

## EXAMINERS' REPORTS NOVEMBER 2025

### CHIEF EXAMINER'S COMMENTS

Candidates should be aware that, as for other professional exams, all results are moderated both to ensure consistency in the marking process for each examination as well as to standardise the examination paper difficulty (within each session and across examination sessions). This means that the questions are assessed for difficulty, taking account of feedback from the tutorial bodies and feedback from the examiners and moderators who have marked and reviewed the answers. Based on this, the pass mark may be adjusted. Candidates should not therefore be unduly concerned that what they consider to be a "hard" paper will mean that they will fail as it is likely that many other candidates will have felt the same and if evidence of this is found, the marks will be adjusted accordingly.

#### Results

With a 54% pass rate, the results for Awareness were on the low side this session. As noted below, performance on Module A, which is sat by the most candidates, was poor even on the more common areas. Performance was also weak on the Corporation Tax module.

Across the board, the results on the Advanced Technical papers were good with IHT Trusts and Estates having the lowest pass rate at 42%.

Similarly, the performance was good across all Application and Professional Skills papers with the weakest performance on the VAT and Other Indirect Taxes paper, although that only had 22 candidates sitting it.

#### Feedback from Examiners

##### *Advanced Technical*

This session, the main feedback on the Advanced Technical papers has been from the indirect tax examiners who identified a need for candidates to focus on exam technique. In particular, it is important that candidates manage their time and effort based on the marks available on each question. It will almost always be the case that there are some easier marks on each question and as a result spending extra time on one question may result in no extra marks on that question yet mean that the easy marks on the next question are missed.

Candidates also need to ensure that they read the requirements carefully, so if a question asks for "tax consequences" they need to consider all taxes in the syllabus that may be relevant. Similarly, if the question specifies two taxes, candidates need to comment on both of those taxes.

##### *Application and Professional Skills*

Although this paper gives candidates an opportunity to display their wider knowledge to produce a holistic answer to the problem, they need to take care that their comments are relevant to the question in hand. The ability to sift through both the information provided and potentially relevant knowledge in order to produce relevant advice and recommendations is a key skill in this paper. Clients don't want to receive huge documents containing lots of information, which whilst it may be technically correct, leaves the client none the wiser as to the solution to their problem. The other side of this is that candidates do need to be alert to the possibility that there are issues or implications

from taxes other than the primary tax: a good simple step for candidates is to run through all taxes and ask themselves whether they are relevant to the answer.

Candidates also need to be alert to possible legal points or commercial points which should either be flagged to the client or more significantly, which may fundamentally change the recommendations. This wider holistic view of the problem is a key skill needed to succeed on this paper and also to be a good tax adviser in practice.

## **AWARENESS**

### **Module A: VAT including Stamp Taxes**

#### General Comments

Generally, there was an unsatisfactory performance by most candidates, even on regularly examined areas. Candidates are reminded to read the requirements of the question carefully, and tailor their answer to the question actually asked.

#### Question 1

The answers on this question on VAT registration were mixed. Some candidates wasted time discussing the future test which was clearly not relevant to the scenario. Several candidates included exempt supplies and others only included standard rated supplies. Candidates are reminded that when a date is required, they must state a date, not a rule, in order to get the marks available.

#### Question 2

Despite it being clear in the question that the expenditure was stated at its VAT inclusive amount, some candidates answered the question on the basis that the figures given were the actual VAT amount, and others calculated the VAT at 20%. A number of candidates thought that the VAT on entertaining overseas suppliers was blocked.

#### Question 3

Although there were some excellent answers to this question, again, candidates are reminded that when a date is required, they must state a date, not a rule, in order to get the marks available. Where the dates were stated, they were often wrong. Some candidates answered the question on the basis that Ruben was making quarterly payments of VAT when it was clearly stated that he had elected to make monthly payments.

#### Question 4

Candidates were generally confident with the treatment of the first three items, but several candidates had a problem with the trade samples, treating them as though they were gifts and therefore calculating the output VAT as the cost was greater than £50. The reverse charge was often missed, or treated as input VAT.

#### Question 5

VAT on land and buildings continues to be an area of difficulty for most candidates, although there were a few good answers. Most candidates were confused between the VAT treatment of freehold and leasehold properties and when the option to tax is relevant.

#### Question 6

Most candidates went straight for the full partial exemption calculation, and where the simplified tests were done, as per the question requirement, they were done badly. Candidates are reminded to read the requirements of the question carefully, and answer the question asked.

#### Question 7

Surprisingly, the requirement for control to exist in a VAT group was regularly missed. Several candidates stated that ownership, either direct or indirect, must be greater than 50% and some thought that it must be at least 75%.

#### Question 8

The Capital Goods Scheme is examined regularly and so it was disappointing to see that this question was done badly by most candidates, with some even failing to recognise that the amount of input VAT that could be recovered in the quarter of purchases was the 70% that related to the taxable use.

#### Question 9

Most candidates failed to do well on this question due to lack of clarity of explanation. Candidates are reminded that there is a difference between exempt and zero rated supplies. Several candidates thought that the flight was only zero rated because it was international. Very few candidates knew the VAT treatment of the expenses paid from the round sum allowance.

#### Question 10

Some candidates thought that this was a question on limited cost traders and applied the tests for this, which was not relevant to the scenario. Several candidates did not gross up the standard rated supplies whereas others grossed up both the standard rated and zero rated supplies for standard rate VAT. Some candidates thought that the VAT on the coffee machines was calculated at 12.5%.

#### Question 11

Several candidates did calculations in their answer despite the requirements of the question specifically stating that they were not required. Some candidates calculated and discussed the treatment of degrouping gains for corporation tax which was not relevant to the question.

#### Question 12

No comments.

### **Module B: Inheritance Tax, Trusts & Estates**

#### General Comments

Overall performance on this module was good.

### Question 13

Many candidates did well on this question, with most easily achieving the marks for the chargeable lifetime transfer (CLT). The most common mistake was stating that the full £2,500 marriage exemption was available, which only applies to a grandchild or remoter issue or other party to the marriage, whereas a gift to a nephew is only covered up to £1,000. Other less common mistakes included calculating tax at 20% instead of 25% (20/80) and correctly allocating £1,500 of the annual exemption to the wedding gift and the other £1,500 to the CLT but forgetting that the annual exemption for 2023/24 was also available.

### Question 14

Some well-prepared candidates performed well on this question, but others struggled with the instalments, with some not even attempting to answer the second part. Most were able to answer the calculation part correctly, although some deducted the nil rate band despite being told it was not available, and some deducted the residence nil rate band which is not applicable as the house was not left to a direct descendant.

### Question 15

Most candidates generally managed this question well, however some struggled with Molly's available residence nil rate band. Some missed it entirely, and some restricted it for the value of the house, instead of restricting it for the value of her estate exceeding £2 million. Some candidates also used Molly's nil rate band which was not available. Unfortunately, some candidates forgot to state the payment date after getting the full calculation correct.

### Question 16

Most candidates did well on the domicile at birth, although some thought this was South Africa and missed that it follows the father's domicile (when the parents are married). Most correctly established the domicile of dependency changing with the father's. Although most identified the 15/20 rule for deemed domicile, the most common mistake was miscounting the tax years and stating that this had been met already.

### Question 17

The majority of candidates did well on this question. The most common mistake was either forgetting taper relief or calculating it at the wrong rate. Some candidates incorrectly deducted the gross chargeable transfer from 2013 from the available nil rate band despite it being over seven years prior to death.

### Question 18

This question proved challenging for most candidates, with many simply stating the profit or loss in each property and not considering the rules around the timing of the disposals and whether the profit or loss should be taken into account. Many ignored the land purchase, and some restricted for the land when that wasn't necessary, with only a small number correctly explaining that there was no restriction as the purchase was outside the relevant period.

### Question 19

The question was generally handled well, except that many candidates missed that BPR would be available on the development value of the farmland. Some stated that BPR at 50% would be available

on the business of fishing, shooting and sporting rights, rather than 100%, but credit was awarded for recognising that BPR would be available.

#### Question 20

This question also proved to be challenging for some, although better prepared candidates performed well. A large number used the transfer amount of £530,000 in calculations instead of the £880,000 value of the assets. Many did well on effective and actual rates, but these caused some confusion for others. The other common mistake was deducting the £75,000 capital distribution from the value of the assets, rather than deducting it from the available nil rate band.

#### Question 21

Most candidates performed very well on this question.

#### Question 22

Most candidates did very well on this question, with very few problems. A minority incorrectly deducted management fees in calculating taxable income or used incorrect tax rates.

#### Question 23

The main challenge with this question appeared to be the annual exempt amount (AEA), with some dividing this by 5 instead of 6, and some forgetting that the minimum AEA is £300. A lot of candidates also incorrectly deducted the loss from the painting instead of the residential property to save tax at a higher rate.

#### Question 24

Calculation of the rent appeared to be the most challenging part of the question, with only a small amount of candidates calculating it correctly based on the eight months that would be received by the Executors. Other common errors included deducting the interest from dividends first, when it should have been deducted fully from non-savings income, and incorrect payment dates included six months after death rather than the Income tax payable date for the Executors for 2024/25.

### **Module C: Corporation Tax**

#### General Comments

Generally, the performance of most candidates was disappointing.

#### Question 25

The most common errors were to disallow the interest expense, to allow the legal fees on the long lease and to disallow the cost of the Christmas party, either in full or the excess over £150 per head.

#### Question 26

Some candidates did not split the long period of account into two chargeable accounting periods or split it incorrectly. Were the split was done, some candidates got the additions and disposals in the wrong period and/or forgot to time apportion the WDA for the short period. Most candidates missed the small pools allowance.

### Question 27

A worrying number of candidates included the land in the expenditure qualifying for SBAs, or included everything except the land, although most candidates recognised that the electrical and water systems qualified as plant and machinery. Some candidates forgot to time apportion the SBAs for the short period.

### Question 28

Some candidates deducted the loan interest and almost all candidates deducted the brought forward UK property business losses.

### Question 29

This was probably the most omitted question, and where it was attempted, most candidates again showed a worrying lack of knowledge of the loan relationship rules.

### Question 30

This question was regularly omitted, and where attempted was generally badly done. The capital loss was often offset against total profits or even carried back and offset against gains in the previous period. Some candidates did completely separate computations for the capital loss and the trading loss. Most candidates carried back the trading loss but some did not offset against current year total profits first. Very few candidates recognised the restriction on carrying forward the trading loss and where it was recognised, was rarely calculated correctly.

### Question 31

Although most candidates attempted this question, it was generally not well done. Several candidates wasted time explaining the group relationship and whether the conditions for group relief were satisfied. A number of candidates thought that Pycelle Ltd must relieve its own losses before group relief and some thought that Arrinne Ltd could relieve its property loss against Pycelle Ltd's property income.

### Question 32

Answers to this question were very mixed, with a lot of candidates simply not providing enough detail to score the marks available. Some candidates again wasted time explaining the group relationship and whether the conditions for a gains group were satisfied.

### Question 33

Several candidates 'grossed up' the gain for overseas tax. Some candidates included dividends in calculating taxable total profits where this was not done, several candidates did not do a working for augmented profits and therefore wasted time calculating marginal relief. Double tax relief was often omitted.

### Question 34

Several candidates did not reduce the base cost by the previous rollover relief claim and/or reduced the base cost of the machine by the current rollover relief claim. Indexation was frequently omitted or calculated incorrectly.

#### Question 35

No comments.

#### Question 36

No comments.

### **Module D: Taxation of Individuals**

#### Overall comments

Most candidates appeared confident in attempting the questions on this paper. However, there were some gaps in knowledge and some candidates would have benefited from improving the presentation of their answers.

#### Question 37 and 38

Candidates were comfortable with the calculation of income tax liabilities. Some struggled with the calculation of the HICBC and the calculation of income tax on dividends.

#### Question 39 and 40

Common errors including applying an incorrect rate for employer's NIC, not capping the capital contribution at £5,000 and not time apportioning the car and fuel benefits.

#### Question 41

Some candidates did not fully explain their answer.

#### Question 42

It was not always clear if a candidate's answer related to the residential property or the commercial property.

#### Question 43

Most candidates performed well in this question.

#### Question 44

Common errors were to use an incorrect rate of relief and to calculate relief based on the full amount subscribed, not the maximum amount of £200,000.

#### Question 45

Similar to question 43, some candidates would have benefitted from better signposting in their answer as it was not always clear which part of the answer related to which event.

#### Question 46

Most candidates made errors in this question. Many:

- struggled to apply the rules for chattels;
- treated the car as a chargeable asset; and
- for the residential property, either:
  - used the sale value rather than market value; or
  - did not recognise that it was a chargeable event.

#### Question 47 and 48

Most candidates were comfortable in answering these questions.

### **Module E: Taxation of Unincorporated Businesses**

#### Overall comments

Some candidates struggled with aspects of the paper and would have benefitted from a deeper knowledge of the rules.

#### Question 49

Most candidates struggled to adjust for the premium and the car leasing disallowance.

#### Question 50

A common error was to calculate the flat rate expense as total mileage at 45p per mile.

#### Question 51

A minority of candidates seemed to be unaware of the £1,000 trading allowance.

#### Question 52

Most candidates were comfortable in answering this question.

#### Question 53

Most candidates dealt well with the Class 4 NIC calculation but only a small number were able to reallocate the notional loss correctly.

#### Question 54 and 55

Most candidates had a good knowledge of the rules for loss relief.

#### Question 56 and 57

All candidates were comfortable with the CGT calculation but some struggled to calculate gift relief and/or rollover relief.

Questions 58 - 60

Candidates showed a good knowledge of the rules in these areas. It was encouraging that most candidates attempted the later questions.

## **ADVANCED TECHNICAL**

### **Taxation of Owner Managed Businesses**

#### General comments

Overall, candidate performance was mixed on this paper. Candidates generally performed well in computational aspects, such as the calculation of the Corporation Tax liability of the corporate partner in question 1 and the calculation of the Income Tax and Class 4 National Insurance liability in question 4. However, very few candidates performed well in the consideration of post cessation income and expenses in question 6.

As in previous sittings, some candidates did not achieve fairly straightforward marks such as stating when a tax liability was payable. This remains an area for future candidates to consider to help ensure they can maximise the marks they receive through ensuring that all aspects of the question requirement are fully answered.

On written elements of the paper, candidates are encouraged to consider the scenario and tailor their answer accordingly. This was generally well demonstrated when answering the close company requirements of question 5, but less well in the penalty aspect of question 3 when some candidates wrote everything they knew on the subject rather than considering how the penalty rules should apply for the given scenario.

#### Question 1

This question required candidates to calculate the tax adjusted profits for all partners of a mixed partnership, before calculating the Corporation Tax liability for the corporate partner in the partnership.

Most candidates did not identify that they needed to produce two separate sets of workings for calculating the tax adjusted profits of the partnership, before calculating how much profits should be allocated to each partner. Many candidates mixed up the distinctions between the intangible asset regime and Capital Allowances for individuals and companies.

The majority of candidates scored well in the second requirement, calculating the total taxable profits of the corporate partner before determining the Corporation Tax liability and marginal relief. However, fewer than half of the candidates stated the correct payment due date, and many omitted it entirely.

Candidates who were well prepared recognised that two separate calculations were needed for the tax adjusted profit computation and, as a result, achieved very strong marks.

#### Question 2

This question required candidates to calculate the Capital Gains Tax that would be payable by the shareholder in a company under two potential options for the sale of the business: a sale of shares and a sale of the trade and assets of the business followed by the liquidation of the company. As well as the Capital Gains Tax aspects, candidates needed to consider how the Capital Allowances for the period before the sale would be impacted by each option, before calculating the Corporation Tax liability payable in the period before sale.

There were several basic calculation marks available. Candidates who scored well in this question were those who followed a logical thread of calculations. There were areas where candidates could have secured more marks by fully answering the question in terms of calculating the net proceeds received under each option and reaching a conclusion on which option would result in the largest amount of net proceeds.

Several candidates incorrectly tied the shareholder's position on acquisition of his shares to his father's tax position. This meant that erroneous points such as stating that gift relief was available on death or that business property relief for Inheritance Tax impacted the calculation were noted in some cases.

Other candidates also calculated business asset disposal relief and stated that Capital Gains Tax would be payable on the disposal of the goodwill and property by the company. This resulted in some seriously flawed answers demonstrating a disappointing misunderstanding of a fundamental tax point.

### Question 3

This question required candidates to consider the errors made in the calculation of the Income Tax and Class 4 National Insurance in a tax return that had been previously submitted by a tax return who had submitted her own self-assessment tax return, as well as the consideration of the impact of penalties that HMRC might charge for an inaccurate return. This required the calculation of the calculation of Class 1A National Insurance on the car and fuel benefit provided to an employee of the business.

Most answers for this question were reasonable, but below expectations in a number of areas. Most frequently, the benefit in kind calculation was omitted.

Candidates scored less well on the second part of the question on penalties. Many candidates did not tailor their answer to the scenario in the question being asked. By providing a summary of everything they know about penalties as opposed to the application of the penalty rules to the particular scenario, candidates may have spent time that could have been better spent securing additional marks on other aspects of the paper.

### Question 4

This question required candidates to compare the tax position for a sole trader using the cash basis and the accruals basis. Candidates were required to draw a conclusion as to the best method for the taxpayer and calculate the Income Tax and National Insurance payable using that method.

This was generally well attempted by candidates, with easy marks gathered for the computational aspects of the question. Common mistakes were where candidates failed to make the appropriate transitional adjustments and claiming Capital Allowances in the computation under the cash basis.

The Income Tax computation was handled well by most candidates. A common error was candidates not including Class 4 National Insurance in the balancing payment/repayment and payment on account calculations (even though it was correctly calculated).

### Question 5

This question required candidates to consider the close company and the wider tax implications on loans to two participators in the company. The question was generally well answered by the majority

of the candidates who showed a good understanding of the tests and the tax implications for the two participators. The presentation and structure of the answers was also good.

In terms of the close company tests, candidates stated the required tests well but a common mistake was to state that Max was associated with Jenny, notwithstanding that they were neither married nor in a civil partnership. A significant number of candidates included Phil in the director test despite his shareholding being less than the required 20%. The key parts of this section were however well answered.

The tax implications of the loan to Phil was generally well answered part by the majority of candidates, showing a good understanding of the two parts: tax payable under s455 CTA 2010 and the P11D benefit in kind arising. However, a significant minority wrongly dealt with the write off of the loan as employment income and failed to identify that it should instead have been treated as dividend income.

The majority of the candidates identified the bed and breakfasting anti-avoidance issue arising on the loan to Fiona. However, a common error was to state that the s455 tax would be based on a loan of £100,000, with a claim then being possible for the s455 on £10,000 to be recovered, rather than dealing with the net amount payable at 1 December.

#### Question 6

This question required candidates to explain the treatment of post cessation income and expenses for a sole trader. Candidates did not perform well in this question.

Candidates generally identified the correct treatment of the allowable post cessation expenses. However, there was a general lack of knowledge on the subject with the majority of candidates not appreciating the difference in tax treatment for post cessation income and expenses. A common mistake was to carry back the loss against the profits from the prior year, with candidates spending unnecessary time re-calculating the prior year tax position for which there were no marks available.

### **Taxation of Individuals**

#### General Comments

In general candidates found this paper challenging, particularly questions two, four and five. More detailed comments on these questions are given below.

#### Question 1

This question concerned a couple who had developed a second property within the grounds of their own home and then sold both properties. Candidates were required to consider the tax implications of both disposals and calculate any tax liabilities payable.

Overall, candidates performed reasonably well on this question, with most scoring at least half of the marks available. The majority of candidates identified that private residence relief would apply and determined the correct proportionate formula for calculating how much relief would be available. However, many went on to discuss at length elements of private residence relief and lettings relief which were not relevant to the couple's circumstances, thus wasting time on this question.

For the second disposal, it was necessary for candidates to also consider the Transactions in UK Land anti-avoidance legislation and whether it would apply to the transaction. Most candidates were able to identify the relevance of these rules and scored some marks by listing the conditions out, but it was disappointing that some failed to apply the conditions to the scenario and form a conclusion.

One of the more challenging aspects of this question was the allocation of their base cost between the two properties and very few candidates considered how this should be apportioned. Although some marks were still awarded for any reasonable apportionment, candidates who did not consider this point properly could not achieve full marks on this point.

### Question 2

The majority of candidates identified that the investment in shares would qualify for some kind of venture capital relief, with most considering whether EIS or SEIS would be available given the scenario. A surprisingly high number of candidates did not consider any type of investor relief at all. Of those that did identify EIS or SEIS the answers would have benefited from a more extensive evaluation of the qualifying conditions.

Candidates are also reminded to read the question carefully as a significant number answered a different question to the one asked. Many changed the scenario, for example, some suggested that the investor was not acquiring shares and instead was purchasing the plant and machinery directly, some suggested that the investor was lending money to the company and others discussed the availability of rollover relief on the investment, which if applicable, would have given corporation tax relief and not income tax and capital gains tax as per the requirements.

### Question 3

On the whole candidates scored well on this question with many recognising the different components of the termination payment and calculating a maximum contribution.

It is important to be consistent in an answer as many correctly identified that only Class 1A NIC was due on part of the compensation payment but then proceeded to calculate Class 1 primary contributions on the payment, which scored no credit.

For some candidates there was confusion over the treatment of the termination payment and the appropriate terminology for example by not recognising and calculating the PILON correctly.

There were some good answers for the calculation of the maximum pension contribution though some candidates could not remember how to calculate threshold income and adjusted income.

Most remembered that unused relief from the previous 3 years can be carried forward.

Some struggled with knowing which contributions were paid net and which were paid gross which was surprising.

### Question 4

This concerned an individual returning to the UK following a period of non-UK residence. The question required candidates to determine whether the individual qualified for split-year treatment and then calculate their tax liability accordingly.

The individual was in receipt of rent from an overseas property, a lump sum from a non-UK employer funded retirement benefits scheme and UK employment income, including a beneficial loan.

Most candidates were aware of the split year rules and able to correctly apply them to the scenario presented, including the calculation of the taxable overseas rents. Unfortunately, in a lot of cases insufficient details were provided about the specific conditions for the relevant split year cases.

The pension lump sum caused some confusion, with a common mistake being to only include the growth in the scheme since the individual returned to the UK as taxable. The other area to deal with in relation to the lump sum was whether the first 25% would be paid tax-free, which a lot of candidates did consider.

Candidates dealt with the beneficial loan benefit calculation well.

### Question 5

This question was centred around value shifting following the issue of shares in a company controlled by a mother to her daughter.

Overall, candidates really struggled with this question. Around a third of candidates wrote under 400 words and many wrote nothing at all. This either suggested candidates ran out of time or did not know how to answer the question.

The question asked for an explanation of the tax implications of the issue of shares to Helen, but a number of candidates made no reference to this and instead set out a detailed explanation of the possible ways the business could be handed over to Helen, including a company purchase of own shares and tax advantaged share schemes, such as EMI & CSOP.

Having identified that the value shifting legislation applied, a capital gains tax calculation was required for the deemed part disposal by Linda. Very few candidates did this correctly, with the most common errors being treating the deemed proceeds as the fall in the value of Linda's shares rather than the value passing into Helen's shares and using £500 paid by Helen as the base cost rather than calculating it under the part disposal rules using the  $A / A + B$  formula.

After calculating the gain, the question asked candidates to explain any relevant claims that could be made, namely s165 gift relief and business asset disposal relief (BADR).

The availability of both reliefs would depend on whether Trust Ltd was classed as a trading company. Candidates who scored well on this question picked up most of the marks available for making a sensible analysis of the company and following that through with a conclusion that could be applied to the available reliefs.

Every candidate that attempted this part of the question started by applying HMRC's historic 20% test. Some candidates applied this to a range of measures from details provided in the question, others selected only one measure on which they determined whether the company qualified as a trading company. Some said it did because less than 20% of the turnover came from investment activities and others said it didn't, as more than 20% of the value of the company's assets came from its investment property.

Very few candidates then went on to apply the holistic approach adopted as a result of the Assem Allam v HMRC case to give a balanced conclusion as to the trading status of the company.

A significant number of candidates stated that BADR would be available but gift relief would not be, or vice versa, as they didn't appreciate that the trading company definition for both reliefs is the same.

Most candidates picked up marks for the conditions and deadlines for both reliefs.

A handful of candidates identified that the employment related securities legislation may apply, although some then went on to treat the issue of shares as employment income for Helen.

A few candidates highlighted that the ERS exception for shares acquired in the ordinary course of family relationships should apply.

### Question 6

This question required candidates to explain the income and capital gains tax implications for an individual who made three gifts. Performance on this question was mixed.

The first gift was made from the proceeds of the sale of the donor's property and then used to buy a new a property which the donor lived in rent free. Most candidates identified this was caught by the pre-owned assets regime and explained the consequence of this.

The second gift was to a registered charity but the donor received a benefit which exceeded the limits set out at s418 ITA 2007 and made the gift ineligible for gift relief. Only a handful of candidates applied this, with the majority of candidates either deducting the value of the gift from the donation and grossing up the net figure or saying the gift was trivial and therefore had no effect.

The final gift was a gift of quoted shares which receive tax relief via a deductible payment in the taxpayer's income tax computation and took place on a no gain / no loss basis for CGT purposes. Most candidates scored well on this part of the question.

## **Human Capital Taxes**

### General Comments

Many candidates performed well on this paper and also across the individual questions. They seemed to find question 2 the most challenging.

### Question 1

This tested candidates' understanding of a UK company's obligations when engaging a non-resident non-executive director with a fairly typical performance based remuneration package, including shares and bonus scheme.

Overall performance was satisfactory, with most candidates achieving a pass and some producing strong answers.

Most candidates correctly identified that Preeti was non-UK resident under the second automatic overseas test without needing to overanalyze the position. A minority incorrectly applied the first

automatic overseas test, overlooking that it requires UK residence in one of the previous three tax years, which did not apply here.

Very few candidates recognised that, although the question did not state Preeti was “employed,” as an office holder her earnings are treated as employment income under ITEPA. This was a key point expected for full marks. Whilst not strictly relevant to the exam as the overseas position was not being tested, in practice candidates will find that this deemed employment position will often contradict with the position overseas.

Almost all candidates concluded that Appendix 4 was not applicable with reason. Many candidates then went on to suggest an Appendix 8 could instead apply, however HMRC guidance excludes non-resident directors from this easement. This omission suggests candidates were aware of STBV rules but did not appreciate that a non-executive director is still a director for these purposes.

Most candidates interpreted the treaty extracts accurately. Many candidates explained that Article 17 gives the UK taxing rights over directors’ fees of a UK company, but UK domestic law only taxes duties performed in the UK for non-residents. This distinction was expected for higher marks.

Many candidates referred to the 52-week inbound rule for Class 1 NIC, incorrectly stating that Preeti would be exempt from Class 1 NIC for the first 52 weeks. For Preeti, the rule does not apply because Widget Ltd has a UK place of business. Candidates should also have noted that this exemption along with HMRC’s concession for directors is purely domestic and not based on international agreement, so double social security liabilities can arise and it was incorrect to state that a certificate of coverage/continuing liability could be obtained.

Performance was strong on the share-based remuneration element. Most candidates identified that the ordinary share award creates a notional loan and that close company exemptions do not apply. Phantom share treatment was generally well explained.

Some candidates incorrectly assumed that the UK office could be a temporary workplace. The 24-month and 40% tests are restrictions, not automatic qualifiers. For Preeti, the UK boardroom is where core duties are performed, making it a permanent workplace.

## **Question 2**

This question on treaty relief, reporting and application to three individuals produced the weakest answers on the paper.

Most candidates were able to correctly deduce the PAYE treatment for the three individuals however very few were able to adequately explain the concept of economic employment or demonstrate a good understanding of the details of the topic. As such, candidates scored relatively poorly on this question.

The treatment of statutory directors was well understood however not many candidates were aware of the 60 day rule. Several candidates explained residence under the SRT and treaty residence under the DTA which was not required. There was also confusion from candidates regarding the various PAYE relaxation schemes (Appendix 4, Appendix 8, Section 690).

## **Question 3**

This question tested knowledge of the auto-enrolment rules and tax rules for non-UK pension plans and most candidates passed.

The auto-enrolment part was well answered with intelligent application of the rules to the scenario. No-one mentioned the prohibition against inducement to opt-out which was a surprise.

Requirement 2 was less well answered with a lot of candidates focusing on the Annual Allowance rules. Migrant Member Relief was generally well understood.

#### **Question 4**

This question tested candidates on the tax rules for the approved share schemes (CSOP and SAYE) and unapproved share options plus the associated employer reporting requirements.

The candidates' knowledge of share options was very good across the board which was reflected in the majority of candidates passing this question.

Candidates appeared particularly well drilled in how to answer this question with good exam technique making it easy to award marks.

Candidates were given recognition for sensible remarks on employer reporting.

#### **Question 5**

This question was designed to test candidates' knowledge on commonly seen relocation expenses and the issues that employers may face with providing these benefits. Candidates scored well on this question, generally correctly identifying the exemption available for relocation expenses and how the way that the benefit provision is structured will impact the tax, payroll and social security position.

The candidates who scored highly approached this carefully, analysing each benefit in turn to identify whether this can be provided free of tax, and if not, the implications of doing so.

Most candidates correctly identified that the Leeds office was a temporary workplace and the implications of this. Furthermore, most candidates did a good job in calculating the company car taxable value but including the leasing costs when identifying the total cost to employer.

Some candidates made a good effort in attempting to calculate the total cost to the employer on a grossed-up basis, taking income tax and the different classes of National Insurance. However, many candidates did not calculate Class 1 Secondary National Insurance which should have been included in the overall cost.

Although it was specified that the employer does not have a PAYE Settlement Agreement in place, many candidates ignored this and lost time and marks by advising on the basis that any tax would be settled via a PSA, referencing Class 1B NIC which was not relevant.

#### **Question 6**

This question was designed to test candidates' knowledge on tax equalised inbound assignees to the UK, and the ways in which employers can minimise the subsequent payroll reporting requirements.

Candidates generally scored well on this question, with most passing. These candidates took an analytical approach to identify the correct income/benefit sources which are liable to UK tax and then subsequently calculated the Income Tax on a grossed-up basis. Most candidates identified that the visa costs and flight provisions would not be taxable, although some did not give any rationale to explain why.

Many candidates neglected to deduct the hypothetical tax deducted by the employer when calculating the Income Tax equalisation cost for the employer. However, the attempts at calculating the correct grossed-up overall Income Tax due were generally good.

Candidates' knowledge of Appendix 6 arrangements was also generally good. However, the candidates that scored highly were more thorough in explaining additional points, such as the subsequent payroll submission requirements, Form P60 and P11D provision and whether tax can be paid on a quarterly basis. No candidates identified that there would need to be an adjustment to the Form P11D(b) to ensure that National Insurance was not calculated.

## **Inheritance Tax, Trusts and Estates**

### General comments

The paper produced very mixed results clearly distinguishing between candidates who had prepared well for the exam with a rounded grasp of tax matters from those who failed to do the 'homework'. Questions 1 and parts of 5 were generally well performed to secure more than 50% of the marks whilst questions 2,4 and 6 were poorly dealt with and question 3 achieved mixed results.

As an observation, it would be helpful for candidates to prepare calculations for consecutive years in columns; this will save them time as they will not need to replicate the structure of the computation three times over. Candidates should also take care to ensure that they address all parts of a question but only consider the question posed - long paragraphs of general description score no marks unless they directly answer the question. Finally, it must be said that the overall standard of spelling and grammar was poor. Although these are not specifically marked on this paper, candidates need to remember that markers need to be able to understand the point they are trying to make and also that in the real world, clients are going to be unimpressed if what they receive lacks proper care and attention to detail.

### Question 1

This was an Inheritance Tax (IHT) death estate calculation where some of the estate was left to charity. The first part of the question was well answered by most candidates but many struggled with the baseline calculation for the charitable donation. A significant number of candidates thought that ISAs are exempt from IHT and only a handful of candidates correctly calculated the residence nil rate band available. A surprising number of candidates did not deduct the charitable donation when calculating the tax due.

The second part of the question was poorly answered. Most candidates failed to state when the instalment option would be available and if interest would be payable, losing out on valuable marks. Most candidates did not state, or did not state correctly, who the tax was payable by despite this being a requirement of the question.

### Question 2

This question focused on the availability of IHT fall in value claims and the interaction with Capital Gains Tax (CGT) disposals. The question was very poorly answered by most candidates.

Some candidates performed extensive IHT calculations which were not required and for which no marks were available. Knowledge of the fall in value reliefs available was very poor with most candidates unable to identify that this relief is not available for a cash gift nor if sold to a connected party even the sale was at market value.

Most candidates did not state the basic requirements for claiming the reliefs merely stating fall in value relief would be available but with no further explanation of why. Very few candidates seemed aware of nor attempted to calculate the probate costs for the CGT disposals and many candidates did not adjust the base cost of assets where they had identified that a fall in value claim was available. Some candidates did not know how to calculate the base cost of shares where there was a bonus issue.

### Question 3

This question concerned an excluded property trust holding a UK property and a potential distribution to a UK resident beneficiary. Candidate performance was mixed with some well-prepared candidates performing very well.

Requirement 1 looked at the impact of having a UK property in the trust. A high number of candidates recognised that there was an IHT ten year charge due but did not perform the calculation. A significant number of others used the purchase price rather than the current value to perform the calculations. Most candidates could not correctly calculate the number of quarters for which the property was relevant property.

Requirement 2 was a calculation of the tax on distribution to the beneficiary but some candidates did not match the distribution to relevant income despite clear signposting. There was some confusion regarding losses in the stockpiled gains pools with some candidates carrying back losses which is not possible. Very few candidates correctly calculated the supplementary charges due.

### Question 4

This question concerned the taxation of an estate during the administration period and the tax impact of a Deed of Variation. It was answered very badly in the main and demonstrated that candidates' knowledge of the Income Tax treatment of estates and beneficiaries was hazy at best.

The main issue was that candidates seemed unable to adequately deal with the concept of a specific gift. Few were able to describe the effects of the specific gift and in particular, if and when, the income was taxed on Tabitha. There was a general failure to appreciate that the dividends belonged to Tabitha so that the estate expenses should not be set against these, but instead against residuary income.

The treatment of the estate income de-minimis rule was often missed for both the estate and beneficiary. Many candidates had no awareness of the informal procedures for simple estates and so lost valuable marks.

The second part was answered better though the now spouse exempt IPDI and its consequence was often missed. There was clearly some confusion around 18-25 trusts. Many were able to spot it though some identified it as a BMT but often candidates described its nature as a QIIP until age 18.

### Question 5

This question concerned the IHT treatment of lifetime gifts into a mix of trusts followed by the settlor's death and required the calculation of an exit charge for an appointment made for one of the trusts.

Overall candidates were able to explain the availability of BPR/APR and most recognized the situations where it would be withdrawn. Exceptions to this were the factory, where many candidates considered that as it was still in use by the company BPR would still be available on death and the unquoted shares where many candidates considered the BPR would be withdrawn because the nature of the business had changed.

Explaining the availability of the nil rate band (NRB) was poorly done by the majority of candidates, some of whom entirely ignored its existence. The clawback of BPR on the factory and the farmland and their contrasting effects on the NRB were barely mentioned.

The exit charge was attempted well by most candidates and barely any deducted BPR from the initial value which was pleasing. Not all candidates appreciated that the cash exit could be treated as made from the cash addition which led to some unnecessary and unusual blended rates and apportionments.

### Question 6

This question considered the IHT treatment of liabilities in the estate of a recently deemed domiciliary and the CGT treatment on the disposal of a UK property held in an offshore Trust.

The first part of this question was very poorly answered, making clear that many candidates had little understanding of the rules on the deduction of liabilities. Only two candidates were able to accurately deal with the position of borrowing used to purchase shares (later gifted away)/foreign property but secured against UK assets despite this being covered very clearly in the study material. Many candidates suggested that the liability would be set against the shares in the death estate, even though these had been disposed of prior to death.

The second part of the question was answered a little better and almost all candidates scored marks for identifying that the disposal was chargeable to NRCGT, private residence relief was available and that 60-day reporting applied. A range of dates were suggested for when UK residential property came within the NRCGT regime but many candidates were unable or simply failed to explain the different methods of calculating the gain. Fewer were able to rule out the retrospective method.

Only the strongest candidates mentioned that the pre-April 2015 gain entered the Trust gains pool.

## **Taxation of Larger Companies & Groups**

### General Comments

Performance on this paper was generally good, although the quality of the answers to question 6 (on hybrid entities and hybrid financial instruments) was mixed and many answers to the other questions displayed common gaps in candidates' knowledge of some points of detail. For example, although question 1's tax computation was generally prepared well by most candidates, there were common failings in relation to the correct treatment of pension contributions and overseas royalties and many candidates did not attempt tax provision calculations (or performed those calculations poorly).

Similarly, although candidates' answers to questions 2 and 3 generally displayed a good understanding of cross-border tax issues many candidates failed to identify that the gain in question 2, on the

incorporation of a foreign branch, could be postponed or that the deemed gain on land acquired after 5 April 2019, resulting from the corporate migration in question 3, was automatically postponed.

Although candidates displayed good knowledge of capital allowances in their answers to question 4 (albeit that a surprising number of candidates failed to correctly calculate time apportionment of the available structures and buildings allowance), many failed to consider the capital allowances position in their answers to question 5. Most candidates' answers to the latter question correctly explained the UK tax implications of several capital asset disposals (including of short lease sales and grants), but despite this many of those candidates went on to make surprising mistakes in calculating the resulting chargeable gains.

### Question 1

This question required a corporation tax liability calculation and associated current tax and deferred tax calculations.

The tax computation was prepared well, however only some candidates made reference to the outstanding corporation tax payment with others merely stating the quarterly instalment payments.

Common errors included spreading relief for pension contributions when this was not required, treating the long-funding lease as special rate expenditure (rather than an addition to the main pool) and including repair costs within qualifying R&D costs. Nearly all candidates failed to realise that that the royalties can be treated as one source of income and the foreign tax credits aggregated. However, credit was given for restricting the amount of credit to the UK tax on the same source of income. Credit was given to candidates who calculated double tax relief and deducted it from the corporation tax liability.

Most candidates failed to calculate the current tax charge and only a small number of candidates calculated the deferred tax charge, with reference only being made to the fixed asset timing differences without including short term timing differences. The candidates that attempted this part of the question typically only referred to the tax balances, rather than calculating the actual charges that arise. Credit was given for attempts to explain how the balances arose.

### Question 2

This question required the analysis of whether a permanent establishment arose in respect of various operational activities, and a description of the corporation tax implications of a UK resident company having an overseas permanent establishment.

Most candidates correctly identified that the activities of an independent agent do not give rise to permanent establishment and correctly identified the significance of preparatory and auxiliary activities. Candidates correctly identified that the performance of contract 1 gave rise to a permanent establishment, however very few candidates made reference to the anti-fragmentation rules.

Nearly all candidates correctly commented on the applicability of the election to exempt the profits of a foreign permanent establishment and provided sound recommendations regarding delaying the making of that election in order to utilise losses.

Only some candidates discussed other options, such as incorporation. Therefore, very few candidates noted how chargeable gains arising could be postponed and there was a common misconception amount candidates that incorporation would be available. However, credit was given to candidates who gave relevant commentary.

Some candidates may not have understood the requirements of the question, as they incorrectly referred to tax residence rather than permanent establishments. Another common error was to refer to a permanent establishment being a separate legal entity, which led to failures to differentiate between the two operational structures.

### Question 3

This question required candidates to describe on how a company's residence is determined for tax purposes, and the tax implications of a company changing its tax residence.

Some candidates explained how tax residence is determined, but with limited explanation of how this applied to a newly incorporated non-UK resident company. Nevertheless, most candidates provided commentary on how the company's assets should be treated on its migration and gained marks accordingly.

Common errors included failing to identify that the gain on the land is automatically postponed until it is disposed of (unless an election is made), incorrectly discussing derivative contracts and the disregard regulations, and failing to provide detail of the administrative requirements and payment options for the exit charges. In relation to the first of these errors, credit was given to candidates who stated this gain remained in the charge to tax.

### Question 4

This question explained that a new subsidiary had been set up to undertake development work and asked for details of the administration requirements relating to the incorporation of the company and its first period of account, followed by details of the tax relief available in respect of expenditure on the new factory and the options for relieving the losses and deficits arising.

Candidates spent a lot of time giving significant detail on areas such as tax payments which were not relevant to the scenario as losses arose in the period. The best candidates explained the issues directly arising from the incorporation of Cloverleaf and relevant to its accounting period. It was disappointing that a number of candidates correctly identified the relevant tax accounting periods but failed to appreciate that the filing deadline for tax returns for both periods was based on the period of account, hence 30 June 2027.

Candidates generally performed well on discussion of capital allowances although there was some confusion as to the timing of the relief for the instalment payments and very few candidates mentioned the possibility of R&D allowances. A surprising number of candidates noted that the relief for Structures and Buildings Allowances would only be available from 1 June 2026 but then restricted the relief to 1/9<sup>th</sup> of 3% per annum rather than 1/12<sup>th</sup>.

The quality of the discussion on loss relief varied with the better candidates working clearly through the options and applying these to the scenario.

### Question 5

This question detailed several property transactions and candidates were asked to explain the UK tax implications of these transactions.

The first transactions were the sale of a short lease and the grant of a short lease. Whilst many candidates answered these well, a number failed to appreciate that the short lease rules would apply based on the time left on the lease at the date of the transaction rather than the acquisition. There was also confusion as to which transaction needed to consider the capital and income elements as

well as the application of the part disposal formula. A surprising number of candidates correctly apportioned the proceeds of £50,000 between capital and income but then used the wrong figure in the CGT calculation. It was disappointing that a number of candidates failed to appreciate that indexation cannot increase a loss or did not set out the workings in a way to appreciate that this was what had occurred.

The final disposal detailed was the sale of a factory acquired as a result of an intra-group transfer. Whilst most stated that this would have been a no gain no loss transfer a surprising number then used the market value in the calculations.

It was disappointing that only a minority of candidates considered the capital allowances position and discussed the need for a joint election to determine the value to be attributable to the fixtures on the disposal, or indeed the acquisition of the new factory. There was no discussion of the impact of the agreed value on the associated capital allowances calculation. A number of candidates noted that capital allowances had been claimed on an element of the building refurbishment and some suggested that this value would be removed from the capital allowances pool rather than considering the basis on which a disposal value should be recognised. Many candidates also excluded this expenditure from the chargeable gain calculation, failing to appreciate that an adjustment would only have been necessary in the case of a chargeable loss.

Most candidates discussed the possibility of rollover or holdover relief and the best candidates clearly set out the requirements and options available to the group.

Only a minority of candidates considered the SDLT position and thus many missed out on the associated marks.

### Question 6

The question required candidates to explain what hybrid entities and hybrid financial instruments are and discuss how UK or comparable overseas legislation would counter the use of a hybrid entity in the scenario outlined as well as explaining the UK administrative requirements associated with hybrid mismatches.

The quality of the answers ranged significantly with the best candidates explaining the nature of hybrid entities succinctly and discussing the potential for deduction non-inclusion or double deduction mismatches. Other candidates suggested that simply operating in a lower tax jurisdiction would be enough to be considered as a hybrid and did not appear to appreciate the specific rules relating to mismatches instead giving a general discussion on anti-avoidance legislation.

## **Domestic Indirect Taxation**

### General comments

Candidates need to focus on their exam technique. Question 1 had some excellent answers but a number were over 1,300 words and it was clear that not enough time was then allocated to answering other questions. Obtaining the first few marks of a new question are easier than the last few marks of a previous question.

There are still too many candidates who do not read the requirements carefully. For example, in question 1, part 2, the answer required both IPT and VAT consequences. In a lot of cases, some only mentioned IPT, and therefore missed the VAT marks in this part of the question. Question 1 also

specifically asked candidates to not cover disaggregation of business activities. Despite this, some candidates spent over half a page to a page covering it, for no marks to be awarded.

Every sitting the examiners emphasise the need to read the paper carefully before deciding on the order of questions to answer, and it is important to re-read the requirement to ensure that answers only contain what is being asked.

Candidates also need to focus on answering the question set and not repeating information that is contained in the question. A number of candidates write half a page repeating what is happening before even starting to answer the question.

### Question 1

This question concerned a doctor who was looking to expand into the private sector. His wife was also looking to set up in business to give lectures on body confidence and mental health. Candidates had to consider whether they should be sole traders or set up a single limited company.

The question was generally well answered although there is still too much written on 'fringe' areas. For example, some candidates went into a page of detail about partial exemption, special methods and what the PE % would be. Credit is given for relevant points but marks will be capped where other key aspects of the question are not covered.

Candidates also spent time considering the 'self-employment v employment' criteria for Mrs Ibrahim and whether she would be an employee of the colleges. There was no suggestion in the question that she would be an employee.

It was surprising that a number of candidates did not refer to case law, as required, given the wealth of it in this area. Case names are not important but the principles need to be well-explained.

Credit will always be given for relevant points not in the marking guide eg pre reg expenses but irrelevant topics will not gain marks. For example, the FRS, abuse of law, and a fair number of candidates think that the recipient is important for the 'subject ordinarily taught in school' exemption to apply, so that supplying limited companies would not qualify.

### Question 2

This question concerned someone looking to transfer a number of residential properties to a limited company that they would own and the SDLT implications of two options, requiring candidates to advise on how the SDLT could be reduced.

It was pleasing to note that across the board this tax appeared to have been studied in greater detail than previous sittings. A number of answers were very good. Conversely, some answers were still very poor, where it was clear that little time had been given to studying SDLT.

It was surprising that 'linked transactions' were not covered in the majority of answers and where they were even though MDR has been abolished, a number still tried to claim it. Credit was given where candidates identified that MDR had gone and could not be claimed.

There were too many candidates thinking that there was contingent consideration/works done on the property that affected the value – but the current valuation included the planning permission and

there was no hint in the question that there was an agreement for works to be carried out with money going back to the vendor.

As in previous sittings, the weaker answers seemed to cover everything a candidate could think of, such as group relief (Thalli is an individual); the SLP partnership rules (no hint of a partnership in the question); exemptions for divorce (there was no transfer in consideration of this); acquisition relief and TOGCs for VAT.

Despite it being in the requirement, there were few suggestions for reducing SDLT. Those that did come up with ideas, were generally the answers that scored better marks overall and all relevant ideas gained credit.

### Question 3

This question concerned a College which had various income and expenditure streams and needed to understand errors it had made and how to correct them.

Easy marks were lost by a number of candidates not covering the ways that errors can be amended, and a number did not produce calculations. Once again, the question excluded certain topics, such as prior year adjustments, but still a number of candidates talked about them. This gained no marks. Many candidates made reference to Northumbria Healthcare and how it would apply for s33. A college is not a public body within s33.

All relevant conclusions on business v non business gained marks and different references to case law gain credit where they are well-reasoned. It is important to follow through analysis. Even if the conclusion is different to the model answer, follow through marks are always available. Therefore, if the conclusion is that something is non-business, then show that VAT recovery is not available and what the error is.

There were far too many candidates that mentioned 'income' from the staff for parking and how it was non-business. There is no income as the parking is given for free.

### Question 4

By reference to relevant caselaw, candidates were required to identify VAT reliefs pertaining to the demolition by an NHS Trust of its obsolete offices and laboratories, their replacement by en-suite rooms to house key Trust workers and, the incorporation of an existing listed building into the new residential accommodation, with the latter 5 times larger than the retained building.

The question called for consideration of the extent to which the residential building was an enlargement of an existing building given the ruling in *Astral Construction Ltd*, HMRC guidance issued thereafter, whether the new accommodation represented zero rated self-contained dwellings or, in the alternative, relevant residential accommodation ("RRP" accommodation), with the formation of the archive possibly zero rated on account of its relevant charitable purpose ("RCP").

The answers to this question were extremely poor, with most candidates failing to achieve the pass mark. In formulating the question, the examiner specifically checked that candidates' study manual commented on *Astral* and HMRC subsequent guidance. Accordingly, it was disappointing that this aspect was not well handled. That said, candidates showed a fair awareness of zero rating pertaining to "dwellings", but fell short in concluding that the proposed works either represented RRP accommodation for students (the facts given simply did not support this) or was an institution which

would be the sole or main residence of at least 90% of its residents (here candidates failed to consider whether the building qualified as an “institution”).

As an alternative to zero-rating, some candidates suggested that the works might qualify for the reduced rate as the conversion of a qualifying residential accommodation without following through this proposition. Unusually, a few candidates proceeded on the basis that the Trust would secure zero-rating on the grant of a major interest in a substantially reconstructed protected building, thereby enabling it to recover in full VAT incurred on the works. There was nothing in question that supported this analysis, so no credit was awarded.

Based on the ruling in *Wakefield College*, it was pleasing that some candidates identified that free access to the archive might secure zero-rating on the works.

#### Question 5

This question was concerned with whether HMRC’s officers might conclude, on the facts given, that the parties had sought to disaggregate the holiday letting/bed & breakfast business carried on by Amanda Brown since April 2022 from the adjoining farming enterprise operated by Amanda’s husband George Brown in partnership with his son and daughter in law.

Most candidates achieved more than half marks. However, the opportunity to secure appreciably better marks was missed where candidates limited themselves (or substantially so) to just one aspect that the question called for. Also, far too many candidates lost valuable time in considering the review and appeal processes. It was evident from question that such matters were irrelevant.

#### Question 6

Candidates were asked firstly, by reference to relevant cases, to discuss the VAT treatment of the transfer of Farm assets to Nancy and secondly, to explain the SDLT chargeable on the transactions and Nancy’s reporting requirements.

In general, many candidates handled this question reasonably well, but it was evident that some had left themselves insufficient time, consequently dropping marks.

The requirements relating to the transfer of a business as a going concern were familiar to candidates, but despite the requirement, very few referred to the leading cases. Commentary on the “same kind of business” and “going concern” requirements was notably absent.

In relation to the SDLT aspect, very few candidates identified that the transactions were linked. Allowing for this, the calculation of the SDLT chargeable was well handled, as were the reporting requirements and due date of payment of the tax. Some candidates (without justification given the facts) chose to refer to the current plethora of cases addressing whether land is or forms part of the garden or grounds of a dwelling for which no credit was awarded.

### **Cross Border and Environmental Taxes**

#### General

Whilst the point applies generally, in respect of the Environmental Taxes in particular, a number of candidates are still writing all they know on the tax regardless of how relevant it is to the question.

This will not gain marks and is simply wasting time. Candidates should ensure they address the specific requirements of the question. In a similar vein, simply repeating facts set out in the question will not gain marks.

On a more positive note, it was pleasing to see that there was less “hedging of bets” in this session. Whilst there may not always be a definitive conclusion to a question, an answer that reaches a conclusion based on a reasoned analysis is always going to score higher than one that says “it could be this, it could be that” and leaves a vague outcome.

### Question 1

This question explored the candidates’ understanding of landfill tax liabilities, including the difference between material dredged from watercourses and lakes. It also required knowledge of the Landfill Communities Trust and bad debt relief for landfill tax.

Very few candidates identified that material dredged from rivers or lakes might contain substantial amounts of liquid and addressed the rules for liquid waste.

Where candidates explained the bad debt rules, they tended to score all marks available. Overall, marks were around average, but with notable extremes.

### Question 2

This question explored the VAT rules for online marketplaces and place of establishment. Around half the marks were available for explaining the online marketplace rules. The other half were available for explaining place of establishment and why HMRC might have concerns about unregistered businesses potentially controlled from overseas but with minimal resources in the UK.

Whilst only worth one mark, it was disappointing how few candidates identified that books would be zero rated. It was also notable that many candidates ignored the concerns the HMRC officer had expressed.

Overall, the marks for this question were disappointing, but better for online marketplaces than place of establishment and the consequences.

### Question 3

This question focussed on the place of supply of services for VAT purposes and on potential exceptions to the basic rule. Marks were also available for considering place of establishment and whether the UK company might create a fixed establishment of the US Corporation. The enhanced services could be approached either based on the question of single/ multiple supplies or the nature of the contract and points were available whichever route the candidate took provided reasons were given for the approach.

Generally, candidates did reasonably well on this question. Some candidates did however leap straight to the answer, without explaining their analysis. Demonstrating an understanding of the technical position (as opposed to potentially guessing an outcome) is required for this paper.

### Question 4

This question principally tested Aggregates Levy (AGL). It concerned a building company that had four extractions and required a calculation, with explanations, of the AGL. Landfill Tax was also tested in relation to one of the extractions by the company.

A number of candidates spent time writing 'No Landfill Tax consequences' for the three extractions that did not go to a landfill site. Whilst correct, there are no marks available where it is obvious that a tax does not apply and wastes time that could be used to score marks elsewhere.

There were a number of excellent answers however, showing that this area of the syllabus had been studied and marks were available for all relevant comments made. Where a differing conclusion was reached, candidates obtained the follow-through calculation marks.

A number of candidates lost marks by not producing a calculation, which was specifically asked for in the requirement. Careful reading is needed.

Despite the rate of AGL being on the tax tables some still used incorrect rates (including the landfill tax rates instead).

#### Question 5

This question tested the candidates' understanding of the rules around who may be named on an import declaration.

There was general lack of knowledge in this area with common errors being that Incoterms determine who will be named on a declaration and when title passes. Several candidates thought that post-Brexit preference is only available on goods imported from the EU.

#### Question 6

This tested the candidates' understanding of Inward Processing and use of Prior Export Equivalence.

Marks were generally not that high as although many candidates were able to describe the basics of the relief and rules around authorisation, they were unable to calculate the potential saving. For example, a significant number did not understand that there is the option of declaring good to free circulation using the details relating to the imported components or the processed goods and several thought the exported goods would attract Customs Duty. Few seemed to properly understand Prior Export Equivalence.

## **APPLICATION AND PROFESSIONAL SKILLS**

### **Taxation of Owner Managed Businesses**

#### General comments

The scenario required candidates to consider the proposed acquisition of a restaurant business and how the acquisition should be structured. A majority of candidates addressed the two key issues of whether to acquire the shares or trade and assets of the target company and also what structure should be used to operate the business going forward.

However, it was noted that many candidates provided a large quantity of extraneous information in their answers, such as several pages on the extraction of profits from a company. This often included a detailed explanation of the benefits of dividends for Jo, whilst ignoring the fact that the business was expected to be loss-making for several years and unlikely to have distributable reserves to pay dividends.

At this level, candidates are expected to take account of the particular circumstances of the question and not to spend time covering areas that are not relevant to the requirement, even if they are areas which they may be comfortable with. In this paper, it was noted that candidates spent considerable time focusing on areas such as the tax implications of drawing a salary/ dividends/pensions from a company or including a detailed explanation of pension annual allowances and brought forward relief.

Candidates need to be aware that the pre-seen information is to provide a background on the file as might be found on a permanent file. Whilst it will contain information relevant to the question, candidates need to take care not to become totally focussed on any research that they may have done before the exam so that they include irrelevant material in their answer. As an example, the pre-seen information included the fact that Suvil had moved to the UK from India in 2001. Several candidates saw this as a reason to explain the operation of the remittance basis, which they had no doubt researched in advance but which was not directly relevant to the requirement.

#### Structure

The answers were largely well structured and followed a logical flow. Most candidates provided their advice, although this was sometimes difficult to discern from the executive summary. A minority of candidates continue to see the executive summary as the forum to list options rather than give solutions.

#### Identification and Application

##### *Maximising loss relief*

This was answered well by most candidates. The use of partnership/LLP losses was very strong. Most candidates addressed the possibility of loss carried forward restrictions in the target company in the event of a major change in the nature or conduct of the trade, but this was often taken too far and this resulted in incorrect conclusions being reached. In some cases, it was suggested that merely seeking to making the business profitable could itself be seen as a major change which would forfeit the carry forward of losses.

##### *Capital gain on sale*

Very few candidates identified the possibility of investor relief being available. Those who did comment on this did not demonstrate a good understanding of the rules and advise accordingly.

### *Tax relief for investors*

The main weakness here was in stating that EIS income tax relief would be available to Fran. There were several reasons why this could not be applicable, not least the fact that the funds were being used to acquire an existing business.

Whilst income tax relief was not available, many candidates did however identify that a capital gains tax deferral was available. However, the tax implications on the subsequent disposal of the shares was often not considered or highlighted.

### *Tax relief for acquired assets*

This was not answered well. Many candidates missed the possibility of a capital allowances claim under s198 CAA 2001. When this was mentioned, candidates tended to not raise the point that the vendor in this case would most likely not be too concerned about a high value as they had substantially losses to utilise.

A number of candidates incorrectly suggested that there would be tax relief for the amortisation of the acquired goodwill.

### Relevant Advice and Substantiated Recommendations

#### *Acquisition of RS Ltd*

The majority of candidates made a good argument for the acquisition of trade and assets whilst highlighting the pros and cons of a share sale.

A material number of candidates raised the possibility of a Hive-down by RS Ltd without any real understanding of the implications including exit charges, loss restrictions etc.

#### *Operating structure*

A good argument could be made for either a limited company or an LLP. No candidate was penalised for making a case that did not agree with the model answer.

Marks would have been lost on the “commercial and wider advice” elements where candidates argued for a general partnership. However, they often did not consider how it would be difficult to argue that a slight difference in loss relief restrictions would justify the financial risk of a general partnership.

A lot of time was wasted on detailed explanations of the salaried partner anti-avoidance rules for an LLP. Whilst it would be worthwhile mentioning, it was highly unlikely that this could be relevant for any of the participators under the structure proposed. Candidates who spent considerable time on the anti-avoidance rules might have found that they were unable to sufficiently cover other areas that were more directly relevant to the requirement.

#### *Funding by share capital or loans*

The basics were addressed well, but only one candidate identified the different loss relief provisions of equity or loans in the event of a failure of the business.

Candidates often did not consider how interest paid to Fran on her loan to the business would not be a tax deductible expense for a partnership or LLP, but would instead be a part of her profit allocation.

## **Taxation of Individuals**

### General Comments

The question sought the tax implications of transactions relating to a divorce between two individuals including a purchase of own shares, the split of the marital home, gifting of a commercial property and a proposed new employment.

Overall, the candidates showed good skills in identifying the relevant issues although lack of technical knowledge hampered the advice and recommendations in many cases. The question was answered reasonably well although it was perhaps disappointing that some basic technical issues were overlooked. Whilst this is not a paper which is explicitly testing technical knowledge, it is difficult to write a good report without that basic grounding.

### Structure

Reports were laid out well in most cases, with separate sections to cover each area being considered.

Most included the necessary executive summary although some of those were very long. It is also useful to include the conclusions and recommendations in the main body of the report as well as in the executive summary and not to put new technical points into the executive summary which are not included elsewhere.

### Identification and Application

#### *Treatment of purchase of own shares*

Very few candidates identified that there were company law issues to be addressed in relation to the POS and, in particular, that you could not use the property to 'pay' for the shares in a POS. For those who realised there was an issue with the property, some stated that the element of the consideration reflected by the property would be an income distribution and some stated that no gain would arise on this part of the consideration, with the gain being rolled over into the base cost of the property.

Most candidates identified that Business Assets Disposal Relief would be available with some picking up the possible restriction on the BADR due to the property. One common error was to state that if the property was sold before the POS, the relief would then be available, forgetting the two year qualifying period. The majority of candidates realised that there was a timing issue with BADR, in that the shares had to be repurchased before Jo resigned as a director.

#### *Tax treatment on disposal of marital home*

This section was not well answered as there were a number of options to be considered, with many candidates getting muddled about the differences between each. Terminology was used very interchangeably with 'deferred sale agreement' meaning different transactions to different candidates.

Many candidates asserted that Jo could simply continue to treat the marital home as her main residence as she had not purchased another property and since this is a possibility linked to her separation from her husband, it was unclear as to whether this was a misunderstanding or just a poorly

explained attempt at articulating the possibility. It was felt that in this section, the lack of understanding of the basics of PRR hindered the coherence of some of the answers.

#### *Tax treatment of transfer of business premises*

Most candidates identified gift relief was a possibility although the fact this had to be done before the POS was overlooked by a significant number. Candidates also struggled with how payment of consideration would affect the calculation and a significant number restricted the gift relief due to the rental property in the company, which was not relevant.

#### *New job*

Most candidates made an attempt to calculate the difference between the tax cost of a company car vs a car allowance.

A significant number of candidates identified the possibility of an issue with IR35 if a personal service company was used although explanations of whether it would apply were less comprehensive. Some got confused and talked about employment vs self-employment (including references to Class 4 NICs on profit) rather than thinking about IR35.

#### Relevant Advice and Substantiated Recommendations

##### *Purchase of own shares*

This section was marked by ignoring the consequential errors of not identifying the company law issue with the property. Most candidates concluded that capital treatment would be available for the POS and that BADR should be claimed. Good candidates identified that clearance should be sought from HMRC and that BADR was sensitive to the timing of the transactions.

##### *Disposal of main residence*

There were a number of options to be considered and many candidates got lost in the detail of this so that the conclusions were not well argued. Due to this, some of the conclusions were not well justified or logical with regard to the preceding narrative. Good candidates identified the different options with the tax impact of each. Credit was given for a well-argued conclusion even if it differed from the model answer. However, many candidates gave conclusions which were not well reasoned and it is important that recommendations are substantiated.

##### *Gift of property*

Most candidates identified the benefit of mitigating the initial tax liability by claiming gift relief and explained the process for the claim well. Also, most identified that BADR was not available due to the rent paid on the property. Good candidates gave a well argued analysis of the impact of consideration being paid by the children but this section was not typically well answered, with many just ignoring the possibility, even though it was mentioned in the question.

##### *New job*

Most candidates came to a conclusion regarding the car and were not penalised if they had a different conclusion from the model answer if this was justified, which in most cases it was. The IR35 point meant that all who identified this as an issue concluded that Jo should become an employee.

## **Inheritance Tax, Trusts & Estates**

### General Comments

The question asked for a report to be made to the trustees of a discretionary trust and one of the trustees, Margie Briggs, in her personal capacity. The question centred around a discretionary trust (the Trust) and the best way to benefit to the two main beneficiaries, Rose and Lily. Rose was to receive cash from the Trust and the trustees required advice around the timing of the distribution. The second part of the question focused on whether Lily should receive shares in Beechcroft Ltd, the family business (from the Trust) or, alternatively, shares in KA Motors Ltd, from Margie (Lily and Rose's mother).

The impact of the timing of the cash distribution to Rose was particularly significant as it could take place any time in the next few months, before or after the Trust's first ten-year anniversary on 15 February 2026. Therefore, the question required the candidates to prepare comparative calculations and identify that although a distribution in November 2025 would result in a lower ten-year anniversary inheritance tax (IHT) charge, the absence of an IHT exit charge on a distribution immediately following the anniversary would give a lower overall IHT liability. As the Trust contained shares a hybrid property development and rental business (Beechcroft Ltd), it was necessary to review the company's financial information, advise on the availability of business property relief (BPR) and the impact on the relevant property charges. Most candidates were able to do this to a reasonable standard.

The second part of the question required the candidates to recommend either a distribution of shares in Beechcroft Ltd from the Trust or an outright gift of shares in another unquoted trading company, KA Motors Ltd, which had passed to Margie on the death of her husband, Owen, less than two years ago. Both transfers could benefit from CGT holdover relief and immediate IHT BPR, but further consideration needed to be given to the IHT benefit for Margie's estate and the best use of the BPR available on both assets longer term. The advice given in relation to this part of the question was more varied, with stronger candidates correctly identifying the clawback provisions for BPR in relation to a gift of shares from Margie, and the benefit of a deed of variation to address this concern.

### Structure

All candidates produced answers with an appropriate report structure. Almost all papers included a suitable introduction and executive summary, an overview of the Trust's structure and calculations in the appendices. Some answers included unnecessary information, such as calculations of tax on creation of the Trust in 2016 and its income tax treatment. Some candidates included detailed advice for Margie on lifetime gifting and the residence nil rate band which was not directly relevant to the question.

### Identification and Application

*Identify the IHT and CGT implications of a cash distribution in November 2024 and calculate the IHT liability.*

This part was generally answered well, with many candidates correctly calculating the IHT liability on a distribution of cash before the ten-year anniversary. Several candidates were able to explain the Trust's IHT treatment in a clear and accessible way. Many answers noted that the initial value of the Trust would not be reduced by the value of assets qualifying for BPR.

*Identify that a charge to IHT will occur on the Trust's ten-year anniversary and that it will be based on the value of assets in the Trust net of BPR or APR. Identify the availability of BPR for the Beechcroft Ltd shares in the Trust.*

Most candidates identified that the Trust's first ten-year charge would arise on 15 February 2026 and that therefore the advice in relation to the distribution would need to consider the impact on the ten-year anniversary charge. The analysis of the company's activities for BPR purposes was mixed, although many provided a thorough review of the financial information and concluded that BPR was likely to be available in full. Stronger candidates discussed the information provided for turnover, capital and time-spent by employees, emphasising the need to consider the overall context of the business, and noting any gaps in information that could affect the BPR treatment and HMRC's approach. A small number of candidates incorrectly concluded that the rental arm of the business would be denied relief as an excepted asset.

*Calculate the IHT liability on the 10 year anniversary both before and after the proposed cash distribution. Identify the IHT implications of a distribution in the first three months following a ten-year anniversary.*

Candidates found this part of the question more challenging, with some ignoring the impact on the ten-year anniversary charges altogether, and others only calculating one 10 year anniversary charge only. Many candidates demonstrated an understanding how BPR affects a distribution before and after the 10 year anniversary, and how the reduction of cash in the Trust as a result of a distribution in November would give a lower 10 year anniversary charge, but this benefit would be outweighed by eliminating an exit charge altogether if distributing in March 2026. The highest marks were given to those who explained these issues clearly in the main part of the report, as well as reflecting them correctly in the calculations.

*Identify the IHT and CGT implications of an appointment of Beechcroft Ltd shares to Lily including the availability of IHT BPR and CGT holdover relief under s.260 TCGA 1992 on the assets where there is an immediate charge to IHT. Calculate the CGT liability and identify the implications of a holdover claim.*

This part of the question was answered well by most candidates, with those who had provided a competent analysis of Beechcroft Ltd's BPR status going on to correctly identify the IHT relief available on a distribution from the Trust. The availability of CGT holdover relief appeared to be well understood, although weaker candidates spent time discussing the potential availability of section 165 TCGA 1992, which was not necessary as holdover under s.260 TCGA 1992 was available.

*Identify the IHT and CGT treatment of a transfer of the shares in KA Motors Ltd, including the availability of CGT relief under section 165 TCGA 1992 and IHT BPR. Identify the implications of Margie's death within seven years of the gift.*

Nearly all the candidates identified that a transfer from Margie would be a PET for IHT purposes, with a significant number going on to explain the PET would be reduced to nil by 100% BPR, which would be available as the shares were unquoted and the company was trading, with Margie's ownership period being aggregated with Owen's to achieve the required two year period. The potential IHT treatment of the gift on Margie's death within seven years was answered very well by a small number of candidates, who were able to identify that either a sale (with no reinvestment in BPR assets) in five years, or the shares becoming listed would result in clawback of BPR. Stronger candidates noted the impact on the nil rate band and transferable nil rate band available. Many candidates correctly

explained the CGT implications, calculated the CGT liability and explained the availability of holdover relief as the shares were qualifying business assets.

*Identify the possibility of varying the estate of Owen Briggs with retrospective IHT and CGT treatment and explain the implications of such a variation.*

Most candidates answered this part of the question well. The majority correctly identified that less than two years had passed since Owen's death and therefore a transfer from Margie could be treated for IHT and CGT purposes as having been made directly from Owen's estate. Unfortunately, a small number of those candidates incorrectly advised against making a deed of variation as it would result in an IHT liability for Owen's estate.

#### Relevant Advice and Substantiated Recommendations

*Advice and recommendations on whether to make a cash distribution from the Trust to Rose immediately or whether to wait until March after the Trust's ten-year anniversary.*

Many candidates correctly calculated the overall IHT in both scenarios and were able to recommend that a distribution was delayed until after the first ten-year anniversary. Even where errors were made resulting in a recommendation for an early distribution, candidates were able to pick up marks for providing substantiated advice and recommendations both in relation to the timing of the distribution and the BPR treatment of Beechcroft Ltd. Overall this part of the question was answered well by most candidates.

*Advice and recommendations on which of KA Motors Ltd and Beechcroft Ltd to transfer from Margie/distribute from the Trust from an immediate tax perspective.*

Most candidates were able to weigh up the immediate IHT and CGT implications of either transfer, with many noting that the transfer of the shares in Beechcroft Ltd resulted in a higher CGT liability or lower base cost for Lily if CGT holdover relief was claimed. Many candidates provided clear advice on the IHT implications of Margie's death within seven years of a gift, and the added risk given Lily's plans to sell the shares she received in the next few years. These considerations were successfully weighed against the potential IHT benefit to Margie's estate and the benefit of taper relief if clawback it occur, although most candidates correctly noted that neither transfer needed to result in an immediate tax liability and so in that respect they were both attractive options. Many candidates correctly explained the requirements for holdover relief and the time limits for a claim to be made.

*Advice and recommendations on which of the shareholdings KA Motors Ltd and Beechcroft Ltd to transfer from Margie/distribute from the Trust based on longer term tax implications.*

Many answers successfully considered the longer-term implications of a gift from Margie and the use of a deed of variation. The benefit or retaining assets most likely to attract IHT relief needed to be considered, along with the IHT benefit to removing assets from Margie's estate with no risk of clawback of relief on her death within seven years. The strongest candidates were able to discuss these elements and reach the conclusion that a deed of variation with retrospective CGT and IHT treatment was the most desirable option from a tax perspective. A few candidates noted that a statement under section 62 TCGA would ultimately give the same outcome as a holdover relief claim but avoid the additional paperwork.

## Taxation of Large Companies and Groups

### General comments

The question set a scenario whereby a privately owned cosmetics group sought tax advice on expanding into a new product market. Two alternative locations – the UK and a fictitious country, Zevmark – were proposed for developing the new product, including a patentable active ingredient. Two alternative business models were also proposed for manufacturing and marketing the new product: licensing the product to third parties to manufacture and distribute (which was the group's traditional approach) or acquiring a third party company to bring manufacturing of the product in-house. Candidates were required to write a report to the Board of the group from an independent firm of tax advisers, advising on the tax implications of the different choices of business model and development location, and commenting on the likelihood of the new arrangements being challenged by tax authorities (and how that risk might be mitigated).

The question identified the principal issues to be addressed (i.e. choice of location and choice of business model) and noted the need to consider the tax reliefs and incentives that might be available. Otherwise, candidates were required to identify the specific tax issues arising from those choices, including the relevance of R&D credits and Patent Box to developing the product in the UK, the applicability of transfer pricing to the integrated business model, the potential relevance of Pillar Two top-up taxes and various wider tax and commercial issues.

Candidates were explicitly told not to advise on the options for funding the new venture.

Nearly all candidates addressed the two main choices identified in the question. Most addressed all of the most significant specific tax issues described above, although in varying levels of detail, with a substantial number of candidates addressing one or two of those issues thoroughly and the others only in overview. Nearly all candidates addressed several wider issues, although only a minority addressed most of the range of issues covered in the model answer.

Some candidates commented on issues that, while technically relevant to the scenario, were not in issue given the facts provided in the question (for example, a minority of candidates commented in detail on the residence position of the acquired company, Estcon BV). This was not penalised however candidates will have lost time that could have been used to comment on other issues.

Only a minority of candidates commented on the commercial and legal issues arising from the proposal, and very few identified that there might be reputational risks to operating in a low-tax jurisdiction.

Most candidates earned credit for providing recommendations and supporting reasoning, however many candidates could have earned greater credit had they not omitted to address material issues to the scenario (or addressed those issues more thoroughly).

### Structure

Most candidates produced a report in a suitable format including an introduction, executive summary and main body with appropriate sections and headings. Most candidates provided clear recommendations together with a summary of the supporting reasoning in the executive summary. Some candidates' executive summaries were overly brief and did not provide a sense of the pros and cons of the options under consideration. Some other candidates wrote extensive executive summaries that were not clearly differentiated in terms of detail from the main body of the report. Both

approaches were penalised in the structure aspect of the marking (although few candidates scored a “fail” in relation to structure).

### Identification and Application

Many candidates identified all of the main issues discussed in the model answer, although in many cases one or more issues were addressed only in overview.

#### *RDEC and Patent Box in relation to UK product development*

Generally, candidates dealt with this issue well, with a significant majority identifying the relevance and implications of RDEC and a smaller number also identifying the relevance of Patent Box.

There was relatively little to comment on in relation to developing the product in Zevmark which had a 0% tax rate. However, many candidates erroneously commented that this effectively meant the treatment in Zevmark was less favourable than that in the UK given that expenditure was relieved in the UK at an effective rate of 25% (ignoring the fact that the taxation of income is also highly relevant, and more favourable in Zevmark).

#### *Transfer pricing under each potential business model*

Most candidates identified the relevance of transfer pricing, although many did not explicitly state that it was a complication that was only relevant to the integrated business model.

Many candidates only addressed transfer pricing in overview and did not go further and comment on (for example) pricing approaches or options for reducing uncertainty. Where candidates did address those points they earned credit even if their answers were not as technically detailed as the model answer.

Many candidates did not explicitly observe that, under the integrated model, Estcon BV should pay a license fee to the product developer, and instead commented on transfer pricing in more abstract terms.

#### *MTT and DTT: effect of business model choice on domestic position in UK and Zevmark*

Most candidates noted that MTT would apply if the group met the €750 million revenue threshold and explained the consequences in terms of having to pay a top-up tax to reach a 15% effective tax rate in each jurisdiction. Relatively few candidates noted that DTT would also apply to the group’s UK profits.

Many candidates that had noted the relevance of MTT either did not go on to estimate the potential impact on the group’s tax position or did so only in broad descriptive terms without quantification. The latter approach earned limited credit.

#### *Other tax issues (WHT, CFC/DPT, VAT, reporting)*

Candidates generally identified and made reasoned comments in relation to several wider tax or commercial issues, although few commented on the full range of issues noted in the model answer.

Withholding taxes, the potential application of the UK’s CFC rules and DPT and reporting burdens were the issues most commonly spotted. Few candidates commented on the application of VAT to the

cross-border payments in the scenario, and few noted the reputational risk to operating in a low tax jurisdiction.

### Advice and Recommendations

Nearly all candidates gave specific recommendations on the two main choices identified in the question, although in many cases the supporting reasoning was incomplete or took account of only some relevant issues.

#### *Tax and other implications of the choice of location*

This aspect was generally well answered, with candidates contrasting the 0% tax rate in Zevmark with the UK's higher tax rate but generous incentives and providing a reasoned recommendation. Many candidates correctly identified that the potential threats to the low effective tax rate in Zevmark (including CFC rules and, under the integrated model, Pillar Two).

#### *Tax and other implications of the choice of business model*

The choice of business model had several important consequences, including the integrated model bringing the group into transfer pricing, Pillar Two and various reporting regimes such as CbCR. Most candidates dealt with some of these points thoroughly, but many omitted one or more points which limited the credit available for the reasoning supporting their recommendations. Many candidates commented on the implications of these issues generally but did not contrast the available options (for example, only a minority observed that the licensing business model had the advantage of simplicity and lower administration burdens).

#### *Wider issues*

Candidates typically identified several wider issues and appropriately included them in their recommendations (including commenting on how they might be addressed). However, most candidates only addressed a few wider issues which limited the credit available to them. The issues most frequently addressed were those relating to direct taxes, with VAT on cross-border payments and the legal, commercial and reputational issues only addressed by a minority of candidates.

## **VAT and Other Indirect Taxes**

### General Comments

The question required candidates to prepare a report for the Board of Sangaveera Courses Ltd ("SCL"), a provider of educational courses to students at UK colleges.

The question required a comparison between two options for the restructuring of SCL's language course offerings:

- Option A envisaged SCL buying in the teaching services from external providers but continuing to provide courses to students itself. VAT, Employment Taxes (including IR35) and CT were the relevant tax considerations.
- Option B envisaged SCL arranging for external teachers to provide the courses directly to students, with SCL taking a commission. VAT, Employment Taxes and CT were relevant.

Candidates also needed to:

- Identify a historic VAT overpayment by SCL and advise the client on making a claim for repayment.
- Identify the VAT liability and place of supply rules for other supplies either already being made or contemplated by SCL, including property letting, course material and webinars.

Overall, the historic VAT repayment claim was well-addressed, and a high standard of advice provided. The VAT implications of the other supplies by SCL were reasonably well-identified. However, in the comparison of the Options, most candidates failed to appreciate that Option B would give rise to a significant irrecoverable VAT cost for teachers which could not be passed on to students and therefore made the Option commercially unviable. The standard of comments on the Employment Taxes and CT aspects of the Options was uneven, with only a handful of candidates identifying the IR35 implications of Option A. Very few candidates went on to consider the wider employment law risks surrounding staff terminations and to propose a realistic alternative to Options A and B.

### Structure

Reports were well-structured with a helpful Executive Summary and a clear layout with headings. Style, flow and format were generally unproblematic though relatively few candidates included a conclusion summarising their findings and recommendations.

### Identification and Application

#### *Historic Overpayment of VAT by SCL*

All candidates correctly identified that SCL had made historic overpayments of VAT on its Teaching of English as a Foreign Language ('TEFL') courses, which it should have treated as exempt, and that a repayment claim could be made to HMRC.

The vast majority of candidates went on to apply the relevant rules governing repayment claims: time limits and the need to adjust historic input tax recovery were well-handled. Many candidates also identified that HMRC might raise the 'unjust enrichment' defence and commented appropriately as to how this might apply to SCL's situation.

#### *VAT Treatment and Place of Supply Rules for Supplies by SCL*

Most candidates correctly identified that letting of surplus classroom space would be exempt subject to an option to tax. The application comments were generally of a good standard, covering the effect of the option on VAT recovery, though the need to consider the impact on VAT-averse tenants was less often mentioned.

The comments on webinars were mixed, with a significant number of candidates incorrectly treating these as electronically-supplied services despite there being support from a live teacher. Place of supply rules were generally correctly applied and credit was given for this aspect irrespective of whether the supply had been correctly classified.

The majority of candidates correctly identified that the VAT liability of the printed course material depended on whether it was supplied as an optional extra for a separate charge, or as part of a single composite supply of a course. No candidate went on to consider the advanced point concerning how the separate supply of material under Option B might lead to an anti-avoidance challenge by HMRC (if OLC material were to be supplied by SCL and the course by the teachers).

Most candidates correctly identified the impact of the above supplies on SCL's VAT recovery and the potential for SCL to use a partial exemption special method ('PESM').

#### *Option A: VAT*

Most candidates correctly identified that SCL would continue to act as principal and that its supplies of TEFL courses to students would be exempt.

Several candidates recognised that this would help SCL to price its TEFL courses more competitively while preserving its margin, although the connection between the pricing, margin and HMRC's potential 'unjust enrichment' defence to the historic repayment claim was generally not well-elucidated.

The VAT implications of the OLCs were not well-appreciated by the majority of candidates. Some candidates failed to discuss the OLCs at all: most responses recognised that the OLCs would be taxable, but only a handful of candidates mentioned the potential applicability of the personal tuition exemption where supplied by an individual teacher, and the implications of the OLCs for the VAT registration position of teachers/PSCs were frequently overlooked.

#### *Option A: Employment Taxes & Corporation Tax*

The standard of responses was uneven, with a significant number of candidates omitting to mention one of the two main non-VAT tax areas. This weakened the overall standard even where there was good coverage of individual topics.

For Employment Taxes, candidates generally identified that there was a risk that teachers would be reclassified as employees of SCL, specified the key tests for determining employment status, and recognised the implications for the desired NIC savings. Very few candidates considered the IR35 implications for teachers operating through PSCs and the impact of SCL being a small company.

Relatively few candidates provided detailed comments on Corporation Tax, though candidates typically identified that SCL's profits would be subject to CT and that the teachers' fees would be deductible expenses.

#### *Option B: VAT*

The consideration of the VAT implications of Option B was the weakest area overall, as a fundamental issue was either not recognised or at least not fully considered by all but a small minority of candidates.

Most candidates identified that there would be a change in the contractual framework such that SCL became an agent making a taxable supply of services to the teachers. However, fewer candidates recognised that this would create a substantial irrecoverable VAT cost for teachers in respect of their exempt supplies of TEFL courses. An even smaller number of candidates recognised that this made the structure unviable as there was no way to pass on this VAT cost to students, given the commercial pricing pressure, nor to teachers without reducing their income to unacceptable levels. Likewise, only a very small number of candidates recognised that the VAT outcome might be different with the taxable OLCs, depending on the fees charged, the number of teachers and their VAT registration status. There was a general omission to engage with the financial information and to make calculations, which probably hindered candidates in recognising and exploring these implications.

A minority of candidates identified the risk of an HMRC avoidance challenge based on an argument that the supplies effectively continued to be made by SCL.

#### *Option B: Employment Taxes & Corporation Tax*

Again, a significant number of candidates omitted to mention one of the two main non-VAT tax areas.

Some candidates who identified the key Employment Taxes issues on Option A omitted to mention this area in relation to Option B, while others implicitly assigned the same level of risk to both Options.

It was only a small number of candidates clearly identified that Option B carried a lower risk of challenge to the employment status of the teachers.

Those candidates who mentioned Corporation Tax typically identified that SCL would be liable to CT on the commissions received, less allowable deductions.

### Relevant Advice and Substantiated Recommendations

#### *VAT Claim*

All candidates advised the client on the opportunity to make a VAT reclaim of the VAT historically accounted for on TEFL courses. This was well-handled by candidates, with most responses covering all the key considerations in the advice provided (statute of limitations, impact on input VAT recovery, procedural aspects). The strongest candidates went a step further and used the financial information provided to estimate the degree of input tax adjustment required or commented on the CT treatment of the VAT refund.

Most candidates commented on the potential for HMRC to raise an 'unjust enrichment' defence, though responses were generally weaker when it came to commercial and wider recommendations including evidence-gathering to support a response to such a defence.

#### *VAT Liability of Other Supplies by SCL*

The advice given in relation to the VAT liability of other supplies was of a reasonable standard overall. Most candidates provided the client with a clear explanation of the implications of opting to tax surplus classroom space, though many were too quick to jump to a recommendation without considering the commercial impact on future lettings/tenants.

Most candidates provided competent advice on the zero-rating of course material where supplied separately from courses, although this was often considered in isolation from the different contractual setups under Options A and B, which may have hindered candidates recognising the potential for an avoidance challenge in relation to taxable OLCs under Option B.

VAT recovery advice was generally well-handled with most candidates reflecting the potential advantages of a PESM in their advice.

#### *Comparison of Options from a VAT Perspective*

The advice on the most beneficial Option from a VAT perspective tended to focus overly on SCL's VAT recovery position without due consideration of the teachers' position. Although the teachers are not recipients of the advice, the significant irrecoverable VAT cost arising under Option B presents a commercial obstacle which makes that Option unviable. As such, this was a fundamental point and the widespread omission to recognise this is reflected in the disappointing scoring for this section.

The degree to which candidates engaged with the financial information varied, but the majority of candidates provided at least some calculations to support the advice, either within the text of the report or in an Appendix.

#### *Comparison of Options from a Non-VAT Risk Perspective*

Candidates' comparison of the Options from a non-VAT perspective was often less clearly structured than the VAT comparison and, as reflected in the Identification & Application comments, often lacked consideration of a key area. Candidates who provided otherwise good assessments of the Employment Taxes or CT considerations sometimes failed to link these comments to a specific Option, which reduced the overall effectiveness of the advice.

Comments on non-tax considerations such as employment law and redundancy risks were relatively rare. Very few candidates used their conclusions about the employment-related risks and costs within the two given Options to propose an alternative option of continued employment for the teachers.