pools.** (10)

 - 2) **Prepare a brief memorandum to the tax partner explaining the basis of your response to the raising of the discovery assessment. You are NOT required to comment on the correct tax treatment of the website costs.** (5)
- Total (15)

7. You are the tax adviser for Widgets Ltd and its 100% shareholder and sole director, Sid (aged 40). The company is an established standalone trading company with a 31 December year end.

You are given the following information in relation to Widgets Ltd's draft accounts (prepared in accordance with UK GAAP) for the year ended 31 December 2019:

- 1) Net profit on ordinary activities before taxation is £100,000.
- 2) Investment income received:
 - a) £4,000 – UK bank deposit interest
 - b) £2,500 – Dividend from a small investment in a UK company
- 3) Legal and professional charges were incurred in connection with the following matters:
 - a) £950 – Chasing bad debts
 - b) £1,500 – Drafting employment contracts
 - c) £2,500 – Business premises lease renewal (for 20 years)
 - d) £1,250 – Taxation advice on a proposed company share capital restructure
 - e) £750 – Parking fines (re cars leased by the company)
- 4) The entertaining account includes the following expenses:
 - a) £2,000 – Customer entertaining (lunches, etc)
 - b) £1,500 – Christmas staff party
 - c) £1,000 – Promotional event for customers (£500 for venue hire and £500 for food and drink)
 - d) £1,250 – Diaries and mouse mats given to customers incorporating Widgets Ltd's logo (costing less than £50 per person)
 - e) £500 – Free product samples given to the public
- 5) The bad debt account comprises the following entries:
 - a) £6,000 – Provision brought forward
 - b) £3,500 – Profit and loss charge
 - c) £1,000 – Bad debts recovered
 - d) £1,500 – Bad debts written off
 - e) £9,000 – Provision carried forward
- 6) Donations – Widgets Ltd made the following donations:
 - a) £1,000 – Donation to Oxfam (a registered charity)
 - b) £1,000 – Donation to a promising young sportsman (who is a relative of Sid) to help meet his travel and accommodation costs
- 7) Lease rentals:
 - a) Car 1: £6,000 lease rentals paid in relation to a car with CO₂ emissions of 180 g/km subject to a lease taken out in June 2017
 - b) Car 2: £4,000 lease rentals paid in relation to a car with CO₂ emissions of 125 g/km subject to a lease taken out in June 2019
- 8) Fixed assets: Widgets Ltd's depreciation charge in its accounts is £20,000

The company is not required to make a provision for deferred taxation.

The company does not have negative distributable reserves and may legally distribute any post-tax profits it makes.

Requirement:

- | | | |
|----|--|------|
| 1) | Prepare a Corporation Tax computation for Widgets Ltd for the year ended 31 December 2019 and give a brief explanation of the tax treatment of each of the tax computation adjustments. | (10) |
| 2) | Discuss how Widgets Ltd and Sid may best arrange for funds to be extracted for Sid's benefit going forward. | (10) |
| | Total | (20) |

Assume 2019/20 rules, rates and allowances continue to apply.

8. High Cross Motor Services operates as a partnership and has traded for many years. The business comprises a petrol station, car service workshop and convenience store. The partners, Alex and Nick, work full-time in the business.

A new local by-pass was opened in March 2019 and this has resulted in a significant decline in fuel and retail sales. Alex and Nick are qualified mechanics and have decided to close the fuel station and convenience store to concentrate their efforts on vehicle servicing and repairs. The fuel and retail operations will close in September 2020, after which the partners will consider whether to let the retail outlet.

David joined the partnership on 1 October 2019 and made a capital contribution of £20,000. David is an experienced panel beater and was previously employed by a local competitor. However, due to family commitments, he did not work actively in the High Cross Motor Services partnership during the accounting period ending 31 March 2020.

The partnership draws up its accounts to 31 March. For the year ended 31 March 2020 the partners participate in income profits and losses in the following ratios:

	<u>Six months to</u> <u>30 September 2019</u>	<u>Six months to</u> <u>31 March 2020</u>
Alex	50%	40%
Nick	50%	40%
David	0%	20%

The partnership accounts for the year to 31 March 2020 show the following:

Trading loss per accounts £(272,000)

The loss is stated after charging the following expenses:

	£
Depreciation – tangible owned assets	12,000
Bank charge	3,000

The bank charge of £3,000 arose on the re-negotiation of a new long-term loan, following the admission of the new partner.

In view of the tax losses, the partners have agreed that no capital allowances will be claimed for the year ended 31 March 2020.

The partners have the following adjusted total income and capital gains in 2019/20 before relief for trade losses:

	<u>Adjusted total income</u>	<u>Chargeable gains</u>
	£	£
Alex	15,000	Nil
Nick	55,000	100,000
David	40,000	Nil

The tax adjusted trading profit of High Cross Motor Services for 2018/19 was £120,000 and allocated as follows:

	<u>Adjusted trading profits 2018/19</u>
	£
Alex	60,000
Nick	60,000

The partners had no other sources of taxable income or gains in 2018/19. David has no available taxable income or gains in the three tax years prior to 2019/20 due to making additional pension contributions and using tax losses arising from another business.

Requirement:

- 1) Calculate the adjusted partnership trading loss for the year ended 31 March 2020 and allocate the tax loss between the partners for 2019/20 and explain the tax treatment of the bank charge. (5)
 - 2) Explain with calculations how the losses of each partner may be relieved on the assumption that they wish to obtain relief at the earliest opportunity. (15)
- Total (20)

You are NOT required to calculate the tax liabilities.

9. Your firm has recently started to act for a profitable food manufacturing business which operates through a limited liability partnership (LLP). Except for one limited company, all members of the LLP are individuals. Significant amounts of profit have been allocated by the LLP to the corporate partner over the last few years.

Following an initial meeting with the client, the engagement partner is concerned that the 'Partnerships with Mixed Membership' anti-avoidance provisions may apply to the partnership.

Requirement:

Draft a briefing note for the partner discussing the provisions and how they relate to the LLP, considering briefly the options for the business going forward.

(15)

You are not required to consider any issues in respect of earlier years.

10. You recently attended a client meeting with Mr Gupta, the Finance Director of Merryweather Ltd. The company provides haulage services in and around Birmingham.

In June 2020 the shareholders of Merryweather Ltd were approached by a third party competitor company and the terms for a take-over have been agreed. The purchaser has offered to acquire all of the ordinary share capital of Merryweather Ltd for cash consideration at £1.60 per share. Due diligence is underway and it is intended that the transaction will be completed by 1 January 2021.

Employee share option schemes

Merryweather Ltd recently introduced an Enterprise Management Incentive share option scheme ("EMI" scheme). Options were granted to three key employees with rights to acquire ordinary shares at £1.20 each, being the agreed unrestricted market value of the shares at the date on which the options were granted.

A general Company Share Option Plan ("CSOP") was also set up for eligible employees and options were granted at the same price as the EMI scheme options.

The shares to be issued under the terms of both option schemes rank pari passu with the existing single class of £1 ordinary voting shares currently in issue.

All the EMI and CSOP options were granted on 1 December 2018.

Mr Gupta has confirmed the following:

- 1) Merryweather Ltd is a trading company and does not undertake any excluded trading activities.
- 2) No options have been exercised to date.
- 3) The option holders are eligible employees.
- 4) The purchaser is a FTSE100 listed company.

Director's travel expenses

Following the take-over it is expected that Mr Jones, the Managing Director, will leave the company. In anticipation of this he has relocated his family to Penzance. Mr Jones has been based at the company's head office in Birmingham for many years but now makes the seven hour rail trip from Penzance to Birmingham each week, returning home for the weekend. The company makes reimbursements of the cost of his weekly first class rail ticket from Penzance.

Once a month Mr Jones breaks his train journey on Monday morning to attend a meeting at the company's Bristol depot after which he continues his journey to Birmingham.

Requirement:**Write a letter to Mr Gupta:**

- 1) Explaining the tax and National Insurance consequences for the option holders and the company of the proposed takeover and giving any relevant recommendations. (10)
 - 2) Explaining the tax and National Insurance implications of travel expenses paid to Mr Jones. (5)
- Total (15)

Assume that you are writing in November 2020.

11. You work for a firm of Chartered Tax Advisers and your client is Topaz Ltd, which manufactures widgets. During its year ended 31 March 2020, it incurred the following capital expenditure:
- a) A deposit of £20,000 was paid on 10 December 2019 for a grinding machine under a contract whereby title to the machine would pass on delivery when the balance of the purchase price was due. Before delivery, the supplier went into liquidation and the deposit was lost.
 - b) A rolling machine was purchased on deferred payment terms and was delivered on 28 February 2020. Three payments of £35,000 each were paid/fall due on 28 February 2020, 30 May 2020 and 30 August 2020.
 - c) A crane was bought on a hire-purchase contract. The crane was delivered on 21 January 2020, but was not brought into use until 2 May 2020. Under the hire purchase contract, 24 payments of £6,250 are due, payable on the first day of each month from 1 February 2020. £1,250 of each instalment relates to finance charges.
 - d) Computer equipment costing £20,000 was delivered on 25 March 2020. An invoice for it was issued on 2 April 2020 and stated as payable within 30 days. Payment was made on 1 May 2020.
 - e) A deposit of £50,000 was paid on 1 January 2020 under a contract for the supply of a polishing machine costing £200,000 in total. At 31 March 2020 the machine was under construction to the company's specification at the manufacturer's plant in Germany and was 90% complete. The machine was delivered on 16 May 2020 on which date the balance of the purchase price became payable.
 - f) A fixture within s.173(1) CAA 2001 was installed at Topaz's freehold factory, at a cost of £450,000 under a 'milestone' contract where payment is due monthly based on progress of the work as certified by the project engineer. Payment is due within 30 days of certification.

<u>Amount</u> £	<u>Date certified</u>	<u>Payment due</u>	<u>Description</u>
30,000	15 December 2019	14 January 2020	Preliminaries
50,000	15 January 2020	14 February 2020	Base construction
40,000	15 February 2020	17 March 2020	Electrical installation
100,000	15 March 2020	14 April 2020	Assembly
230,000	15 April 2020	15 May 2020	Assembly

Requirement:

Write a memorandum to the client partner explaining the quantum and timing of expenditure for capital allowance purposes and/or relief as revenue expenditure.

Your memorandum should include details of the amounts of allowable revenue and capital expenditure for the accounting periods ended 31 March 2020 and 31 March 2021.

(15)

12. Your client Marcel Duval operated a retail business as a sole trader through two shops (in London and Brighton). He owned the freeholds of both properties containing the shops.

Marcel found a purchaser for the Brighton property, which only contained the shop, but the purchaser did not wish to take over the business. Contracts were exchanged on 6 April 2019 and completion took place on 30 June 2019, on which date the shop closed. The property cost £150,000 (with no amount paid for goodwill) and was sold for £350,000.

Marcel continued to operate the London shop until he decided to close it on 30 September 2019. The property was sold on 31 March 2020 for £450,000 having cost £200,000 (again with no amount paid for goodwill). The property had three floors, with the ground and first floor being used for the shop and storage. The top floor was let as a self-contained flat.

Marcel also purchased office premises in November 2008, at a cost of £200,000, which were let commercially until the end of November 2012 when the lease ended. The offices have since been occupied rent-free by Rovers Insurance Brokers Ltd ('RIBL') of which Marcel is a director and owner of 25% of the issued ordinary share capital.

It has been proposed that as part of a management buy-out Marcel will sell his shares in RIBL to a new holding company for the sum of £250,000. He intends however to retain his directorship for the time being and will continue to work for RIBL.

The other shareholders have also offered to buy the office premises from Marcel for £500,000.

Marcel has sought your advice on the tax implications of the sale of his shares and the sale of the properties. The sale is likely to take place in December 2020.

Requirement:

Prepare a technical memo for the tax partner discussing the availability for Marcel of Capital Gains Tax Entrepreneurs' Relief in respect of:

- 1) The sale of each of the shop premises;
- 2) The sale of his shares in RIBL; and
- 3) The offer from the shareholders of RIBL to buy the office premises.

Detailed computations are NOT required.

(15)

13. You have recently had a meeting with Greg Leghorn and his twin brother Chris. Both are Oxbridge physics graduates.

Greg and Chris have developed a new product called the “Eggs Box”. The “Eggs Box” is a small cube shaped machine which uses “vortex-steam technology to boil or poach eggs to perfection in 3 to 4 minutes without the need for a saucepan”.

Patent has been received and the brothers are preparing to launch their product to market. The product has been developed from the workshop in Greg’s garden but any large scale production will be outsourced to China.

With trade about to commence, Greg and Chris have concerns about their choice of business medium. Their initial thoughts were to trade via a 3-man partnership with their father, Lionel, taking a 10% share in return for a capital investment of £100,000 and a part-time Consultancy role. Lionel is a retired marketing executive and will work on average 1 day a week. Profits and losses will thereafter be split 60% to Greg and 30% to Chris. Chris will continue to work part-time in his father-in-law’s frozen foods company but will work 25 hours a week for “Eggs Box”. Greg is single and has no other employment so he can devote the most time to the business.

The alternative is a limited company with shares being allocated in the same ratio between the 3 parties and Lionel taking a non-executive director role.

Greg and Chris have also heard of limited liability partnerships but are unsure what these are or do.

The business is not forecast to make a profit for at least 3 years due to high development costs, the search for market share, capital allowances and interest charges on bank borrowings.

Given that trading losses are expected for the first three years, Greg and Chris would like to know how relief can be obtained for the trading losses whichever business vehicle is chosen. Greg currently has around £5,000 pa of investment income. He gave up a well-paid job in March 2019 to focus on product development for the Eggs Box. Chris still earns £35,000 per annum from his other job. Lionel is independently wealthy and is a 45% taxpayer. None of them have any chargeable gains.

Trade will commence on 1 July 2020 with the first accounts to be drawn to 30 June 2021 and annually thereafter.

Requirement:

Write a letter to Greg and Chris setting out the various options for relieving the trading losses from their business. (20)

14. Alex Rodgers is the Finance Director of your client company, Lite Snacks Ltd. The company manufactures savoury snacks and is based in Nottingham. There is a total workforce of 66 personnel.

Alex has written to you asking for your advice on the following matters which have arisen during the past few months:

- 1) Sales targets were achieved during the accounting period ended 31 August 2020, and as a reward to the sales department staff, the company recently paid for 18 employees to spend a day at "Heaven Sent" Day Spa. The total cost to the company was £1,692. Alex has asked if there is any way that he can reduce the administrative costs and time involved in having to complete 18 P11Ds for the staff involved. None of them have needed a P11D completing in the past. He would also like an estimate of the likely tax and national insurance costs of providing the reward to the sales staff, all of whom are basic rate taxpayers.
- 2) At Christmas the company is intending to give all of its employees, except the senior management team, a gift of a box of chocolates worth £10. The total cost to the company of the chocolates will be £600. The senior management team will instead each be given a Harrods hamper worth £150. There are six members of staff in the senior management team.
- 3) All employees are provided with access to tea and coffee making facilities, and water dispensers. The cost to the company of providing these facilities over a year is £1,800.
- 4) The company operates a fleet of vans (which emit CO₂), which are used to deliver its products to customers. You have previously advised Alex of the rules relating to the taxation of vans, and helped him draft a memorandum to staff explaining the position to ensure that no member of staff suffered a benefit in kind charge. Alex has therefore always completed forms P11D on the basis that no benefits in kind have arisen. It has recently come to light that one driver has been using his van every weekend to transport goods to a car boot sale where he has a weekly pitch.
- 5) The company has funded a member of the accounts staff through a course leading to a professional qualification, the total cost of which was £2,500. The company paid him a cash prize of £250 for passing his final examination.
- 6) The company provides 10 employees with a broadband connection at home, as it is considered essential to their employment duties. The total cost of this is £1,200 per annum. The company has published a policy that private use of the connection should be kept to a minimum but it has found it difficult to monitor this. Alex is also worried that if he is required to complete P11Ds he would find it impossible to calculate the benefit in kind accurately.
- 7) The company has a contract with a private medical company to provide medical insurance for its senior management team. The cost per person is £555 per annum. A different arrangement exists for middle management. The company has agreed to reimburse the costs of private medical insurance incurred personally by the middle management staff in return for a corresponding reduction in their gross salary. Only two members of the middle management team accepted this arrangement. They submitted an expenses claim for the costs to the company, which then reimbursed them. The costs involved were £350 and £486.

Requirement:

Write a letter to Alex advising him of the Income Tax, National Insurance and reporting issues that arise from each of the above situations. (20)

Assume you are writing in November 2020 and that 2019/20 rules continue to apply.

15. A business may be able to determine taxable profits using the cash basis, rather than preparing accounts using generally accepted accounting practice.

Requirement:

Draft a Technical Note for distribution to your colleagues explaining the availability and operation of the cash basis for new businesses. You should identify any key differences to the calculation of profits where the cash basis is not adopted.

(10)

ANSWERS

1. BLUE AND WHITE PARTNERSHIP

PART 1)Capital Allowances Computation

	£	Claim 50% £
Additions 1 February 2019	32,870	
Less: WDA @ 6.34% (W)	<u>(2,084)</u>	1,042
WDV c/f	<u>30,786</u>	

Allocation of profits:

	Total £	Ward £	Mellor £	Horton £
<u>Y/e 31.1.19</u>	<u>(90,000)</u>			
1.2.18 to 31.8.18 (3:2)	(52,500)	(31,500)	(21,000)	
1.9.18 to 31.1.19 (5:4:1)	<u>(37,500)</u>	<u>(18,750)</u>	<u>(15,000)</u>	<u>(3,750)</u>
	<u>(90,000)</u>	<u>(50,250)</u>	<u>(36,000)</u>	<u>(3,750)</u>

Y/e 31.1.20

Profits	145,750			
Less: CAs (above)	<u>(1,042)</u>			
Split (5:4:1)	<u>144,708</u>	<u>72,354</u>	<u>57,883</u>	<u>14,471</u>

Working

Special rate pool WDA: $8\% \times 2/12 + 6\% \times 10/12 = 6.34\%$

Tutorial Note:

Even though the car is purchased personally capital allowances are given in the partnership adjustment of profits. Since there is no mention in the profit sharing arrangements it is assumed that there is no adjustment in the allocation of profit.

Tax and NIC Calculations 2018/19

Mr Horton:

Mr Horton is treated as commencing a trade on 1 September 2018, and any loss accruing in his first tax year must be measured on a strict basis.

His adjusted result is therefore:

	£
1.9.18 - 31.1.19	(3,750)
1.2.19 - 5.4.19 = $2/12 \times £14,471$	<u>2,412</u>
Net loss 2018/19	<u>(1,338)</u>

	£
Income tax:	
Employment income (£60,000 x 5/12)	25,000
Less: Trade loss	<u>(1,338)</u>
Net income	23,662
Less: PA	<u>(11,850)</u>
Taxable	<u>11,812</u>

Tax @ 20%	<u>2,362</u>
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Class 4 NIC (no profits) Nil

Class 1 NIC on employed earnings (£5,000 p/m): £
 £(3,863 – 702) @ 12% 379
 £(5,000 – 3,863) @ 2% 23
402

x 5 months 2,010

Neither Mr Ward nor Mr Mellor will have any tax or NIC liabilities for 2018/19 due to losses arising in the year.

Tax and NIC Calculations 2019/20

Mr Ward:

£

Income tax:
 Profit 72,354
 Less: Loss b/f (50,250)
 Net income 22,104
 Less: PA (12,500)
 Taxable 9,604

Tax @ 20% 1,921

Class 4 NIC (exempt as > pensionable age) Nil

Mr Mellor:

£

Income tax:
 Profit 57,883
 Less: Loss b/f (36,000)
 Net income 21,883
 Less: PA (12,500)
 Taxable 9,383

Tax @ 20% 1,877

Class 4 NIC:
 £(21,883 – 8,632) @ 9% 1,193

Mr Horton:

£

Income tax:
 Profit 14,471
 Less: PA (12,500)
 Taxable 1,971

Tax @ 20% 394

£

Class 4 NIC:
 Profit 14,471
 Less: Loss b/f (Note) (1,338)
13,133
 Less: Lower limit (8,632)
 NICble 4,501

@ 9% 405

Note:

Loss offset against non-trading income in 2018/19 is still available to c/fwd for Class 4 NIC purposes.

Overlap relief carried forward for Mr Horton = £2,412.

PART 2)

Reliefs available for Ward and Mellor are shown below, together with a note of time limits and any potential restrictions on making a claim.

The maximum loss which can be set against non-trade income in a year is the greater of:

- £50,000
- 25% of the individual's adjusted total income for the year.

Losses are restricted to a maximum offset of £25,000 against general income or capital gains where the claimant carries on the business in a non-active capacity.

Type of loss	Available relief	Timing	Restrictions
Losses of a continuing trade	Against general income of the same and/or preceding year	Claim by anniversary of 31 January following tax year of loss	Restrictions if not active in the business or loss artificially created. Must be trading with a view to profits
	Against capital gains of the same year (whether arising from trading or personal disposals)	Claim by anniversary of 31 January following tax year of loss	Restrictions if not active in the business or loss artificially created. Must be trading with a view to profits. Must be offset against income first
	Carried forward against subsequent profits of the same trade	Claim to establish loss 4 years from end of tax year of loss	None

Reliefs available to Horton are as detailed above for Ward and Mellor. In addition however he may claim early years carry back relief as detailed below:

Type of loss	Available relief	Timing	Exclusions or restrictions
Losses in the first 4 fiscal years of a trade	Carried back against general income of 3 preceding tax years, against earliest year first	Claim by anniversary of 31 January following tax year of loss	Restrictions if not active in the business or loss artificially created. Must be trading with a view to profits.

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Part 1)</u>	
Capital Allowances calc	1
Loss allocation y/e 31.1.19	1
Profit allocation y/e 31.1.20	1½
Horton Tax Calc 2018/19	1½
Horton NIC Calc 2018/19	½
Ward Tax Calc 2019/20	½
Ward NIC Calc 2019/20	½
Mellor Tax Calc 2019/20	½
Mellor NIC Calc 2019/20	1
Horton Tax Calc 2019/20	½
Horton NIC Calc 2019/20	1
Horton Overlap Relief	½
	10
<u>Part 2)</u>	
Loss reliefs for Ward and Mellor	2½
Early year loss relief for Horton	1½
Restrictions on loss relief	1
	5
TOTAL	15

Examiner's report:

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Part 1 required an understanding of how to deal with changes in PSR and consequent apportionment issues, and was reasonably well answered with the majority of candidates covering many salient points.

The main (and easily avoidable) error was that many candidates failed to identify that Ward's age (69) meant that he was entitled to exception from Class 4 NI.

The answers in Part 2 (relating to use of losses) were in many cases uninspiring and/or incomplete with many easy marks missed by candidates.

2. POTTS BOOK DEALERS LTD

1) Potts Book Dealers LtdCorporation Tax Computation for the 9 month period ended 31 October 2019

	£	£
Adjusted profits (W1)		284,700
Less: Capital allowances (W2)		<u>(18,270)</u>
Trading Profit		266,430
Rental Income	5,200	
Less: Rental expenses	<u>(1,500)</u>	
		3,700
Non-trading loan relationship credit		800
		270,930
Less: Donation to charity		<u>(1,000)</u>
Taxable total profits		<u>269,930</u>
Corporation tax payable		
£269,930 x 19%		<u>51,287</u>

WorkingsW1) Adjustment of profits

	£	£
Profit per accounts		274,800
Add:		
Bonus payable to Mr Potts:		
No obligation at accounting date	9,500	
Sales manager's bonus payable after 9 months	5,000	
Pension contribution (amount unpaid at year end)	1,500	
Rental expenses set against rents	1,500	
Repair provision	3,000	
Donation to charity	1,000	
Late filing penalty	100	
Depreciation	<u>6,500</u>	
		<u>28,100</u>
		302,900
Less:		
Release of capital grant	200	
Dividends Received	10,800	
Bank Interest Received	800	
Rents Received	5,200	
Profit on sale of van	<u>1,200</u>	
		<u>(18,200)</u>
Adjusted profits		<u>284,700</u>

W2) Capital Allowances

9 months ended 31 October 2019:

	AIA £	General pool £	Claim £
TWDV b/fwd at 1.2.19		6,000	
Additions:			
Van	24,000		
Less: grant	<u>(6,000)</u>		
Net cost	18,000		
AIA @ 100%	(18,000)		18,000
Disposals:			
Van		<u>(4,000)</u>	
		2,000	
WDA @ 18% x 9/12		<u>(270)</u>	270
TWDV c/fwd		<u>1,730</u>	<u>18,270</u>

Points on adjustments:

- The grant is set against the capital cost of the new van as per the capital allowances computation.
- Bank interest and rental income are added back and taxed under the relevant source.
- The profit on sale of the van and the depreciation are adjusted as capital assets and are dealt with via capital allowances.
- It is assumed that the doubtful debt provision is made in accordance with FRS102 and is hence allowable.
- The provision for the bonus to be paid to Mr Potts is not allowable for tax purposes as it is not in accordance with GAAP – there was no legal or constructive obligation at the reporting date.
- The part of the sales manager's bonus not paid within 9 months must be added back and deducted in the period in which it is paid.
- Pensions are allowed on a paid basis and the movement on accrual must therefore be adjusted.
- The repair provision is added back as the repairs have not been contracted for and therefore there is again no legal or constructive obligation at the reporting date.
- The late filing penalty is not allowable.
- The charitable donation must be added back and deducted as a qualifying charitable donation.

2)

The corporation tax return is due for submission to HMRC 12 months from the end of the accounting period. For the accounting period ending on 31 October 2019 the return is due by 31 October 2020.

An initial penalty of £100 will apply if the return is late.

If the return is more than 3 months late, daily penalties of £10 per day may be imposed for a maximum of 90 days.

If the return is more than 6 months late a further penalty of 5% of the liability in the return, or £300 if greater, will be charged.

If the return is more than 12 months late there will be a further penalty of a percentage of the liability in the return depending on the company's behaviour, or £300 if greater.

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Adjusted Profit Computation</u>	
Dividend income	$\frac{1}{2}$
Grant add back release to profit and loss	1
Bank interest	$\frac{1}{2}$
Rental income	$\frac{1}{2}$
Profit on disposal	$\frac{1}{2}$
Mr Potts' bonus not contracted	1
Bonus not paid within 9 months	1
Rent on sublet warehouse	$\frac{1}{2}$
Shop front replacement windows allowable	1
Provision for repairs	1
Late filing penalty/no adjust for other items	$1\frac{1}{2}$
Donation	$\frac{1}{2}$
Accrued pension contributions	1
Capital allowances computation	3
<u>Corporation Tax Computation</u>	
Other sources of income	1
Qualifying charitable donation	1
Computation	$\frac{1}{2}$
	16
<u>Return</u>	
Due date	$\frac{1}{2}$
Initial Penalty	$\frac{1}{2}$
Daily Penalty	1
6 months penalty	1
12 months penalty	$\frac{1}{4}$
	4
TOTAL	20

Examiner's report:

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Most candidates produced a good standard of reply. Common mistakes included:

- Failure to take account of apportionment issues for capital allowances issues
- Incorrect treatment of grant received

3. ALEX, BAQIR, COLIN & DAVE

The incorporation of the business will bring about the cessation of the partnership for tax purposes. On the basis of incorporation on 1 July 2020, the partners will be assessable in 2020/21 on the profits for the year ended 30 June 2020 less any overlap relief available to each partner.

Alex and Baqir will have overlap relief calculated as the proportion of profits falling before 5 April 2010. Colin's overlap would be the proportion of his profit share falling before 5 April 2015. As Dave only joined on 1 January 2020 he will pay tax in 2019/20 on the profits to 5 April 2020 and in 2020/21 on his share of his profits falling after 5 April 2020.

In addition, the three continuing members will be taxable in 2020/21 on any remuneration or dividends taken from the new company prior to 5 April 2021. The partners may wish to review their payments on account for 2020/21 dependent upon the level of remuneration and dividends anticipated.

As regards capital allowances, the Annual Investment Allowance (AIA) and Writing Down Allowances (WDAs) are not available in the period of cessation, which is the year ended 30 June 2020.

The company pays the partners for the plant and machinery to be transferred from the partnership to the newly formed company. The actual proceeds are taken as the disposal value under s.61 (2) CAA 2001 (there is no market value substitution even where the vendor and purchaser are connected). If using disposal values is likely to result in adverse balancing charges, the partnership and the company could jointly elect under s.266 CAA 2001 to transfer the assets at their tax written down value (or more simply just use a different price).

The transfer of the business to the company will represent a disposal for CGT purposes by each of the partners in 2020/21. As all the assets of the business are being transferred to the company, where the transfer is being made wholly or partly in exchange for shares, the disposals will qualify for Incorporation Relief under s.162 TCGA 1992.

In this situation there are two chargeable assets being transferred; the property and the goodwill. The relief is given by deferring the proportion of the total gains that relates to the consideration taken in the form of shares. The base cost of the shares is then reduced for tax purposes by this deferred gain.

Relief under s.162 TCGA 1992 is automatic if all the relevant conditions are satisfied although it is possible to elect to disapply the relief. The election must be made in writing to HMRC by the second anniversary of 31 January following the tax year in which the transfer takes place. It is important to note that HMRC may review the valuations used in the computations submitted and refer such values to the District Valuer or Shares and Assets Valuation. A procedure is available under CG34 to report and agree the valuation of the relevant assets in advance of the tax return.

Entrepreneurs' relief is not available on the gain on the disposal of goodwill to a close company where the transferor holds 5% or more of the shares. In this case this would apply to the disposal of the goodwill by the partners who are going to be shareholders in the company.

On a future disposal, the company will be deemed to have acquired the property at the market value on the date of incorporation.

Attached are CGT computations for each of the four partners on which the following comments apply:

General Issues

As different partners have joined at different times resulting in changes in profit and capital sharing ratios, the base cost for each of the partners will vary. HMRC Statement of Practice D12 sets out how these changes should be dealt with for CGT purposes.

In particular, where changes occur in partnership sharing ratios, each partner is treated as disposing of part of the whole of each partnership asset based on the current balance sheet value. If there has been no revaluation of the asset in the accounts the transactions will be treated on a no gain/no loss basis. However, where the asset has been revalued gains will arise based on the revalued amount.

For the property, Alex and Baqir's base costs for CGT purposes are based on the original acquisition cost of £100,000 on 1 July 2009. Colin and Dave's base costs are based on the relevant property valuation in the accounts as shown below.

Alex

As Alex is simply taking cash and no shares, he will be fully taxable on the property and goodwill gains. As this has been a trading partnership, he will qualify for Entrepreneurs' Relief (ER) on the disposal of the whole or part of the business in which he has been a partner for more than two years.

Baqir

Baqir is taking only shares and as a result the whole of his gain will be deferred and will reduce the base cost of the shares. He could elect to disapply Incorporation Relief but this is only likely to be relevant if the shares are to be sold within 24 months of incorporation.

Colin

Colin will be taxable on the proportion of the gain relating to the cash element. As he has been a partner for more than two years the proportion of the gain on the building will qualify for ER and the 10% tax rate.

Dave

Dave is similarly taxable on the proportion of the gain relating to the cash element. He will not however qualify for ER as he does not satisfy the two year condition.

Base Cost of Property for each Partner at time of incorporation

		<u>Alex</u> £	<u>Baqir</u> £	<u>Colin</u> £	<u>Dave</u> £
Original Purchase Price	July 2009	50,000	50,000		
Disposal to Colin - 20%	July 2014	(10,000)	(10,000)		
Colin deemed acquisition £180,000 x 20%	July 2014			36,000	
Disposal to Colin - 10%	July 2015		(10,000)		
Colin deemed acquisition £180,000 x 10%	July 2015			18,000	
Disposal to Dave - 12.5%	January 2020	(2,500)	(5,000)	(9,000)	
Dave deemed acquisition £230,000 x 12.5%	January 2020				28,750
CGT base costs		<u>37,500</u>	<u>25,000</u>	<u>45,000</u>	<u>28,750</u>

Potential gain on Property at date of Incorporation

	<u>Alex</u> £	<u>Baqir</u> £	<u>Colin</u> £	<u>Dave</u> £
Estimated Market Value	101,250	67,500	67,500	33,750
Less: Base Cost	<u>(37,500)</u>	<u>(25,000)</u>	<u>(45,000)</u>	<u>(28,750)</u>
Gain	<u>63,750</u>	<u>42,500</u>	<u>22,500</u>	<u>5,000</u>

Potential gain on Goodwill at date of Incorporation

	<u>Alex</u> £	<u>Baqir</u> £	<u>Colin</u> £	<u>Dave</u> £
Estimated Market Value	168,750	112,500	112,500	56,250
Less: Base Cost	<u>(Nil)</u>	<u>(Nil)</u>	<u>(Nil)</u>	<u>(Nil)</u>
Gain	<u>168,750</u>	<u>112,500</u>	<u>112,500</u>	<u>56,250</u>

	<u>Alex</u> £	<u>Baqir</u> £	<u>Colin</u> £	<u>Dave</u> £
Total Potential Gains	232,500	155,000	135,000	61,250
Less: Gains deferred				
Baqir (N1)		(155,000)		
Colin (N2)			(101,250)	
Dave (N3)				<u>(30,625)</u>
Chargeable gains	<u>232,500</u>	<u>Nil</u>	<u>33,750</u>	<u>30,625</u>
Less: Annual Exempt amounts	<u>(12,000)</u>	<u>Nil</u>	<u>(12,000)</u>	<u>(12,000)</u>
Taxable	<u>220,500</u>	<u>Nil</u>	<u>21,750</u>	<u>18,625</u>
CGT @ 10%	<u>22,050</u>			
CGT @ 20%				<u>3,725</u>
CGT (W)			<u>3,788</u>	

Notes:

N1: All of gain as all consideration in shares

N2: Partial deferral due to cash consideration (£135,000 x 150,000/200,000)

N3: Partial deferral due to cash consideration (£61,250 x 50,000/100,000)

Working

Colin	Gains eligible for ER £	Gains not eligible for ER £
Gain on Property	22,500	
Gain on Goodwill		112,500
Less: Incorporation relief		
22,500 x 150,000/200,000	<u>(16,875)</u>	
112,500 x 150,000/200,000		<u>(84,375)</u>
		28,125
Less: Annual exempt amount		<u>(12,000)</u>
	<u>5,625</u>	<u>16,125</u>
CGT		
5,625 @ 10%		563
16,125 @ 20%		<u>3,225</u>
		<u>3,788</u>

Base Cost of shares for future disposal

	<u>Alex</u>	<u>Baqir</u>	<u>Colin</u>	<u>Dave</u>
No of shares	N/A	2,000	1,500	500
		£	£	£
Value		200,000	150,000	50,000
Less: Deferred gain		(155,000)	(101,250)	(30,625)
Base costs		<u>45,000</u>	<u>48,750</u>	<u>19,375</u>

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Income Tax Issues</u>	
Cessation of business	1
Assessments in final period	½
Reference to overlap relief	½
Payment on account position	½
Capital Allowance issues in final period	½
Joint election under S.266 CAA2001	½
<u>Capital Gains Tax issues</u>	
Transfer disposal for CGT purposes	½
Incorporation relief and issues	1½
Chargeable assets	½
Election to opt out	½
Time limit	½
Reason to elect	½
Company base cost of property	½
Reference to Statements of practice	1
Calculation of base cost of property for each partner	4
Calculation of gains for each partner (after incorporation relief)	4
Comments relating to entrepreneurs' relief and calculations of CGT	2
Base cost of shares for future disposal	1
TOTAL	20

Examiner's report:

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In addition to incorporation relief a claim for entrepreneurs' relief was being tested and it was disappointing that a large number failed to identify that Dave would not qualify as only having been a partner for a short period of time.

The question asked for the income tax and capital gains tax implications with CGT computations. Whilst the majority noted the income tax implications and CGT implications in outline, the calculations for each partner were disappointing with few wholly correct answers. Common mistakes were to calculate gains based on the total proceeds and not to consider the property and goodwill figures in isolation. Whilst many understood the implications of SPD12, few could calculate the allocations correctly. Mistakes tended to be simple in nature as regards, for example, incorrect calculation to identify that 20% of 50% was the same as 10% of 100%.

As a result, this led to a disappointing set of candidate answers.

4. KEVIN OLIVERPART 1MEMORANDUM

Re: Employment Status Issues
Date: May 2020
Client Ref: 12345/R

Notes for discussion regarding the status of the relationship between Kevin Oliver and the hotel and “employed v self-employed issues” in relation to IR35.

IR35 will be relevant if the services provided by Kevin Oliver are equivalent to be those of an employee.

Factors to be considered

There is no statutory definition of employment. Many of the ‘rules’ have been determined via the courts. We need to consider if the terms of engagement between the hotel and Kevin amount to either a Contract of Service (ie, employment), or a Contract for Services (ie, self-employment). If the former applies then IR35 will apply.

There are four key factors that must be present before employment can exist. These are:

- 1) Mutuality of Obligation - there must be an obligation on the part of both the ‘employer’ to provide work and on the ‘worker’ to do the work;
- 2) Wages paid to the worker;
- 3) An express or implied agreement of control; and
- 4) The requirement for personal service.

These are the minimum requirements for the existence of a contract of employment.

Control

The question of control has been given great significance by the Courts in status cases. Its importance was recently emphasised when the First-tier Tribunal considered the application of the IR35 legislation in the case of Christa Ackroyd Media Ltd.

We need to consider if there is an ultimate right of control on the part of the hotel over what tasks have to be done, when they have to be performed, how they are performed and where they are performed. This is sometimes referred to as the ‘master servant’ relationship.

In simple terms we will need to ascertain if the hotel can tell Kevin what, when and how to do the work. A working relationship which involves no control at all is unlikely to be deemed an employment. (*Ready Mixed Concrete (South East) Ltd v Minister of Pensions and National Insurance*).

Personal Service/ Right of Substitution

Whether the services to be performed must be performed by the individual concerned.

We will need to ascertain if Kevin must carry out the work himself or does he have the right to send another worker in his place?

It is not just an issue of having the right but also that the right is actually used and substitution in fact occurs. We will therefore need to ascertain, not only if Kevin can send a substitute, but also if he ever has.

It would be useful to ascertain if the company has ever had any other employees or used sub-contractors to do the work at the hotel.

A person who has the freedom to choose whether to do the job himself or hire somebody else to do it for him, or who can hire someone else to provide substantial help is probably self-employed (*Australian Mutual Provident Society v Chaplin* and *Express and Echo Publications Ltd v Tanton*). However, this must be viewed in the context of the arrangements overall.

We will therefore need to discuss the position with Kevin to ascertain the general overall nature of the relationship and how matters operate in practice.

In addition there are various other factors that need to be considered including:

Provision of Equipment/Materials

Who provides the equipment or materials required to perform the work. Does Kevin provide his own tools for each job he performs?

Risk of Financial Loss

Can Kevin, or strictly his company, lose or profit from the performance of the work or is he, via his company, merely paid an hourly/daily rate for the work. In other words is there an opportunity to profit from sound management?

The obligation of Kevin to remedy defective work at the company's own expense would be evidence of the financial risk involved. We will therefore need to discuss how Kevin is paid and if defective work must be rectified at no additional charge.

Provision of employee type benefits

In addition to being paid for work done are other 'benefits' also provided? For example holiday or sick pay. Again we need to ascertain if Kevin is ever paid when on holiday or if ill or if the hotel provides him with any other benefits.

Exclusivity

Does Kevin work exclusively for the hotel or does he have a number of different clients?

The financial information would suggest that the other clients represent only in the region of 10% of the work done. It would be useful to ascertain the nature of the other work and how it arises and is carried out.

Part and parcel of the organisation

Is Kevin treated as part and parcel of the hotel? Is he perceived by the public and others to be an employee of the company? For example, does he wear a hotel uniform when on duty?

Right of dismissal

If the hotel cannot dismiss Kevin without notice, this may suggest an employment type relationship.

Number of engagements

How often does Kevin attend the hotel and how long is each engagement?

Regular working for the same engager may indicate that there is a single and continuing contract of employment (*Nethermere (St Neots) Ltd v Gardiner*). Where an engagement is covered by a series of short contracts, or an initial short contract subsequently extended for a longer period, it is the length of the engagement that is relevant, rather than the length of each contract. In Kevin's case the suggestion is that he has worked at the hotel for many years, but further details will be needed.

Personal Factors

In deciding a person's employment status it may sometimes be necessary to take into account factors which are personal to the worker and which have little to do with the terms of the particular engagement being considered. For example, if a skilled worker works for a number of clients throughout the year and has a business-like approach to obtaining his engagements (perhaps involving expenditure on office accommodation, office equipment, etc) this will point towards self-employment (*Hall v Lorimer*).

Personal factors will usually carry less weight in the case of an unskilled worker, where other factors such as the high level of control exercised by the contractor are likely to be conclusive of employment.

The outline given would suggest that Kevin is a general maintenance worker but it would be useful to ascertain if he has any skills, qualifications or particular specialisms to consider the position in detail.

The intentions of the Hotel and the worker, Kevin.

The client may have always agreed with Kevin that the status is one of self-employment, but it is the actual facts that must be considered to reach a balanced view.

HMRC will attempt to 'paint a picture' of the relationship as a whole to ascertain if, when all factors are considered, the worker is in business on his own account or is a person who works as an employee in someone else's business. The balance of answers must be considered and not just the opinion of the parties, although HMRC will consider this if the other factors do not give a clear cut answer.

If other factors are neutral, the intention of the parties will then be the decisive factor in deciding employment status (*Massey v Crown Life Insurance Co*).

If HMRC does decide to challenge the status position it would then be for a Tribunal to consider the facts and determine the status.

PART 2

Calculation of deemed payment:

	£	£
Income from relevant engagements		60,000
Less: 5% deduction		<u>(3,000)</u>
		57,000
Less: Allowable expenses		
Pension contributions	5,000	
Salary paid to Kevin	8,000	
Van and fuel benefit	4,085	
Class 1A NIC on van: £4,085 x 13.8%	<u>564</u>	
		<u>(17,649)</u>
Gross deemed payment		39,351
Less: employer's NIC thereon		
£(39,351 – (8,632 – 8,000)) x 13.8/113.8		<u>(4,695)</u>
Deemed payment		<u>34,656</u>

Kevin Oliver & KOM Ltd – Tax & NIC if IR35 applies:

	£
Deemed payment from KOM Ltd	<u>34,656</u>
Income tax:	
£415 (w) @ 0%	nil
£34,241 @ 20%	<u>6,848</u>
	<u>6,848</u>
Employee's NIC on deemed payment:	
£(34,656 – (8,632 – 8,000)) @ 12%	<u>4,083</u>
Employer NIC on deemed payment	<u>4,695</u>

Working

Personal allowance		12,500
Less:		
Salary	8,000	
Van and fuel benefits	<u>4,085</u>	
		<u>(12,085)</u>
		415

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Status Factors</u>	
Mutuality	1
Wages	$\frac{1}{2}$
Control	1
Personal Service/Right of substitution	$1\frac{1}{2}$
Provision of own equipment	$\frac{1}{2}$
Financial risk/ Payment rates	1
Other benefits	$\frac{1}{2}$
Exclusivity	1
Part and parcel	$\frac{1}{2}$
Right of dismissal	$\frac{1}{2}$
Intentions	$\frac{1}{2}$
Overall picture	$\frac{1}{2}$
	9
<u>Deemed Payment Calculation</u>	
Relevant engagement	$\frac{1}{2}$
Wife wages no deduction	$\frac{1}{2}$
5% deduction	$\frac{1}{2}$
Pension Contributions	$\frac{1}{2}$
Salary	$\frac{1}{2}$
Benefit in kind	$\frac{1}{2}$
Class 1A NIC	$\frac{1}{2}$
Deemed Payments	$\frac{1}{2}$
Tax Calculation	$1\frac{1}{2}$
Employee NIC	$\frac{1}{2}$
	6
TOTAL	15

Examiner's report:

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Part 1 required a general understanding of the different factors to consider and was reasonably well answered with the majority of candidates giving a good and complete summary. The reference to supporting case law was a little light with few case law references given, even in general terms.

Part 2 was a deemed payment calculation which was very well answered by the majority of candidates.

5. RUFF AND READY LTD

FIRM'S LETTERHEAD

Mr O Kart
Ruff & Ready Ltd
Client Address

1 May 2020

Dear Orson

EXERCISE OF EMI OPTION BY DANIncome tax, PAYE and NIC implications

Dan was granted an option by you to purchase 1,000 ordinary shares in Ruff & Ready Ltd (the company) for par value of £1 each on 1 June 2019. At that time the market value of the shares was agreed with HMRC at £20 per share.

Under the Enterprise Management Incentives (EMI) scheme, Dan paid only par value for the shares and the market value of the shares at the date the option was granted was agreed at £20 per share, ie the shares were granted at a discount. Consequently, a charge to tax will arise on exercise on the difference between the amount paid and the market value at the date of grant (being less than the market value at exercise).

Therefore, the amount taxable is $1,000 \times (£20 - 1) = £19,000$.

Since negotiations for the sale of the company were in progress at the time the option was exercised, the shares are likely to be regarded as 'readily convertible assets' (RCAs). These are defined as assets for which trading arrangements were likely to come into existence at that time, based upon the parties seeming likely to reach an agreement. This is the case even though the sale in the end proved abortive.

Assuming the shares acquired will be treated as RCAs, the company is obliged to account for PAYE and NIC as follows:

	£
Employers' secondary Class 1 NIC @ 13.8%	2,622
Employees' primary Class 1 NIC above UEL @ 2%	380
PAYE (19,000 – 2,622) @ 40%	<u>6,551</u>
Total	<u>9,553</u>

As Dan exercised the option on 6 April 2020, the PAYE is due on 22 May 2020 where payment is made electronically (otherwise 19th).

The income of £16,378 (19,000 – 2,622) subject to PAYE should be reported on a Full Payment Submission no later than 19 May 2020. This will be included in Dan's P60 for 2020/21 and reported on his income tax return.

Dan is obliged to reimburse the PAYE to the company under the terms of the option agreement. For tax purposes reimbursement must be made no later than 90 days after the end of the tax year (2020/21) in which the 'notional payment' arose. He therefore has until 4 July 2021 to reimburse the PAYE otherwise the PAYE is treated as additional earnings for 2020/21 reportable on form P11D.

The exercise of an EMI option should be reported to HMRC by the company by 6 July 2021.

Corporation tax

Relief is available for corporation tax purposes in respect of employee share awards generally. The relief is based upon the market value of the shares acquired, less any consideration given by the employee.

Although the option was granted by you personally, the company nevertheless qualifies for corporation tax relief based upon the market value of the shares (£50,000) less the amount subscribed by Dan.

For the purposes of claiming relief, the market value of the shares will need to be ascertained. An application to HMRC Shares & Assets Valuation Division to agree a value may be made for this purpose. Assuming that the value was agreed in line with the recent offer by a third party of £50 per share, the corporation tax relief would be based upon:

$$1,000 \times £50 = £50,000 - £1,000 = £49,000.$$

Relief is given in the year in which the chargeable event occurred. Relief will therefore be given in the year to 31 March 2021.

The amount of employers' NIC reimbursed to the company does not count as consideration given by Dan for this purpose and therefore does not affect the above calculation.

The fees incurred in connection with the EMI agreement are unfortunately not tax-deductible as HMRC would regard such costs as capital expenditure - i.e. an asset or advantage of an enduring nature. The costs of establishing certain tax advantaged employee share schemes are allowable by statute, however, no such provision exists in the case of EMI options.

I trust this has answered your queries, but please feel free to get in touch if you require any further information.

Yours sincerely

A Tax Adviser

CIOT MARKING GUIDE

TOPIC	MARKS
<i>EMI option – only discount taxable</i>	1
<i>Calculation of amount liable to income tax</i>	1
<i>Identification/discussion of shares as RCAs</i>	1½
<i>Calculation of PAYE/NICs</i>	2
<i>Reporting of income on FPS and P60</i>	1
<i>Reimbursement of PAYE</i>	1
<i>Consequences of s.222 ITEPA if PAYE not reimbursed</i>	½
<i>Option reporting requirements</i>	1
<i>Normal rule for relief on MV</i>	1
<i>CT relief available despite option being granted by shareholder</i>	1
<i>Valuation of shares</i>	½
<i>Estimated calculation of CT relief</i>	½
<i>Period for which CT relief due</i>	½
<i>NIC reimbursed not to count as consideration</i>	½
<i>Disallowance of fees for set-up of scheme</i>	1
<i>Presentation</i>	1
TOTAL	15

Examiner's report:

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Responses to the question were mixed, though many candidates did well. One particular aspect which quite a number of candidates got right was the manner of giving relief for the employee's reimbursement of the employer's NIC as a deduction from the amount on which PAYE is payable. While this is a fairly obscure point, a substantial number of candidates gave the correct answer and earned 1 additional mark.

Quite a few candidates wasted time describing the rules for options to qualify under EMI when the question states that the options are EMI options.

Most candidates considered whether the shares were RCAs though many reached the wrong conclusion despite the fact that trading arrangements were clearly in place at the time the options were exercised. As a result they failed to cover the consequent PAYE/NIC aspects.

On the whole, the candidates probably did better on the employment income aspects of the question than the corporation tax part of the question. A good proportion of the candidates either failed to consider the corporation tax aspects at all or considered that the amount on which CT relief was available was the amount taxable on the employee rather than the market value of the shares.

6. THE GRANGE HOTEL LTD

Capital Allowances: 1 May 2019 to 30 April 2020

	AIA(W)/ FYA £	General Pool £	Special Rate Pool £	CAs £
TWDV b/f 1 May 2019		165,000	140,000	
Special Rate Pool Additions:				
Lift	300,000			
Central heating	250,000			
Electrical wiring etc	265,000			
Cold water system	<u>255,000</u>			
	1,070,000			
AIA @ 100%	<u>(1,000,000)</u>			1,000,000
			70,000	
Car "A"	18,000			
FYA @ 100%	<u>(18,000)</u>			18,000
General Pool Additions				
Car "B"		22,000		
Car "C"			25,000	
Gazebo	15,000			
Paintings and murals	22,000			
Furniture	30,000			
Demolition costs	<u>20,000</u>			
		<u>87,000</u>		
Disposals:		274,000	<u>235,000</u>	
Car "D"		(2,000)		
Car "E"			<u>(10,000)</u>	
		<u>272,000</u>	225,000	
WDA @ 18%		(48,960)		48,960
WDA @ 6%			(13,500)	13,500
WDA (max)				
TWDV c/f 30 April 2020		<u>223,040</u>	<u>211,500</u>	
Total allowances				<u>1,080,460</u>

WorkingAnnual Investment allowance

The annual investment allowance for the year ended 30 April 2020 is £1,000,000. This will be allocated to special rate pool expenditure in priority.

MEMORANDUM

To: Tax Partner
From: Tax Manager
Client: The Grange Hotel Limited
Date: []
Subject: HMRC LETTER RE 'DISCOVERY'

The Inspector is out of time for enquiring into the 2018 return as the deadline for enquiry passed on 31 January 2020.

If the Inspector now wishes to withdraw relief for the payment, he must now proceed by making a 'discovery' under FA 1998, Sch 18, para 41, subject to paras 43 and 44.

In *Langham v Veltema* a discovery assessment was made in respect of a house transferred by a company to one of its directors, who submitted a valuation of £100,000 with his tax return. A valuation of £145,000 was agreed for the purposes of the company's tax return.

The Court held that, within the terms of para 44, the individual's Inspector could not have reasonably been expected to infer that the taxpayer's self-assessment was insufficient as a result of the valuation being inadequate and the discovery assessment was therefore upheld.

However, SP1/06 gives three examples where the taxpayer can rely on the information in the tax return providing protection against discovery, the third of which is where the taxpayer adopts a different view of the law from the HMRC published view. In such circumstances if comments indicating that a different view has been adopted or that no adjustment for the item in question has been made, this would protect against later discovery.

Given that the company's disclosure is clearly within the terms of SP1/06, and therefore the Inspector could have reasonably been expected to have been aware of that information, it does not appear open to the Inspector to now raise a discovery assessment having missed the deadline for opening an enquiry into the company's 2018 return.

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Part 1</u>	
Integral features	2
Allocation of AIA to integral features in priority	1
FYA re car 'A'	1
Car 'B' allocation to main pool	½
Car 'C' allocation to special rate pool	½
Demolition costs added to main pool	½
Claims for gazebo, furniture, paintings & murals, added to main pool	1½
Allocation of disposal of car 'D' to main pool	½
Allocation of disposal of car 'E' to special rate pool	½
Overall computation	<u>2</u>
	10
<u>Part 2</u>	
Enquiry now out of time	½
Para 41 applicable subject to paras 43 & 44	½
Inspector reasonably expected to have been aware	1
Discussion of Langham v Veltema	1
Discussion of terms of SP1/06	1
Conclusion that terms met and discovery not permitted	<u>1</u>
	5
TOTAL	15

Examiner's report:

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Most candidates did well on the computational part of the question and perhaps 10% got the answer completely right. There appeared to be some confusion as regards the interaction of List A at s.21 CAA 2001 and the integral features regime at s.33A. A substantial number of candidates considered that the lift and electrical installation (and in some cases the central heating though not actually part of List A) to be part of the building and therefore not qualifying. What seemed to be unclear to some candidates therefore is that although the items at List A are part of the building and not otherwise qualifying as plant & machinery, s.33A treats the items listed there as integral features which are treated **as if** it were expenditure on the provision of plant or machinery.

The responses to the second part of the question concerning the HMRC powers of discovery were disappointing. Despite the clear instruction that the candidates were not required to comment on the tax treatment of website costs, some candidates did so and earned no marks. However it was disappointing that many candidates simply accepted the HMRC position as justified and angled the response to amending the return and discussing penalties etc. There was some confusion as regards the end of the enquiry period which was 31 January 2020 and not 30 April 2020 i.e. one year after the return was filed. Either way the return was out of date for amendment by the date of the exam. Only a few candidates mentioned case law and the decision in Langham v Veltema and only one mentioned the more recent Charlton case.

7. WIDGETS LTD

PART 1Corporation Tax computation for the year ended 31 December 2019

	Note	£	£
Net profit before taxation			100,000
Add:			
Legal and professional charges	(1)	2,000	
Entertaining	(2)	2,500	
Donations	(4)	2,000	
Leased cars	(5)	1,500	
Depreciation	(6)	<u>20,000</u>	
			<u>28,000</u>
			128,000
Less:			
UK bank deposit interest	(7)	4,000	
Dividend received from UK company	(8)	<u>2,500</u>	
			<u>(6,500)</u>
Trading income			121,500
Loan relationship non-trading credit	(7)		<u>4,000</u>
Total profits			125,500
Less: Charitable donations	(4)		<u>(1,000)</u>
			<u>124,500</u>
Corporation Tax			
124,500 x 19%			<u>23,655</u>

[Statutory references are to CTA 2009 unless stated otherwise.]

Notes1) Legal and professional charges

Legal and professional charges will be deductible for Corporation Tax purposes provided that they are not incurred in relation to capital matters (CTA 2009, s.53) and that they are incurred 'wholly and exclusively for the purposes of the trade' (s.54).

Fees incurred in relation to 'chasing bad debts' (£950) and 'drafting employment contracts' (£1,500) relate to trading matters and should both be allowable.

Charges incurred in relation to leased premises – for example, on acquiring, disposing or renewing a lease - are generally not allowable on the basis that they relate to a capital asset (s.53). However, HMRC will allow legal fees incurred in relation to the renewal of a lease for less than 50 years (except in relation to any part of the legal and professional fees which relate to the payment of a lease renewal premium). Hence the 'business premises lease renewal' charge (£2,500) should be allowable as it relates to a 20-year renewal term.

The alteration of the shareholding structure of a business will generally be a capital matter, and so the cost of providing 'taxation advice on a proposed company share capital restructure' (£1,250) should be disallowed (s.53).

'Parking fines' (£750) will be a disallowable expense on the basis that they are not incurred 'wholly and exclusively for the purposes of the trade' (s.54) as the fines relate to cars leased by the company (rather than cars owned by the employees).

Hence, the £2,000 disallowable 'legal and professional charges' relate to the 'taxation advice on a proposed company share capital restructure' (£1,250) and 'parking fines' (£750).

2) Entertaining

The cost of providing entertaining or gifts to business customers is specifically disallowed for tax purposes (s.1298).

Hence, the cost of providing 'customer entertaining' (£2,000) will be disallowed as it comprises the provision of food, drink, etc.

Costs incurred in relation to the 'Christmas staff party' (£1,500) will be allowable on the basis that they are incurred 'wholly and exclusively for the purposes of the trade' as staff entertaining and will not be caught by s.1298 as there are no business customers involved.

Promotional events for customers which publicise the company's products will not, prima facie, be disallowed as business entertaining, but the food and drink costs incurred as part of any event will be disallowed under s.1298. Hence, whilst the promotional event 'venue hire' costs (£500) should be allowable, the 'food and drink' costs (£500) will be disallowed.

The cost of business gifts of 'diaries and mouse mats' (£1,250) will be allowed as the gifts cost not more than £50 per person, incorporate the business logo, and do not comprise food, drink, tobacco or gift vouchers (s.1300(3)).

'Free product samples' (£500) will be allowable as they are given to the public and so do not comprise business entertaining (s.1300(2)).

Hence, the £2,500 'entertaining' disallowance comprises 'customer entertaining' (£2,000) and promotional event 'food and drink' costs (£500).

3) Bad debts

Tax relief is given by way of a deduction from trading profits for 'impairment' or 'release' of trade debts under the 'loan relationship' provisions (ss 303, 479).

The accounts have been prepared in accordance with UK GAAP, hence the provision would have complied with the requirements of FRS102. Consequently, the bad debt provision will be an allowable expense.

4) Donations

Donations are not allowable trading deductions.

A company can deduct a charitable donation from its total profits provided that it is a 'qualifying donation' which includes a gift of money made to a charity and for which any benefit received by the donor falls within prescribed limits (CTA 2010 s.189).

The donation to Oxfam (£1,000) and the 'donation to a promising young sportsman' (£1,000) should be disallowed in calculating the 'trading income' of the company.

In the case of the young sportsman, there could be an argument for an allowable sponsorship expense incurred for trade purposes if it was incurred on a commercial basis as part of the marketing activity of the company. However, this appears to be unlikely as the individual is a relative of Sid who it is assumed will not be undertaking any marketing or promotional activity for the company.

The 'donation to Oxfam' (£1,000) should meet the criteria for a 'qualifying donation', as Oxfam is a registered charity, and so will be deductible from total profits for Corporation Tax purposes.

5) Leased cars

The lease rental restriction for both cars is 15% of the rentals because the cars' CO₂ emissions are greater than 130 g/km and 110 g/km respectively (a limit of 110g/km applies for leases from April 2018) (ss 56, 57 and CAA 2001, s.104AA) – ie, £6,000 x 15% = £900 and £4,000 x 15% = £600.

Hence, the total leased cars restriction is £900 + £600 = £1,500.

6) Depreciation

The 'depreciation charge' (£20,000) is not an allowable expense for tax purposes because it is incurred in relation to capital assets (s.53).

7) Interest receivable

'UK bank deposit interest' received (£4,000) is non-trading income for Widgets Ltd and so must be excluded from the company's trading profits calculation. It is then brought back into the main Corporation Tax computation as a 'loan relationship non-trading credit' (ss 295, 299).

UK bank interest is received gross by UK companies (ITA 2007, Pt 15).

8) Dividend received

Dividends received from UK companies are chargeable to Corporation Tax under s.931A unless the distribution is 'exempt'; the dividend received by Widgets Ltd (£2,500) will be exempt, hence it can be excluded from the Corporation Tax computation (ss 931B, 931D).

PART 2

Profit extraction opportunities

Sid could look at the following ways of extracting profit from Widgets Ltd:

1) Salary / Dividends

The most commonly used tax-efficient method of profit extraction from owner-managed companies is through a combination of salary/bonus and dividends.

For example, Widgets Ltd could provide Sid with the following:

- A salary / bonus up to the NIC primary threshold (£8,632 for 2019/20). This would not be subject to employer's and employees' NIC, and would not be taxed as it would fall below the Sid's personal allowance for 2019/20 of £12,500. In addition to being tax-efficient, this would also protect Sid's social security and state pension entitlement (even though neither Sid nor Widgets Ltd actually pays any NICs).

- Sid could then be paid a dividend which, to the extent that it falls within the dividend allowance of £2,000 would be taxed at 0%. To the extent the excess falls within the tax basic rate band (being £37,500 for 2019/20) it would only suffer tax at 7.5%.

Corporation tax (at 19%) would be payable on the company's taxable profits from which the dividend was paid.

Sid would be subject to the dividend higher or additional rate tax to the extent that he receives a dividend which exceeds his basic rate band.

2) Employer pension contributions

Employer pension contributions to a UK-registered scheme are tax deductible for corporation tax purposes (subject to the spreading of relief for abnormally high contribution levels). However, they are not subject to NICs and are excluded from the benefit in kind provisions.

Tax-efficient contributions may be made up to the individual's £40,000 'annual allowance' for 2019/20. The annual allowance is restricted where an individual has 'adjusted income' (net income plus occupational pension contributions paid under the net pay scheme and employer pension contributions) which exceeds £150,000 and 'threshold income' (net income less personal pension contributions) exceeding £110,000.

3) Company cars and fuel

The provision by Widgets Ltd of a company car and fuel for private motoring may be tax-efficient – potentially for both the company and Sid - depending on the cost and CO₂-efficiency of the car involved, Sid's business and private mileage, etc.

For 2019/20, where the CO₂ figure does not exceed 50g/km, the benefit is 16% of list price (for a petrol car), between 51-75g/km it is 19%, between 76-94g/km it is 22% and at 95g/km it is 23%.

In addition to being able to tax relieve the company car running costs, the acquisition cost of a CO₂-efficient car (with emission levels up to 50g/km for 2019/20) may be eligible for 100% capital allowances.

4) Benefits in kind

Widgets Ltd could provide Sid with some of the following tax-efficient benefits in kind:

- A tax-free employer loan up to £10,000 for 2019/20 without incurring any income tax or NIC liability.
- Workplace childcare facilities are not subject to income tax or NIC for the employee if certain conditions are satisfied.
- The provision of a mobile phone (including a Smartphone) is exempt from income tax & NIC.
- A company van benefit charge is just £3,430 (for 2019/20), with a fuel scale charge of £655 where relevant.
- The provision of car parking facilities at or near the place of work is exempt from income tax. The same applies to motorcycles or bicycles.
- Modest expenditure on a Christmas party or similar function is not taxed.

5) NIC-efficient arrangements

Sid and Widgets Ltd could consider the following potentially NIC-efficient arrangements:

Loans to the company:

Sid could charge the company a commercial rate of interest on any loans he makes – the interest payable would be tax deductible for Widgets Ltd, and the interest receipt would be taxable for Sid (although an element would be taxed at 0% to the extent that it fell within the starting rate band and personal savings allowance), but it would not be subject to NIC.

It may also provide a potential cashflow advantage by accelerating the timing of the relief for the company compared to Sid's payment of tax on interest income.

Rent:

If Sid owns any business assets outside the company, he could charge the company a commercial rent for their use, and thereby achieve NIC savings compared with a salary or bonus.

For example, if Sid owns the business property from which Widgets Ltd operates, he could charge the company a commercial rent – the company would receive tax relief on the rental expense, and Sid would be taxed on the rental income but it would not be subject to NIC.

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Part 1</u>	
Legal and professional charges – Adjustment	1
Legal and professional charges – Explanation	½
Entertaining – Adjustment	1
Entertaining – Explanation	½
Increase in bad debt provision – Explanation	1
Donations – Adjustment	1
Donations – Explanation	½
Leased cars – Adjustment	1
Leased cars – Explanation	½
UK bank deposit interest – Adjustment	1
UK bank deposit interest – Explanation	½
Dividend received from UK company – Adjustment	1
Dividend received from UK company – Explanation	½
	10
<u>Part 2</u>	
Salary / Dividends	2
Employer pension contributions	2
Company cars and fuel	2
Benefits in kind	2
NIC-efficient arrangements	2
	10
TOTAL	20

Examiner's report:

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The question was generally well-answered and in the majority of cases most of the corporation tax computation adjustments were identified – however, there are some points worth noting here:

- A satisfactory explanation would not include simply stating that an expense "is disallowed", "is not allowed", "is never allowable", "is added back", "is disallowed for trading purposes" or "does not form part of taxable profits".
- There were disappointing results for explanations in relation to: (i) why customer entertaining is disallowed (even though a relatively generous approach to marking was adopted on this point) or (ii) that bad debt relief is given under the loan relationship provisions.
- In relation to the extraction of profits, there was a lot of time spent reciting Income Tax and National Insurance rates, thresholds, etc. – often without any specific advice / strategy also being identified.
- Some candidates got quite confused between the rules for personal and corporate pension contributions.

8. HIGH CROSS MOTOR SERVICESPART 1Partnership computation – year ended 31 March 2020

Adjustment of loss:

	£
Loss per accounts	(272,000)
Add: Depreciation	12,000
Bank charge (see below)	<u>Nil</u>
Adjusted loss	<u>(260,000)</u>

Allocation of loss 2019/20:

	Total £	Alex £	Nick £	David £
Loss y/e 31 March 2020	<u>(260,000)</u>			
6 months to 30 September 2019:				
Loss split 50:50:0	(130,000)	(65,000)	(65,000)	
6 months to 31 March 2020:				
Loss split 40:40:20	(130,000)	<u>(52,000)</u>	<u>(52,000)</u>	<u>(26,000)</u>
Total		<u>(117,000)</u>	<u>(117,000)</u>	<u>(26,000)</u>

Bank charges - Negotiation of new long-term loan:

The new bank facility is required as a result of a change in the members of the partnership and might be viewed as linked to a change in the capital structure of the partnership.

However, statutory relief for the incidental costs of obtaining loan finance may be claimed (s.58 ITTOIA 2005), subject to meeting the following conditions:

- a) The costs are incurred on fees, commissions, advertising, printing and other incidental matters;
- b) The expense is wholly and exclusively for the purpose of obtaining the finance, providing security for it or repaying it; and
- c) Interest on the loan is deductible as a trading expense.

On the information provided the above conditions may be satisfied but if the funds are intended to be used as funding for a letting activity; (ie, following the closure of the convenience store and petrol station), it might be arguable that the new finance was not wholly and exclusively for obtaining finance for the trade.

PART 2PARTNERS' USE OF LOSSESAlex

	2018/19	2019/20
	£	£
Trade profits	60,000	
Other adjusted total income		15,000
Less: Carry back of trade loss s.64(2)(b) ITA 2007	(60,000)	
Less: Current year trade loss s.64(2)(a) ITA 2007		<u>(15,000)</u>
Taxable income	<u>Nil</u>	<u>Nil</u>
Trade losses carried forward s. 83 ITA 2007: £(117,000 – 60,000 – 15,000)		<u>(42,000)</u>

There is a general cap on relief for certain losses, including trade losses.

Sideways relief against non-trading income is restricted to the greater of £50,000 or 25% of adjusted total income - s.24A ITA 2007.

The cap does not apply for offset against profits from the same trade.

Nick

	2018/19	2019/20
	£	£
Trade profits	60,000	
Other adjusted total income		55,000
Less: Carry back of trade loss s.64(2)(b) ITA 2007	(60,000)	
Less: Current year trade loss s.64(2)(a) ITA 2007		<u>(50,000)</u>
Taxable income	<u>Nil</u>	<u>5,000</u>
Gains		100,000
Less: Set off against gains s.261B TCGA 1992		<u>(7,000)</u>
Chargeable gains		<u>93,000</u>
Trade losses carried forward s.83 ITA 2007:		<u>Nil</u>

The claim to carry back trade losses against 2018/19 trading income is unrestricted.

The sideways loss claim for offset against general income in 2019/20 is restricted to the higher of £50,000 or 25% of adjusted total income; in this case £50,000.

The general cap on trade losses does not apply to the offset against capital gains. The claim to offset the remainder of the 2019/20 trade losses against the gain must be made after all available reliefs for using the loss against general income for the year.

Nick's taxable income will be reduced to nil by the personal allowance and the capital gain will be reduced further by the annual exempt amount.

David

	2019/20
	£
Trade profits	Nil
Other adjusted total income	40,000
Less: Current year trade loss s.64(2)(a) ITA 2007	<u>(20,000)</u>
Taxable income	<u>20,000</u>
Trade losses carried forward s. 83 ITA 2007: £(26,000 - 20,000)	<u>6,000</u>

David is a non-active partner for the period from 1 October 2019 - 31 March 2020 and this will limit the use of his trade losses against other income.

The sideways relief for David's trading losses is restricted to the lower of:

- a) The contribution to the partnership in early tax years (applying in the tax year of commencement and next 3 tax years) – s.110 ITA 2007; and
- b) An overall cap for non-active partners of £25,000 for any tax year – s.103C ITA 2007.

His contribution to the partnership capital of £20,000 is lower, and this will therefore cap relief for losses in 2019/20.

The remainder of the trading loss can be carried forward and used against profits of the same trade.

David cannot claim for sideways loss relief against net income in 2018/19 or under relief for early years trade losses of the previous three tax years due to insufficient taxable income and gains.

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Part 1</u>	
Adjustment of loss	1
Allocation of losses between partners	2½
Explanation re bank charges	1½
	5
<u>Part 2</u>	
<u>Alex:</u>	
S.64 carry back	1
S.64 current year	1
S.83 carry forward	1
Discussion of cap	1
	4
<u>Nick:</u>	
S.64 carry back	1
S.64 current year	1
Restrict current year set off to £50,000	1
S.261 relief against gains	1
Discussion of cap	1½
Mention of PA & AEA	½
	6
<u>David:</u>	
S.64 current year	1
Non-active partner	1
Sideways relief restricted to contribution or £25,000	2
Remainder c/fwd v trading profits	1
	5
TOTAL	20

Examiner's report:

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Generally, the question was well attempted but there were a few problem areas:

- The question specifically stated that losses should be used as early as possible and NO tax liabilities should be computed. A significant number of candidates calculated the income tax liabilities for each of the partners and/or allocated losses in various permutations – for which no marks were available.
- Only a small number of candidates identified the statutory relief for incidental costs in obtaining loan finance (s.58 ITTOIA 2005).
- A number of candidates referred to loan relationship rules for the bank charges. These rules do not apply to non-corporates.
- Most candidates identified the s.24A loss restriction but some did not demonstrate a clear understanding of how this applied - particularly when there are available trade profits and capital gains.

9. MIXED PARTNERSHIPS

FILE NOTE

'Partnerships with Mixed Membership'

The 'partnerships with mixed members' provisions are contained in Finance Act 2014 (FA14) and cover the tax-motivated allocation of business profits and losses in mixed membership partnerships.

A 'mixed membership partnership' is a partnership or limited liability partnership (LLP) that has, as members (or partners), both individuals and persons who are not individuals (for example, as in this case, a non-individual may be a company). The members will typically be the shareholders and directors of the corporate partner.

Partnerships and LLPs are seen as offering greater flexibility than other business structures, such as limited companies. In particular, the use of mixed member partnerships allows individual members to allocate profits and losses in a way that reduces their tax liabilities. Profits allocated to a corporate partner of an LLP will be taxed at 19% compared with the potential 40% or 45% marginal rate of the individual members. In addition, company profits are not liable to National Insurance.

The legislation in FA14 applies to arrangements where an individual member diverts all or part of their profit share to a non-individual member, usually a company, in order to reduce tax on their profit share. The company's profit share must exceed the appropriate notional profit and that individual partner must have the "power to enjoy" all or any part of the company's profit share (usually as a company shareholder) for the provisions to apply.

The "appropriate notional profit" is the rate of return on capital which is reasonably comparable to a commercial rate of interest on the company's contribution to the firm, plus consideration for services.

The rules allow the profit sharing arrangements agreed by the members to be overridden so that individual members are taxed on the diverted profits. The partners' profit shares are adjusted for tax purposes so that the individual is taxed on the profits that are attributable to the individual's 'power to enjoy', and the company is taxed on a smaller share to reflect the amount on which the individual is taxed. The reallocation is notional, and the rules allow for the actual profit allocated to then be extracted from the corporate partner without further tax charge.

The legislation does not apply to mixed membership partnerships in which the individual and non-individual partners are genuinely acting at arm's length and not intending to secure a tax advantage.

Impact of the rules on the current LLP structure

The two key issues to consider, in terms of the impact of the rules on the current LLP structure, are:

- 1) Whether more than the 'appropriate level of profit' is currently being allocated to the corporate partner?
- 2) Whether an individual partner has the "power to enjoy" all or any part of the company's profit share?

In terms of what is an appropriate level of profit, consideration must be given to whether the corporate partner operates a trade in its own right and, if so, whether the current profit allocation does more than provide a normal commercial return on the services provided by the corporate partner to the LLP.

Options for the business going forward

If more than a normal commercial return is being received by the corporate partner, the options for the business going forward would be:

- 1) Maintain the profit level allocated to the corporate partner, subject to a notional reallocation of the profit for tax purposes.
- 2) Reduce the profit level allocated to the corporate partner by the LLP to a normal commercial return.
- 3) The corporate member could resign.
- 4) Incorporate the business of the LLP into a company – either the corporate partner or a newly incorporated company.

CIOT MARKING GUIDE

TOPIC	MARKS
<i>'Partnerships with mixed members' / Finance Act 2014</i>	1
<i>'Mixed membership partnership' / typical case</i>	1
<i>Tax-efficient allocation of LLP profits</i>	1
<i>"Appropriate notional profit" / "power to enjoy"</i>	2
<i>Explanation of "Appropriate notional profit"</i>	1
<i>Effect of the rules / extract profit without further tax charge</i>	3
<i>Genuine arm's length arrangements</i>	1
<i>Does the corporate partner trade on its own account?</i>	1
<i>Options for the business going forward</i>	4
TOTAL	15

Examiner's report:

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It seemed that many candidates were not familiar with this area. A good many candidates seemed unprepared for the topic; particularly the practical aspects of the calculations.

Some candidates compensated for not knowing the specifics by giving all they knew on anti-avoidance provisions; all for no marks.

10. MERRYWEATHER LTD

Firm's headed notepaper

Mr Gupta
Address

November 2020

Dear Mr Gupta

Employee tax issues on the proposed disposal of Merryweather Ltd

I am writing to follow up on two areas discussed at our meeting on XX October 2020:

- 1) The impact of the proposed sale of Merryweather Ltd on employees who hold tax advantaged share options; and
- 2) The treatment of travel expenses following Mr Jones's relocation to Penzance.

For the purposes of this letter I will refer to an Enterprise Management Incentive as an "EMI" and to a Company Share Option Plan as a "CSOP".

1) EMI AND CSOP SHARE OPTIONS

As you are aware from your previous involvement in setting up the employee share schemes, the objective of the schemes is to incentivise and retain employees by offering a tax efficient means of participating in the growth of the business. Specifically, the use of a tax advantaged EMI share option scheme or CSOP allows employees to acquire shares with no Income Tax or National Insurance liabilities arising on the difference between:

- The actual market value of the shares at the date of exercise; and
- The price agreed under terms of the option (where the right to buy shares is the unrestricted market value at the date of grant which is the case here).

For employees who choose to exercise their EMI options before the company is sold, the difference between the grant price of £1.20 and the current market value of £1.60 will not be taxed as earnings.

However, the purchase of Merryweather Ltd will be treated as a disqualifying event under the EMI rules as the company will no longer be independent (it will be under the control of another company). If the option is exercised within 90 days of the takeover, the tax advantages are preserved. Otherwise, any unexercised options in issue will no longer be eligible for favoured tax treatment.

Similarly, the CSOP will no longer be regarded as qualifying as the company will be under the control of the purchaser.

The options were granted on 1 December 2018. The CSOP legislation requires that the options are exercised during a period between 3 and 10 years following the date of grant. However, where the scheme provisions allow it, the CSOP legislation allows this 3 year anniversary to be ignored where there is a takeover, provided that the employee receives cash for the shares acquired under option and that the options are exercised within 6 months of the takeover date. This condition is satisfied under the terms of the proposed transaction.

You should note that the tax advantaged status of the CSOP options will only be retained if the takeover was not contemplated when the options were granted and the main purpose was not the avoidance of tax. The approach was first made by the purchaser in June 2020 (ie, after setting up the schemes), however you should review all of the circumstances here to confirm that the anti-avoidance provisions are not breached.

You should also explore whether employees might be invited to join a tax advantaged or non-tax advantaged share scheme operated by the purchaser.

An EMI scheme would not be available if the purchaser has gross assets in excess of £30m. I anticipate this is the case here as the company is listed on the FTSE 100.

Corporation tax deduction

If the option is exercised within 90 days of the takeover, Merryweather Ltd will be able to claim a statutory deduction for the difference between the market value of the shares awarded to the employees and the option price paid. Relief is available in the accounting period in which the shares are acquired.

Capital gains tax implications - sale of shares

The employees should take independent advice on the computation of the Capital Gains Tax liability arising on the sale of their Merryweather Ltd shares.

Where an individual is eligible to acquire shares under a tax advantaged scheme, the base cost for the purposes of computing the capital gain on the disposal of the shares will be the amount paid for the shares (ie, the option price), plus the payment for the option (if relevant).

For EMI option holders the gain on the disposal of the shares may qualify for entrepreneurs' relief ("ER"). This will mean that the resulting gain is taxed at 10% instead of the main CGT rate of 20%.

The 5% "personal company" test which normally applies to share disposals does not apply where EMI shares are being sold. Holdings of less than 5% may therefore benefit from ER.

The qualifying holding period for EMI shares starts from the date the option was granted. Therefore, in order for EMI option holders to qualify for ER, the contract for the disposal of Merryweather Ltd must not be entered into before 1 December 2020; ie, 24 months after the options were granted.

The employees must claim ER via their self assessment tax returns.

The above ER rules do not apply to shares acquired under the CSOP, and gains for the employees who acquire shares under the CSOP will be subject to Capital Gains Tax at 20% (or 10% for basic rate income tax payers).

I would recommend that the holders of EMI options should exercise their options after 1 December 2020 and within 90 days of the takeover. The holders of the CSOP options must exercise within 6 months of the takeover (if the scheme allows). This will enable them to participate in the growth of the value of the business whilst preserving the Income Tax and National Insurance benefits of the schemes when buying shares at less than the current market value.

2) TRAVEL EXPENSES

The travel costs from Penzance to Birmingham will be regarded as “ordinary commuting” as this is a journey to a permanent place of work. The decision to move to Penzance was for personal reasons and consequently the journey is dictated by where he has chosen to live rather than by the requirements of his employment.

The reimbursement payments to Mr Jones should therefore be processed as general earnings with deductions for PAYE and Class 1 NICs, together with Class 1 secondary contributions for the employer. This will be reported when payment is made under Real Time Information (“RTI”) in the same way as salary payments.

The reimbursement and the secondary contributions will be deductible for Corporation Tax for the company.

With regard to the attendance at a monthly meeting in Bristol, a deduction for business expenses is allowed where:

- An employee is obliged to incur the expense in his capacity as part of his employment; and
- The amount is wholly, exclusively and necessarily incurred in performance of duties of the employment.

Travel for attendance at a monthly meeting in Bristol would normally be treated business travel where this location is a temporary workplace. However, the element of rail fare reimbursed to cover the journey from his home to Bristol will not meet the test for “necessary attendance” as this relates to part of his ordinary commuting en route to Birmingham.

Mr Jones may be able to claim the local travel costs for transport from Bristol station to the Bristol depot (if these are not reimbursed by the company).

I hope this is useful but please do not hesitate to contact me if you require further assistance.

Yours sincerely
A Advisor

CIOT MARKING GUIDE

TOPIC	MARKS
<u>Part 1 EMI and CSOP</u>	
Summary of tax incentives	2
Disqualifying event	½
CSOP rule on early exercise	1
Purchaser's share schemes	½
CT Deduction	1½
Basis for capital gains tax computation	1
Entrepreneurs' relief	1½
CSOP - no ER	½
Recommendation/summary	½
Presentation	<u>1</u>
	10
<u>Part 2 Travel expenses</u>	
Ordinary commuting	1
Reimbursement of expenses = earnings subject to PAYE	1
Deductible for corporation tax	½
Statutory rule for travel as business expense	1
Attendance at temporary workplace on route to work	<u>1½</u>
	5
TOTAL	15

Examiner's report:

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Again this question was generally well attempted but the background information in the question were often overlooked:

- The letter was addressed to the Finance Director of a company who had implemented the share schemes but some candidates set out detailed conditions for tax advantaged EMI or CSOP schemes – this was not required.
- Many candidates displayed an in depth knowledge of the implications of a non-tax advantaged share option scheme and the PAYE/NIC implications where employees acquire shares that are readily convertible assets but without considering whether there were any earnings to tax.
- A significant number of candidates did not identify that CSOP options may now be exercised within 3 years without losing tax advantaged status where a company is taken over for cash consideration.

11. TOPAZ LTD

MEMORANDUM

To: Tax partner
From: Tax manager
Date: []
Client: Topaz Ltd
Subject: Capital allowances, APs ended 31 March 2020 & 31 March 2021

- a) The deposit of £20,000 will qualify as expenditure on plant and machinery (P&M) even though the expenditure was abortive. s.67 CAA 2001 applies where expenditure is incurred under a contract providing that the person incurring the cost shall or may become the owner on performance of the contract. P&M is treated as owned by a person at any time when he is entitled to the benefit of the contract.
- b) The general rule in s.5(1) CAA 2001 is that expenditure is incurred when there is an unconditional obligation to pay. However, under s.5(5) CAA 2001 where part of the expenditure is not due to be paid until more than 4 months after the obligation to pay becomes unconditional, the amount payable after 4 months is treated as incurred on the date that payment is due. The final payment of £35,000 due on 30 August 2020 falls outside the 4 month period and is therefore treated as incurred on that date.
- c) Where P&M is purchased on hire purchase, s.67 CAA 2001 treats the person as owning the P&M at any time when they are entitled to the benefit of the contract, as above. Under s.67(3) CAA 2001 when the P&M is brought into use, all capital expenditure not yet relieved is treated as having been incurred. Since the crane was not brought into use until 2 May 2020, for the instalments paid on 1 February, 1 March, 1 April and 1 May the capital element of each payment is treated as incurred when paid. The balance of the capital element of the expenditure is treated as incurred when the crane is brought into use on 2 May 2020. The finance charge element of each payment is treated as revenue expenditure.
- d) An unconditional obligation to pay arose at the time the computer equipment was delivered on 25 March 2020. As the ownership of the equipment passed by delivery (there is no indication that the supplier reserved title) the equipment belonged to Topaz Ltd from 25 March 2020 as required by s.11(4)(b) CAA 2001. Capital allowances are therefore available on the expenditure of £20,000 in the year ended 31 March 2020.
- e) S.67 CAA 2001 will apply to the deposit of £50,000 paid on 1 January 2020 in respect of the polishing machine in a similar way to the deposit at (a) above. The deposit will therefore be qualifying expenditure for the year ended 31 March 2020. However, since the machine was not delivered until 16 May 2020, when payment is also due, the obligation to pay did not become unconditional until delivery. The balance of expenditure of £150,000 will therefore be allowable for the year ended 31 March 2021.
- f) S.176 treats Topaz Ltd as the owner of the fixtures as and when the fixtures are installed. An unconditional obligation to pay arises on the issue of each certificate by Topaz Ltd's project engineer. Payments 1 to 4 are treated as incurred in the year to 31 March 2020. The provisions of s.5(4) CAA 2001 apply to payment 5 as a certificate was given within 1 month of the end of the chargeable period and related (partly) to work which had become the property of the company at 31 March 2020. To that extent, the expenditure is treated as incurred immediately before the end of the chargeable period.

In relation to the amount certified on 15 April 2020, part of the work certified is likely to have been carried out on or before 31 March 2020. The amount apportioned to that part of the work would therefore be regarded as incurred at that date - say 50% of the work certified of £230,000 as having been incurred at 31 March 2020 i.e. £115,000.

	<u>Summary of expenditure</u>	<u>Revenue</u>		<u>P & M</u>	
		31.3.2020 £	31.3.2021 £	31.3.2020 £	31.3.2021 £
(a)	Deposit			20,000	
(b)	Rolling machine			70,000	35,000
(c)	Crane on HP	2,500	15,000	10,000	110,000
(d)	Computer equipment			20,000	
(e)	Polishing machine			50,000	150,000
(f)	Fixtures:				
	Payments 1-5			220,000	
	Payment 6			115,000	115,000
	Totals	<u>2,500</u>	<u>15,000</u>	<u>505,000</u>	<u>410,000</u>

CIOT MARKING GUIDE

TOPIC	MARKS
(a) Deposit – allowance	½
Analysis per s.67	1
(b) Rolling machine – allowances/allocation	½
Analysis per s.5(5)	1
(c) Crane on HP – allowances/allocation	1
Analysis per s.67(3)	1
Treatment of finance charges	½
(d) Computers - allowance	1
Analysis per s.11(4)(b)	1
(e) Deposit – treatment per s.67	1
Balance – allowable y/e 31.3.21 analysis	1
(f) Fixtures:	
Payments 1-5: Allowances	1
Payment 6: Provisions of s.5(4)	1
Allocation between years	1½
	<u>13</u>
Presentation	2
TOTAL	15

Examiner's report:

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This question was certainly not popular with candidates, with marks varying wildly. Quite a few candidates wasted time working out the capital allowances due whereas the question asks for the amounts and timing of expenditure. Candidates generally made the point that expenditure is incurred when the obligation to pay becomes unconditional though many did not appear to know what that actually involved. Many candidates confused the rules in s.5 CAA 2001 with the rules on assets bought on HP etc under s.67 CAA 2001. Quite a lot of candidates conflated the incurring of expenditure with bringing into use which is not relevant outside the requirements of s.67. Others considered that the obligation to pay arose on delivery and that the time of bringing into use was not relevant. Some candidates chose the invoice date as the date the expenditure was incurred.

Some candidates, presumably who have received accountancy training, approached the question in terms of the capitalisation of expenditure for accounting purposes. The capital allowances and accounting rules thereby became confused and gave rise to incorrect responses. Similarly, a minority of candidates referred to the 'tax point' in relation to the date expenditure is incurred, which therefore appeared to be confusing the CA rules with VAT.

12. MARCEL DUVAL

MEMORANDUM

To: Tax Partner
From: Tax Senior
Client: Marcel Duval
Date: []
Subject: CGT on property and share disposals /entrepreneurs' relief

[All statutory references are to TCGA 1992.]

The disposal of one of the properties used in the business is a disposal of part of the business.

The question of what constitutes part of a business has been considered in a number of tax cases, mainly concerning disposals of land by farmers, the leading case being *McGregor v Adcock*.

However, the test applied in *M Gilbert v HMRC* was whether the part sold (which was sold as a going concern for VAT purposes) was capable of operating as a separate business which it clearly was in that case.

The question is however whether the vendor has disposed of part of a business, not whether the purchaser has acquired a business (*Jarmin v Rawlings*). Therefore, the fact that the purchaser did not wish to continue the business is not relevant.

The disposal of part of a business is a material disposal of business assets within s.169I(2)(a). The gain on sale of the first property of £200,000 therefore qualifies for CGT entrepreneurs' relief (ER). Although the property was sold prior to cessation of the business, that disposal is treated as part of the disposal of that part of the business which ceased on 30 June 2019.

The disposal of the second property on 31 March 2020 following the cessation of the business is also a material disposal of business assets falling within s.169I(2)(b) – ie, the disposal of an asset used in the business at the time the business ceased. The conditions at s.169I(4) are met – ie, the business was owned by the individual and the asset was disposed of within 3 years of cessation.

The fact that the third floor of the building was let is not relevant since all that s.169I(2)(b) requires is that the asset was in use for the purposes of the business at the time the business ceased to be carried on. There is no requirement that the whole of the asset must be so used and there is no provision for restriction of relief. The whole gain of £250,000 therefore qualifies for ER.

The sale of Marcel's shares in RIBL would be a material disposal of business assets within s.169I(2)(c). The conditions at s.169I(6) are met during the period of 2 years ending with the disposal – ie, that the company is a trading company, is Marcel's 'personal company' within s.169S(3) of which he is an officer or employee.

The disposal of the office premises would also qualify for ER as an associated disposal within s.169K(1B). Under this section Marcel must be selling at least 5% of the ordinary shares, which is clearly satisfied. However, it is a requirement at s.169K(3) that the associated disposal must be made as part of the individual's withdrawal from the business. Under HMRC guidance the individual is not required to cease work or even reduce their working hours and therefore Marcel continuing to work for the company will not prejudice his claim for ER.

The HMRC guidance also states that the material disposal and the associated disposal must be part and parcel of one single withdrawal from participation in the business, and there should normally be no significant interval between the two disposals.

Under s.169K(4) the asset must have been used in the business for at least two years.

However, ER is restricted in relation to associated disposals where any of the conditions at s.169P(4)(a)-(d) are met.

The property was not used by RIBL for the first four years of ownership from November 2008 to November 2012. Therefore condition (a) applies and under s.169P(5)(a) ER is restricted for that period. Out of 12 years ownership therefore 4 years – ie, 1/3rd - does not qualify for ER. The gain on the sale of the property is £300,000 of which £200,000 will qualify for ER.

Tutorial Note:

The model answer takes the approach that the sale of the Brighton shop is the sale of the whole or part of a business and therefore the gain is eligible for ER. Whether this is the case depends on the facts but there is little information given in the question.

HMRC CG manual CG64015 gives HMRCs view. Credit would be given for a reasoned discussion of the facts, even if a different conclusion were reached.

CIOT MARKING GUIDE

TOPIC	MARKS
Disposal of 1st shop a disposal of part of a business within s.169I(2)(a)	1
Consideration of tax cases re part of a business	1
Disposal of 2nd shop a disposal within s.169(2)(b)	1
Conditions at s.169I(4)	1
No restriction of ER re letting of flat	1
Sale of shares a material disposal within s.169I(2)(c)	1
Personal company tests	1
Sale of offices an associated disposal under s.169K	1
Material & associated disposals part of withdrawal from business	1
Reduction in working hours not required	1
No significant interval between disposals	1
Discussion of restrictions under s.169P	1
Restriction required for period of non-business use	1
Discussion / calculation of gain qualifying for ER	1
Presentation	1
TOTAL	15

Examiner's report:

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The responses to this question may generally be described as confused. There were some difficult aspects to the question but for example, with regard to the question of what is a part of a business, it was not necessarily expected that the answer would be 'right' but that the candidate should have shown the ability to weigh the issues. There was general confusion over the distinction between the disposal of an asset qualifying as a material disposal within s.169I(2) and an associated disposal within s.169K, which applies only to assets which have been in use by a partnership or company and which may be associated with a material disposal within s.169I(2). Some candidates regarded the let flat as an investment (within s.169L(4)), even though this is not a separate asset for CGT purposes.

Many candidates assumed that because the purchasers of the shops did not acquire goodwill and therefore did not carry on the business, the sale of the Brighton shop, in particular, was the sale of an asset rather than part of a business whereas it is only necessary that what is disposed of is part of a business not that the buyer acquires a business.

Marks were low therefore with regard to the disposals of the shops. Most candidates applied the correct treatment to the disposal of Marcel's shares in the company though some considered that because he remained as a director he had not withdrawn from the business – again confusing the rules for material and associated disposals.

Candidates were evenly divided on the question of whether the disposal of the office building would qualify for ER. Some candidates correctly considered that the disposal must be associated with a material disposal and that both disposals should be concurrent. Though the question specifically states that detailed computations were not required, a number of candidates produced such computations for which no marks could be awarded.

Finally, some candidates have a tendency to set out the general rules before going on to consider their application to the question. However, in this case, in particular, the memo was to the tax partner who may therefore have been expected to be au fait with the general rules. It is difficult to award marks for these pre-amble since it is not answering the question to paraphrase from the legislation which candidates have access to in the exam. Moreover, when candidates go on to apply these general rules it often transpires that though paraphrased correctly they have not been applied correctly.

13. GREG & CHRIS LEGHORN

FIRM'S LETTERHEAD

Greg & Chris Leghorn
Your Address

Date

Dear Greg & Chris,

THE "EGGS BOX" – RELIEF FOR TRADING LOSSES

It was good to meet with you both last week.

Choice of business medium

You have 3 choices of business medium namely:

- 1) A traditional partnership.
- 2) A limited liability partnership.
- 3) A limited company.

As requested I will outline how each of you (and your father Lionel) can obtain tax relief for the trading loss to be incurred by the "Eggs Box" under each of the 3 business vehicles.

Traditional partnership

Once the accounts for the first year of trade have been adjusted for tax purposes (for example to remove disallowable expenses and to make capital allowances claims etc), the tax adjusted loss will be divided between the 3 partners in accordance with the agreed loss-sharing ratio. Each partner will then have his own trading loss for the year ended 30 June 2021.

At this point the tax legislation will treat each of you as an independent trader which means that each of you will make his own separate loss relief claims. Such claims are usually made on the individual's personal self-assessment tax return. Each of you can make different claims should you so wish. A claim of one partner is not binding on another.

The first tax year of trade will be 2020/21. The trading loss attributable to 2020/21 will be the loss falling in the 9 months between 1 July 2020 and 5 April 2021 (in this case 9/12 x the loss made in the first trading year). The remaining 3 months of the loss made in the first trading year will be attributed to 2021/22.

Thereafter each partner's loss from the accounts for the year ended 30 June 2022 will be attributed to the tax year 2022/23, the loss from the accounts for the year ended 30 June 2023 will be attributed to the tax year 2023/24 and so on.

There are essentially 3 ways of obtaining relief for your trading losses within a traditional partnership structure:

- a) "Current year / previous year" loss relief;
- b) "Early years" loss relief; and
- c) "Carry forward" relief.

a) “Current year / previous year” loss relief

The loss can be set against your general income (being income from any source) of either the current tax year or the preceding tax year. For example, your share of the business loss for the tax year 2020/21 can be set against any income you receive in either 2020/21 or 2019/20.

Greg – I note that you have no income in 2020/21 or 2019/20 other than a modest amount of investment income. As this income will be covered by your personal allowance leaving no tax liability, a current/previous year loss claim is of no use to you.

Chris – you could claim to set your trade losses against the income you currently receive from your employment with your father-in-law. Claims can be made to set the losses against earnings of either the current year, the preceding year or (if the loss is large enough) both years. A claim will generate a repayment of some or all of the tax deducted at source from these earnings. Unfortunately the NIC deducted will not be refunded.

The maximum amount of certain reliefs that can be claimed against general income in any single tax year is limited to either £50,000 or 25% of total income (whichever is higher). Trading losses set against general income which is not trading income are one of the reliefs subject to the restriction. However, given that Chris’s salary is only £35,000, this is not an issue.

The position is slightly different for your father. As Lionel will only work in the partnership for one day a week, he will be a “non-active” partner. A “non-active” partner is a partner who did not spend a “significant amount of time” working in the partnership when the losses arose. “Significant” is defined as an average of at least 10 hours per week.

As a “non-active” partner, Lionel’s cumulative loss relief claims against general income (other than income from the trade) in the first four tax years of being a partner are restricted to the amount of his “contribution” to the partnership. Lionel’s “contribution” to the partnership is his capital introduced, plus any undrawn profits (here likely to be zero) plus any amount contributed by Lionel on the winding up of the partnership. In addition to this cumulative limit, the maximum loss which can be relieved against general income (other than income from the trade) in any one tax year is £25,000. This annual limit applies in any tax year and not just the first four tax years.

Therefore while Lionel seems to have sufficient income to be able to absorb his share of the trading losses, his maximum claims are likely to be £25,000 per annum. This would of course change if Lionel increased his average weekly hours to 10 or more such that the rules for non-active partners did not apply, but this may not be feasible.

Chris is not affected by this because, even though he will only work part-time for Eggs Box, he will work more than 10 hours per week in the business.

Finally I would mention here that trade loss relief against general income is only available if the trade is “commercial”; ie carried on throughout the period on a commercial basis with a view to the realisation of profit. With new product launches such as this there is often a lead period (and sometimes a lengthy one) during which losses are made, but as long as the overall business aim is to generate a profit on trading activities, I see no reason why loss relief as outlined above should not be available.

b) “Early years” loss relief

Start-up businesses will benefit from being able to use “early years” loss relief. This relief is available to traders who incur a loss in any of the first 4 tax years of trading. In your case the relief will apply to trading losses incurred in 2020/21 through to 2023/24 inclusive.

Early years loss relief carries a loss back against general income (before personal allowances) of the 3 preceding tax years, taking the earlier years first. For example, if you choose to make an early years loss claim in respect of a loss for 2020/21, the loss would first be set against your income in 2017/18, then 2018/19 then 2019/20. The claim will generate a repayment of tax in the years in which the loss is relieved.

Greg - this loss option will be particularly valuable for you as you had employment income up to and including 2018/19. An early years loss relief claim in 2020/21 and 2021/22 would enable the loss to be relieved against your earnings of 2017/18 and 2018/19 respectively. However, you should note that where a loss is carried back to an earlier year, the maximum loss that can be offset in that year against general income which is not income from the trade is the greater of £50,000 or 25% of total income.

Chris – this option may also be of benefit, particularly if some or all of your income fell into the higher rate band in the years 2017/18 to 2019/20. In this case the carry back of the loss to those early years will secure tax relief at a higher rate than a current year claim against employment income.

Lionel can also make an early years loss claim and carry his loss back 3 years against his general income.

However the rules for non-active partners also apply where claims are made for early years loss relief, so the maximum amount of loss for which Lionel can claim relief in any single year is £25,000.

c) “Carry forward” relief

Where any losses remain unrelievable after a current year / previous year / early years loss relief claim has been made, the excess will be carried forward and set against the first available profits from the trade.

This “carry forward” relief is generally seen as a “last resort” as it delays tax relief for the loss until such time as the business becomes profitable.

The restriction on loss relief available to non-active partners does not apply where the loss is carried forward.

Limited liability partnership (LLP)

LLPs have been described as “a company on the outside but a partnership on the inside”.

In your case the 3 participants (known as “members”) deliver an incorporation document to the Registrar of Companies. The members of an LLP are very similar to the shareholders in a company.

Each member has an interest in the LLP (his “share capital”). Each member's interest must be separately analysed and must show the capital contributed by each member.

The LLP must have at least two designated members – these are very similar to directors of companies. They are the members who are responsible for the management of the LLP. Their responsibilities include signing and filing accounts and appointing auditors (if required). The designated members are stated in the incorporation document.

From a legal perspective, LLPs are similar to limited companies and are subject to the same accounts and audit rules as companies. Most importantly, a member of an LLP has limited liability for the debts and obligations of the LLP incurred while he is a member; ie, he enjoys limited liability in the same way he would as a shareholder of a limited company. His liability is limited to the amount of capital he contributes to the LLP plus any further amount he has agreed to pay if the LLP is wound up.

However, while an LLP is a company in legal terms, for tax purposes the LLP is treated in the same way as a traditional partnership. Unlike a company, a trading LLP does not pay corporation tax on its profits. Instead the profits of the LLP are allocated to the members who then pay income tax on those profits (in the same way as partners in a traditional partnership).

Losses are therefore relieved in a similar way to losses in a traditional unlimited partnership but with one key difference. In an LLP, where a claim is made to set a loss against general income other than income from the LLP (for example under either the current/previous year rules or under early years loss relief), the total amount of the loss which can be relieved is restricted to each member's "contribution" to the LLP. "Contribution" means the capital contributed by the member plus any amount the member is required to pay on a winding up of the LLP.

In simple terms this means that if you contributed (say) £100,000 to the business, irrespective of the level of losses sustained by the business and the proportion of those losses allocated for your use, the total amount which you could set against your general income (other than income from the LLP) across the lifetime of the business is capped at £100,000. If you increase your capital contribution, your capacity to offset losses against general income also increases.

In other words, the maximum loss relief available for LLP losses against non-LLP income cannot exceed the maximum amount the LLP member would personally stand to lose if the LLP was wound up.

Any unrelieved losses will be carried forward against the first available trading profits.

As far as Lionel is concerned, as a non-active member of an LLP, the £25,000 annual limit for loss relief against general income will again apply.

Limited company

The final business vehicle is a simple limited company in which the three of you are director /shareholders.

In this case, the "taxable person" is the limited company and it is the company who will incur (and be responsible for) the business losses.

These losses will be:

- i) Offset against any other income or gains made by the same company in the same accounting period (such as interest earned on a business bank account); then
- ii) Carried forward and offset against total profits of the next and (if not fully relieved) subsequent accounting periods.

The losses of the company will not be allocated to the 3 of you as director / shareholders. None of the reliefs therefore outlined above which are available to partnerships and LLPs will be available should you choose to trade via a limited company.

Recommendation

From a tax perspective, the vehicle which offers the most flexibility in terms of loss relief options is the traditional partnership.

Under a traditional partnership, Greg and Chris can claim early years loss relief and carry the losses back against employment income of the previous 3 years thereby securing income tax repayments. The maximum offset each year is £50,000 or 25% of total income. Lionel can do the same but he can only use a maximum of £25,000 per annum against his general income.

The LLP offers similar loss relief options but with the added protection of limitation of liability for the members who would, in the event of a winding up of the business, only be liable up to the amount of their capital contribution. However cumulative loss relief against general income is capped at the member's contribution.

The limited company offers the same legal protection as the LLP but with no possibility of the director / shareholders being able to offset losses against personal income. I would therefore suggest that the limited company becomes a more attractive option as and when the business starts to generate profits.

I hope this is a useful summary. Please come back to me if you have any queries.

Yours sincerely

Ann Adviser

Tutor Note:

This is a longer answer than you would be expected to produce for a 20 mark question in an examination but has been provided for tutorial purposes.

14. LITE SNACKS LTD

Firm's headed notepaper

Mr A Rodgers
Address

Date

Dear Alex

Tax and National Insurance implications of benefits and expenses payments

Thank you for your recent letter requesting advice about the income tax and national insurance (NI) treatment of various situations that have arisen recently.

I will deal with each of the situations in turn, and explain what the reporting requirements are, if any, for each of them.

1) Day Spa

A benefit in kind has arisen on the 18 employees who spent the day at the Spa, because they have received money or money's worth from their employment. The amount of the benefit will be the cost to the employer, which in this case is £94 per employee.

A P11D will normally have to be completed for each employee disclosing the cash equivalent of the benefit. The employee would then report the benefit on his/her self assessment tax return.

Class 1A national insurance will be payable by the company at the rate of 13.8%, and each employee will pay tax on the benefit at his or her marginal rate of tax.

The gift does not fall within the staff entertainment exemption of £150 per head per annum, as it is not an annual function and not open to all staff generally.

In order to reduce the number of Forms P11D that need to be completed, it may be possible to come to an agreement with HMRC called a PAYE Settlement Agreement (PSA). This is a voluntary agreement under which the company would agree to meet the tax payable on the benefit in kind, and would obviate the need to complete Forms P11D.

Only "minor and irregular payments" can be included in a PSA. The cost of the Day Spa would seem to meet these criteria.

The company would pay Class 1B National Insurance on the items included in the PSA. The charge would be levied on the "grossed up" value of the benefits (ie, the net value plus the income tax thereon).

On the understanding that each employee is a basic rate taxpayer, I can provide an estimate of the liability, as follows:

	£
Total value of benefits provided	1,692
Add: Tax due @ 20/80	423
Grossed up value of benefits	<u>2,115</u>
Class 1B NIC payable @ 13.8%	<u>292</u>
Total tax & NI payable in the PSA £(423 + 292)	<u>715</u>

A PSA can be entered into at any time before 6 July following the end of the tax year. Once the tax and Class 1B National Insurance is finalised, then it must be paid by 22 October 2021 where payment made electronically (19th otherwise).

If similar benefits were provided in future years it is now possible to 'payroll' such benefits (see later).

2) Christmas Gifts

There is a statutory exemption for trivial benefits. A benefit is a trivial benefit if the cost of providing the benefit does not exceed £50. It is the cost of the benefit to each employee that matters. The fact that the total cost of the chocolates may be significant is irrelevant. It is the cost per employee that is important.

The hampers will not fall within the definition of "trivial" given they each cost £150. In this case, it is possible to request that they are contained in a PSA, as described above.

If the PSA option is not pursued, then it will be necessary to include the hampers on the staff's P11Ds, and Class 1A National Insurance will be payable on the benefit at the rate of 13.8%. The staff will pay income tax on the benefit at their marginal rate of tax.

3) Refreshments

The provision of tea, coffee and water to all staff is exempt from tax under s.317 ITEPA 2003.

4) Company vans

No benefit in kind will arise on the provision of a company van unless the employee uses the van for private journeys other than between home and work and the private journeys can be described as more than insignificant.

Insignificant private use is that which is the exception to the normal, intermittent and irregular and lasts for only short periods of time on odd occasions throughout the year (for example a trip to the tip once a year).

The driver concerned has been using his van every week to transport goods to a car boot sale, which is more than insignificant private use. As a result he will pay tax on a benefit in kind of £3,430, and fuel benefit charge of £655. The benefits need to be reported on Form P11D. The company will be liable to pay Class 1A NICs on the benefit at the rate of 13.8%.

You should also ask the employee how long he has been using the van in this way, as previous years' P11Ds may be incorrect and may need to be amended.

5) Training costs

Expenditure on work related training is exempt from tax under s.250 ITEPA 2003. No benefit in kind arises and a P11D entry is not required for the employee concerned.

The cash prize is taxable as earnings and should have had PAYE applied to it. Class 1 NIC is also due on the sum. The additional PAYE and Class 1 NIC should be paid to HMRC and adjusted year to date figures must be reported on the next Full Payment Submission.

6) Home internet connection

The provision of broadband at the employees' homes where there is insignificant private use is not taxable under s.316 ITEPA 2003. No entry is required on the P11D and no NIC is payable.

Although you are concerned that the company is unable to monitor private use, the fact that you have a published policy about private use which is clearly stated to each employee (together with the impractical nature of recovering the costs of private use) should be sufficient to satisfy HMRC that the insignificant test is met.

7) Medical insurance

The medical insurance provided to the senior management team is a taxable benefit in kind and the company should report it on their P11Ds and pay Class 1A National Insurance at the rate of 13.8%.

The two middle managers have arranged their own insurance which the company reimburses. This is taxed in a different way, as the contract is between the employees and the insurance company. It is not necessary to include it on Form P11D or pay Class 1A National Insurance on it. Instead, the amounts the company reimburses to the employees are treated as taxable earnings, and should have PAYE applied to them and Class 1 NIC.

The additional PAYE and Class 1 NIC should be paid to HMRC and adjusted "year to date" figures must be reported on the next Full Payment Submission.

Payrolling of benefits

As an alternative to including the benefits on the employees' P11Ds, it is possible to report and tax benefits via the payroll. Where a benefit is to be included in the payroll it is treated as PAYE income and therefore the tax on the benefit is collected from the employee's salary payments.

However the employer must register the benefits that they wish to payroll before the start of the tax year. Consequently it is not possible to payroll benefits which have already been provided. I would be happy to supply more information on this if you wish.

I trust that the above information is sufficient, but should you have any further queries please do not hesitate to contact me.

Yours sincerely

Ann Adviser

15. CASH BASISTECHNICAL NOTEAvailability of the cash basis

Sole traders and partnerships can elect to use the cash basis if their total business receipts for the tax year the election is made do not exceed £150,000. Partnerships which contain a corporate member are excluded. Partnerships with a controlling partner will not be able to use the cash basis if the receipts of the partnership combined with the receipts of any other business carried on by the controlling partner exceed £150,000.

The election applies for the tax year for which it is made and all subsequent tax years.

The election ceases to apply for the tax year following that in which business receipts exceed £300,000 unless receipts for the current year will not exceed £150,000.

An election also ceases to have effect if there is a change in the circumstances of the trade which makes it more appropriate for profits to be calculated in accordance with generally accepted accounting practice and the trader elects to calculate profits on this basis.

Operation

Under generally accepted accounting practice, income is recognised on the date goods or services are invoiced and expenses are recognised when the liability is incurred.

However, the cash basis allows eligible businesses to account for business income and expenses when money is physically received or paid out. Therefore, the business records only need to show money when it comes in or goes out.

As receipts are recognised as income of the period in which they are received and expenses are outgoings of the period in which they are paid, there is no need to account for debtors, creditors, stock and work in progress.

Where an election for the cash basis is made, taxable trading income for a tax year is calculated as income received in the basis period for the tax year less payments of allowable expenses in the basis period (subject to any adjustments for tax purposes).

If an election for the cash basis is not made, the business will prepare a Balance Sheet and Profit and Loss account. The accounts are prepared using generally accepted accounting practice. The net profit per the accounts is then adjusted for tax purposes and the basis period rules applied to determine the amount taxable for a tax year.

Capital Expenditure on Plant and Machinery

Where a trader elects to use the cash basis, capital allowances cannot be claimed in respect of expenditure on plant and machinery (other than cars) used for the purposes of the trade.

Instead, the actual cost of the plant and machinery which would otherwise qualify for capital allowances is deducted when it is paid. If the asset is only used partly for business purposes, only the relevant business proportion of the cost is deducted.

If the plant and machinery is sold whilst using the cash basis, the proceeds (or relevant business proportion of the cash proceeds) must be included in trading income.

If the non-business use of an asset increases significantly, the relevant proportion of the market value of the asset at that time is taken into account as income.

If the trader ceases to use the asset for business purposes but does not sell it, the market value of the asset at that date (or relevant proportion) must be treated as trading income.

Expenditure incurred on cars is eligible for capital allowances in the same way as if a cash basis election had not been made.

Goods for own Use

Where a trader who uses the cash basis takes goods out of the business for their own personal use, the cost of the goods are disallowed for tax purposes.

Other Expenses

Under the cash basis, a maximum amount of £500 can be deducted each period in respect of interest paid on a loan and incidental costs of obtaining loan finance (such as bank overdraft interest and fees).

It is not necessary to establish that the borrowing is financing capital employed in the business because it is not necessary for this expense to be wholly and exclusively for business purposes for a deduction to be allowed.

One other difference is that the full amount of the costs of leasing a car is deductible, regardless of the level of CO₂ emissions of the car. So, if a lease is taken out on a car with CO₂ emissions of more than 110g/km, there is no 15% restriction and the full leasing costs are deductible.

Losses

If a trader using the cash basis makes a trade loss, the trade loss can only be carried forward and set against future trading income. Sideways loss relief against income and capital gains relief against gains is not available. If the trader ceases to trade, terminal loss relief is still available.