



The Chartered Tax Adviser Examination

May 2019

Application and Professional Skills

Taxation of Individuals

TIME ALLOWED – 3 ¼ HOURS

- The first 15 minutes is designated as reading time. During this time you may read your question paper and legislation, annotate your question paper and use your calculator. You are not permitted to start writing your answer. The Presiding Officer will inform you when you can start writing.
- In order to secure a pass in this paper, you will be required to demonstrate competence in each of three skills.

You will be assessed across your answer as a whole for Structure. A pass or fail grade will be awarded.

You will be assessed for competence in a number of broad topics for the following skills:

- Identification and Application
- Relevant Advice and Substantiated Conclusions

For each topic for each of these two skills, a grade will be awarded. The grades for those topics will be weighted and averaged to produce a final grade for each skill of 0, 1, 2, 3 or 4. A grade of 3 or 4 is required to demonstrate competence.

- Write on one side of the paper only. Do not write in the margins.
- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.
- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should tick the appropriate box on the cover sheet.
- Scots Law candidates may provide answers referring to Land and Buildings Transaction Tax rather than Stamp Duty Land Tax.
- Unless otherwise indicated by the provision of additional table information, you may assume that 2018/19 rates and allowances continue to apply for 2019/20 and future years. Candidates referring to actual or pending rates and allowances for 2019/20 and future years will not be penalised.

You are a tax senior in a firm of Chartered Tax Advisers. Your tax partner, Harry Bales, has recently received an email (**EXHIBIT A**) from Mick Gruber, who has been a client of your firm for five years.

Mick has separated from his wife, Josie, who is not a client of your firm. Mick would like advice relating to some transactions which may arise as a result of the separation and divorce.

Harry has asked you to review the email and prepare a draft report to Mick addressing the points raised.

You have telephoned Mick and confirmed that the list of assets in your file (**EXHIBIT C**) is up to date and that he currently receives no income from overseas (and has not done so since his arrival in the UK). You have also confirmed that all of his employment income has been subject to PAYE in the UK.

The following exhibits are provided to assist you:

EXHIBIT A: Email from Mick Gruber to Harry Bales

EXHIBIT B: Extract from Double Tax Agreement between the UK and Ruritania

EXHIBIT C: Pre-seen information

Requirement:

Prepare a draft report to Mick Gruber, for review by Harry, providing advice as requested in Mick's email.

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EXHIBIT A

Email from Mick Gruber to Harry Bales

To: Harry Bales
From: Mick Gruber
Date: 21 April 2019
Subject: Divorce

Dear Harry

I am writing to let you know that I separated from Josie on 3 January 2019, and we will be divorcing later this year. As you can imagine, there have been several changes in my circumstances as a result, and I would appreciate your advice in order to keep my tax liabilities down.

I moved out of Larkview when we separated and moved into a rented flat. As part of the divorce, I will be transferring my interest in Larkview to Josie as well as further assets or cash with a total value of £1.5 million. The transfers need to be made before the divorce can be finalised, so I would like them to take place as soon as possible. You will know that we jointly own two rental properties: I am not sure whether we will attempt to untangle our joint ownership or continue to own the properties jointly.

I have been paying Josie maintenance of £10,000 per month since we separated and expect to continue to pay at this level for the foreseeable future. Additionally, I estimate that I will need £100,000 per year in the UK to pay for my own living expenses.

Given our separation, I have accepted a full-time job in Ruritania, starting in November 2019 once I have worked my notice period with my current employer. My new employer is a Ruritanian company with no presence in the UK. My salary will be £700,000 per annum and tax will be deducted from it in Ruritania at a flat rate of 25%. In case it is relevant, investment income is taxed in Ruritania at a flat rate of 20% and capital gains are taxed at a flat rate of 15%. My accountant in Ruritania has informed me that, under Ruritania's tax rules, my employment in Ruritania will cause me to become tax resident there, but only if I lose my UK tax residence.

I will be renting a home in Ruritania, and will also retain my rented flat in the UK. I will return to the UK at weekends (for two nights each week) and for part of my holidays (I will get four weeks holiday a year). Once Alfie starts full-time school in September 2021, I am likely to reduce this.

Please can you let me have your thoughts on the tax implications of all of this and let me know how I can reduce my tax liabilities moving forward.

I look forward to hearing from you soon, as I am keen to get the divorce finalised as quickly as possible.

Yours sincerely

Mick Gruber

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EXHIBIT B

Extract from Double Tax Agreement between the UK and Ruritania

RESIDENCE

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his residence.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall remain that of the State in which he was already resident prior to becoming a resident of both Contracting States.

DIVIDENDS

- (a) Dividends arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
- (b) Any such dividends as are mentioned in sub-paragraph (a) of this paragraph may also be taxed in the first-mentioned State, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

CAPITAL GAINS

- (a) Gains from the alienation of immovable property situated in a Contracting State may be taxed in that State.
- (b) Gains from any property other than that referred to in paragraph (a) shall be taxable only in the Contracting State of which the alienator is resident.

INCOME FROM EMPLOYMENT

Salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

INCOME FROM IMMOVABLE PROPERTY

Income derived from immovable property situated in a Contracting State may be taxed in that State.

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EXHIBIT C

Pre-seen information

Background Information

Client name: Mick Gruber
Date of birth: 16 January 1979
Country of birth: Ruritania
Domicile: Ruritania
Tax residence: Ruritania until 5 April 2006 and then UK to present
Spouse name: Josie Gruber (née Smith)
Spouse country of birth: England
Spouse domicile: England
Spouse tax residence: England
Date of marriage: 25 March 2014
Children: Alfie, born 7 December 2016
Client employment: Ovenbake plc, a company incorporated and tax resident in England

Asset schedule at 30 April 2019

<u>Asset</u>	<u>Market Value</u> <u>on 30 April 2019</u>	<u>Original Cost</u>	<u>Notes</u>
	£	£	
Family Home: Larkview	2,000,000	1,000,000	Bought May 2014 jointly with wife and lived in as primary residence since purchase
UK Quoted Shares:			
Jam plc	200,000	200,000	All acquired in April 2010
Honey plc	400,000	100,000	
Marmalade plc	300,000	100,000	
Butter plc	<u>100,000</u>	<u>100,000</u>	
	1,000,000	500,000	
Valuable Oil Painting	800,000	500,000	Acquired June 2017
UK Rental Properties:			
Peppercorn Cottage	1,000,000	700,000	Both acquired in May 2015 jointly with wife and let to long-term tenants
Saltpot Cottage	1,000,000	700,000	

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2017/18 tax return information

	£	£
Pay from all employments	500,000	
Plus: benefits received (medical insurance)	<u>10,000</u>	
Total from all employments		510,000
Profit from UK land and property		80,000
Dividends from UK companies		<u>100,000</u>
Total income on which tax is due		690,000
Income tax due		287,495
Minus tax at source		<u>(210,800)</u>
Total income tax due		76,695
Less:		
Payment on account made 31 January 2018		(37,500)
Payment on account made 31 July 2018		(37,500)
Total tax due		1,695
First payment on account due 31 January 2019		<u>38,348</u>
Total due 31 January 2019		40,043
Payment on account due 31 July 2019		38,348