Institution **CIOT - CTA**
Course **Adv Tech Human Capital Taxes**

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Answer-to-Question-_1_

When an employer hires an employee they will be required to deduct student loan contributions based on the level of earnings and the type of student loan that the employee is based on.

If an employee is hired an employer and this is their first job they should have the employee complete a starter checklist in order to confirm what plan that they are on and based on their answer they would be able to deduct student loan contributions accordingly.

Additionally if the employee has already worked in the year they should have received a P45 from their previous employer detailing what plan they are on and if student loan contributions will be required to be withheld.

If no confirmation is received on the plan due to the employee being unsure the employer should withhold based on Plan 1 for normal student loans not post graduate loans however employers should receive a start notice from HMRC confirming that student loan contributions are required with a start date and they should start to apply contributions from the month following the date listed on the start notice.

They should continue to apply until HMRC confirm via a stop notice that Student loand contributions are no longer required which will be the month after the date on the stop notice.

For undergraduate loans the repayment rate is 9% for the level of

income that the employee earns above the qualifying rate and for postgraduate loans the level of repayment is 6% of the income earnt above the level of income above the repayment rate. The annual rates:

- Plan 1: 22,015
- Plan 2: 27,295
- Plan 4: N/A scottish rate
- Post grad: 21,000

Student loan contributions should be applied similar to national insurance in the sense this is applied per pay period therefore as the employees are on a monthly pay period we will be required to use the monthly rates of the numbers detailed above. If an employee breaches a monthly rate student loan contributions will be required even if their annual income is below the threshhold.

Employers will not be able to talk to the student loans company or obtain a refund for overpayment and this will be the responsibility of the employee.

In relation to the Akrem Felicia is on a post graduate loan therefore earnings above 21,000 per year or 1,750 per month will attract a 6% repayment contribution. Felicia monthly earnings are 14,400/12 = 1,200 which is below the monthly contribution however she received a £6,000 bonus in March 2024 and this took her monthly earnings to £7,200 and therefore repayment will be required on this full amount which is £327 as Akrem has done.

Felicia earnings for the year is below the annual threshhold therefore she can apply for a refund from the SLC however this is

something that she will be required to do and Akrem will not be able to repay this to her and will be required to refer her to HMRC SLC team.

In relation to Sylvester he is 22 and therefore his student loan should be on plan 2 given he would not have graduated prior to 2012. However as Sylvester was unaware of his plan repayment he may have been on plan 4 if he went to a Scottish university and therefore Akrem should have applied a Plan 1 basis on his earnings until confirmation was received that he was indeed plan 2.

This would have resulted in an underwithholding however as Akrem applied a plan 2 and this was the correct postion they have not under reported Sylvesters SLC and this is the correct amount so no errors. From April 2024 going forward with the confirmation received they should ensure they continue to withhold on plan 2.

As student loan is applied on the same basis as NIC this will mean that it will not be applied on net of pension contributions and these will still attract student loan contributions.

For payroll employers are required to make FPS summary on or before the date of payment as this is the last date of the month this will need to be at least on this date to HMRC if not before.

Therefore the FPS summaries for April and May will need to be submitted on the 30 April 2024 or the 31 May 2024. In terms of the payment date any payments to HMRC will be required to be made within 14 days after the end of the tax month in which the payment was made or 17 days if electronic. Therefore for April

and May 2024 the payment dates will be 19/22 May 2024 and 19/22 June 2024 (22nd only if electronic).

As a result as Akrem ltd is planning on making these payments on 30th June 2024 these will be paid late. There will therefore be interest and penalties for the late payment of these PAYE withholdings.

The interest will be 6.5% applied on an annual basis therefore this will amount to 6.5% * 3,100 * 39/365 + 6.5% * 3,100 * 8/365 = £26

The penalty will be based on a percentage of lost revenue, the first missed pay period will not be counted towards the penalty and there April being late will not count towards the penalty however May will and the 1st, 2nd, 3rd missed payments will attract a 1% penalty of the missed revenue. 3,100* 1% = £31

Therefore the total penalty will amount to £57

Additionally Akrem will be required to issue P60s to all the employees on that worked for them in 2023/2024 by the 31st May 2024 as well as include the student loan contributions for the employees above the limit such as Sylvester in the PAYE month.

These errors could attract penalties depending on the number of days late as well as the type of error, if this is concealed, deliberate and unprompted.

It is likely that this will be considered as careless and if unprompted the penalty could be 0% but will likely be between

0-30%.

In terms of the loan made to Kit, normally loans to employees will only be a taxable benefit if this is cheap or tax free if this has interest at the official rate of interest there is no benefit.

However as Kit is a director and has material interest as he is the sole shareholder this loan to Kit may be seen as withdrawal of funds and taxable as dividends. Therefore this 5,000 will be taxable as dividends unless kit pays this loan back within the corporation filing deadline after the year end accounts of 31 August 2023 which is 6 months after this.

As this will not be paid back within the corporation filing deadline after the year end filing deadline of the corporation return in the year that Kit received the loan this will be treated as earnings and this will be repaid in the next accounting year which has a filing deadline of 28 February 2025. Therefore Kit will be able to claim the tax back on his self assessment tax return due on the 31 January 2026.

--------------ANSWER-1-ABOVE---------------

--------------ANSWER-2-BELOW---------------

Answer-to-Question-_2_

As Raj has been made redundant in the 2023/2024 tax year we will need to consider whether the termnination package he has received each item seperately.

The items may be exempt from tax, taxable as general earnings or taxable under s.401.

It is important to additionally look at Raj's contract as anything he is contractually entitield to will be taxable as general earnings also what is generally provided as well.

As Raj was non-resident from the date he was terminated on 5th March 2024 we will need to consider the foreign service relief for termination.

If foreign service relief applied all of Raj's termination payments are exempt from tax in the UK.

Foreign service relief is only applicable if Raj spends 3/4 of his whole employment working overseas, the last 10 years of employment overseas or half of the period relates to overseas work with employment over 20 years.

As none of these apply we will need to use a proration on the

amount of the termination income based on the period that he worked overseas out of total period.

This is 2 years out of 21 so 2/21th will be exempt from UK taxation.

Before looking at each item the taxability will be based on when paid as before the tax code all items through payroll with the 0T code even for Class 1A NICs.

Looking at each item seperately, the bonus for the calendar year 2023 this was earnt fully while working overseas in Poland and will therefore be taxable in Poland and not in the UK as the source period for this was while he was non-resident with no UK workdays. This will however be subject to UK national insurance contributions as paid while subject to UK NIC.

payment in lieu of notice (PILON) will need to be attributable to PENP and non-PENP which is post employment notice pay. As Raj notice period was 6 months and his monthly earnings was 10,000 he was entitield to 60,000 PENP and this amount will be taxable as contractual earnings in the UK as general earnings and therefore thee full pilon is taxable in the UK for tax and class 1 NIC.

The holiday pay unsed is taxable as general earnings for class 1 NIC and tax as this is contractual pay as this would be in his contract to receive this.

The payment to the pension scheme will be exempt from taxation as payments made to pension is exempt from tax, this may trigger an annual allowance charge if Raj is considered a high enough

earner. However as the annual allowance is 10,000 and Raj also has unused allowance from 2023/2024 he will be able to carry this forward to this year to exempt the whole amount even if his allowance is tapered to 10,000 this year due to level of earnings

Annual allowance available and pension contributions available as resident in one of the last 5 years

The outplacement counseling is exempt from tax provided this is actually for outplacement and all employees

The redundancy pay is 10,000 per year of employment with 21 years this is 210,000. This is taxable under s.401 and therefore the first 30,000 is exempt from taxation however the remainder will be taxable for tax and class 1A NIC and as mentioned above through payroll with 0T tax code

The ex-gratia payment will be taxable under s.401 as non-contractual however as the 30,000 allowance used up by the redundancy pay the whole amount taxable for tax and class 1A NIC

Item		£			
PILON		20,000			
Holiday		2,000			
Ex-gratia		80,000			
Redundancy – 30,000		180,000			
Total termination payment		282,000			

Less FSR 2/21		(26,857)			
Taxable amount		255,143			
Tax					
0-37700		7,540			
37701-125400		35,080			
125401+		58,384			
Total tax		101,004			
Less Hypo tax	282K*0.4				

No personal allowance as higher earner fazed outr

The hypo tax needs to be deducted from tax and then grossed up by 100/55 as Raj is tax equalised

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--------------ANSWER-2-ABOVE---------------

--------------ANSWER-3-BELOW---------------

Answer-to-Question-_3_

In order to determine Lee's taxability in the UK we will need to look into his tax residency situation. We will determine Lee's taxability based on the statutory residence test (SRT) in the UK.

This will be 3 tests the Automatic non-resident test the automatic resident test and the sufficient ties test. We will need to work in order to see which is met first. If a UK resident taxable on worldwide income and gains and non-resident taxable on UK sourced income only.

A residency day is the number of midnights and a UK workday is in the UK working for at least 3 hours.

As Lee has never been UK resident we will need to look at the the arrivers section and if Lee spends more than 46 residency days or 30 workdays and 90 residency days in the UK he will not meet the second or third automatic overseas tests.

As he is exepecting to work 7 days and 14 midnights in the UK each month from August 2024 for 8 months till end of tax year and spent 4 workdays and 3 midnights for the 4 months before he will have a total of 68 workdays and 128 residency days (8*7 and 8*14 and 4*3 and 4*4).

He will clearly spend too many days for the automatic non-resident tests to count additionally he will not spend 183 days in the UK so will not meet the 1st auto test. He will have accommodation in the UK for 91 consecutive days but will not meet the test as his accommodation in Singapore will remain available and he stayed in this accommodation for more than 30 days in the tax year. He will additionally not meet the full time work test as he will be working 7 out of 20 days in the UK which is 35% and he needs at least 75% along with not significant breaks for a period of 365 days with 1 day in the tax year.

We will therefore need to look at the sufficient ties. There are 4 potential ties for Lee: accommodation, family, work, 90 days. Lee will meet the accommodation and work ties as he will have accommodation available for 91 consecutive days and lives in this for at least 1 day and will be working for more than 40 days in

the tax year. He may have family tie as his wife and kids will be coming to the UK but dependent on their situation but likely to be 3 ties. But defientely 2. As Lee is spending 128 residency days in the UK he will only need 2 ties and will therefore be resident in the UK. As a UK tax resident he will be taxable on his worldwide income and gains.

Lee may be eligible for a split ties which will be case 4-8 as an arriver. Case 4 is starting to have a home in the UK only, case 5 starting full time work in the UK and case 6 ceasing full time work overseas, case 7 accompanying a partner and case 8 having a home in the UK.

Case 5 will not apply as not working full time in the UK and neither will case 7 as not accompanying a partner. Case 6 will not apply either as will not satify full time overseas and not resident in 1 of previous 4 years.

Case 4 and 8 may apply. For case 4 this will be resident this year non-resident previous year, not meet the only homes test at start of year but at the end of the year and not meet the sufficient ties test for the part before they had an only home. The started to have their only home in 6 October 2024 which is 6 months so day counts are halved. With 40 residency days in this period they will meet the ties test of 2 ties.

Case 8 will be the same as case 4 in the sense that UK resident next year, non-resident year before and not have a home in the UK before but start to have one afterwards and meet the ties test before a home in the UK which will be met.

This will be on 6th August 2024 whereas case 4 is 6th October 2024 the earlier of the 2 is taken to give the shortes overseas perid so resident from 6th August 2024.

Additionally as Lee had substantive duties prior to his relocation amounting to 16 workdays and 12 residency days these are taxable as they are substantive duties of leadership meetings and for the benefit of RedCo so PAYE should have been applied on these days as workdays by directors are always considered substantive not incidental and PAYE should have been applied from day one on these earnings.

NIC will also be due as a non-resident director working more than 10 workdays in the UK will amount to NIC withholding requirement as well.

Therefore RedCo will have had a PAYE obligation prior to Lee working in the UK in August 2024. Articel 15 will not exempt Lee from this PAYE requirement as this will not apply to director withholdgins, additionally the assignment will have his costs recharged to the UK and therefore even though he is in the UK for less than 183 days with remuneration overseas his costs are in the UK.

He will be eligible for the remittance basis of taxation as a non-domiciled individual working in the UK. this will allow him to be taxable in the UK on his UK sourced income only and his overseas earnings will be exempt. Additionally as he is non-resident in the UK for 3 consecutive years out the last 5 and the immediate 3 years before 2024/2025 he will be eligible for overseas workday relief. The remittance basis is claimed via the self assessment tax return and will lose the personal allowance and annual exemption but PA lost due to level of income so remittance basis should be claimed

Automtaicaly claimed if overseas earnings below £2,000.

The overseas workday relief can be applied for the first 3 years of tax residency and will exempt his overseas workdays provided this is paid overseas as Lee is doing in Jersey. The percentage of time worked overseas will not be taxable provided it is not remitted. Remittance will be bank transfers and tax, benefits in the UK or linked credit card payments.

Additionally this will need to be on a payment by payment transfer unless it is a special qualifying account which only has the employment income paid into, opened with less than £10, overseas as well as no other income or individual income in the account. This will allow a more relaxed yearly remittance calcultaion based on yearly travel and yearly remittance as opposed to the strict transfer by transfer. As Lee meets this this can apply.

Redco will need to apply PAYE on 100% of his earnings but can apply for a s.690 to be applied to reduce the PAYE obligations.

Tax due

Prior to assignment in August 2024

car allowance exempt

salary 336,000*16/80 = 67,200

Post August 2024

		£			
Salary		350,000			
Car allowance		18,000			
COLA		8,000			
REnt		48,000			
utlities		4,000			
Total		428,000			
No PA due to remittance and higher earner					
Less OSWDR (13/20)	65%	(278,200)			
Taxable amount		149,800			
Remittances to UK				12,500*8	100,000
				accomodation	52,000
				car	18,000
				cola	8,000
				hypo tax	80,000
				total	258,000
Revised OSWDR		(20,200)			
Taxable amount		407,800			
Tax					

37700	20%	7,540			
37701-12 5400	40%	35,080			
125401+	45%	127,080			
Less Hypo		(80,000)			
Remaining		89,700			
Grossed Up	100/55	163,090			
Total		570,890			
Class 1 NIc		On annual rates as director			
12,570	0%				
50.700	2%				
+	12%				

Recommended that advice and tax assistance requested for Chinese taxes.

--------------ANSWER-3-ABOVE---------------

--------------ANSWER-4-BELOW---------------

Answer-to-Question-_4_

Equipment provided to employees can be considered a taxable benefit. Taxable benefit is based on the cash equivalent of the benfit. This is usually the cost to the employer however if the item is only provided to the employee for renting this will be 20% of the market value of the item.

The wheelchair mount provided to Arlo for the cost of £830 is not a taxable benefit as this is due to his disability and the provision of equipment for disability to perform his work is not a taxable benefit.

The provision of laptops can be exempt if this is for work the laptop will need to be provided as a requirement and necessry to complete their role, private use if incidental can be ignored.

The wheel chair mount will be taxable and this will additionally form part of the s.401k amount as non-contractual the taxable amount will be the market value at transfer. The first 30,000 is exempt but as As Arlo received stat redundancy this will reduce the amount of 30,000 that is available so only £18,000 will be available which should still mean that the wheelchair benefit is exempt

In terms of the redundancy for Arlo, statutory redundancy is exempt from tax and therefore the 17,600 will be exempt from tax. Ex-gratia payments will be taxable however as this is non-contractual will be taxable under s.401 where the first 30,000 is exempt. As Arlo received stat redundancy and wheelchair benefit this will reduce the amount of 30,000 that is available so only £17,330 will be available which means that £270 is taxable and this is taxable at tax and class 1A NIc.

This will be through payroll and if before P45 at normal tax code if after than 0T month 1 week 1 tax code.

~~Becca the transfer of an asset is taxable so the £1,270 market value at transfer is taxable on becca. The tablet is exempt from tax as this is necessary and wholly required for the use of business and will be needed almost exclusively for business. The

private use of this is incidental so will not trigger a tax charge.

The provision of the laptop will be taxable as rent for 20% 2,300*0.2 - 460 per year under the P11D.

2)

Connor is currently being treated as self-employed and therefore Gauged is provided his payments free of tax and NIC and are not operating any withholding requirements.

However Connor may be considered as employed and the responsibility to check if he is employed or self-employed is up to Gauged ltd. There is no tax legislation that determines this however there are key factors and case law to determine this. A good point to start will be the contract between Connor and the Gauged but the actual practically whats going on is very important as well.

Connor, will be required to work 3 days per week in Gauged office this suggests that he has the obligation to complete the work by Gauged and they will have the obgligation to provide it suggests employment. (mutality of obligation)

Control, Connor does not have much control as he can not choose where to work, work for other competitors etc. suggests employment

Equipment connor does not need to provide his own equipment this is provided suggest employment

integration he receives a company email adress and goes to the office to work this suggests intergrated and therefore employment

As he is unable to take work at a competitor may have only one paymaster but needs to be confirmed

Ability to profit is fixed at a charge rate of £500 per day so no abitlity to profit and not much risk as the company provide the use of a laptop and no cost on Connor.

Therefore likely to be considered as employed and as employed they should operate PAYE obligations for tax and class 1 NIC. This will be at FPS summaries, tax withholding every month, P60 requirements as well as entitlement to holiday, statutory requirement and pension contributions etc.

so should not be free of tax as sole trader.

--------------ANSWER-4-ABOVE---------------

--------------ANSWER-5-BELOW---------------

Answer-to-Question-_5_

Taxability on income tax and social security (national insurance contributions NIC) are treated and calculated differently.

In order to determine the taxability of individuals who will be working abroad we will first need to consider their tax residency situation.

In order to determine taxability in the UK we will need to look into his tax residency situation. We will determine Lee's taxability based on the statutory residence test (SRT) in the UK.

This will be 3 tests the Automatic non-resident test the automatic resident test and the sufficient ties test. We will need to work in order to see which is met first.

These individuals are Uk domiciled and likely to be considered UK resident in the year before and after their assignment to China as they will be living and working full time in the UK and will not meet any overseas automatic test but all the automatic resident tests.

Looking at the 2023/2024 tax year the indiviudals will be spending 8 months on assignment in China however the other 4 months will be spent in the year during the tax year, the individuals will therefore not meet any of the automatic non-resident tests given they were a resident in 1 of the three previous years they will spend more than 16 days in the UK and more than 90 days in the UK during the tax year we will look at the automatic tests. Based on this test the individuals will not meet the 183 days test but will meet the full time work in the UK as they will have their only home in the UK for 91 consecutive days with 30 in the tax year before departure and while occupying this home have no other homes available they will also have 1 day in the tax year looking back 365 days from June 2024 would have been working full time in the UK averaging 35 hours per week and 75% of their time in the UK.

As all individuals will remain UK resident they will be taxable on their worldwide income and gains and as domiciled there will

be no remittance basis available.

However as they will be taxable in China if the indiviudals are resident in the UK, remuneration in the UK, costs bourne in the UK and spend less than 183 days in China they will meet article 15 of the double tax treaty in order to exempt them from taxation in China.

The individuals will be spending 8 months in China with only 2 weeks back in the UK for Christmas it is therefore very likely that they will be above 183 days closer to 220 days in China and will not meet Article 15 of the double tax treaty.

As per Article 15 (1) the UK will have taxing rights on the income however China will be able to tax the income that relates to the chinese workdays. Therefore this 8 month period will remain taxable in China. It is recommended that Chinese advice is obtained for the tax and payroll requirements in China.

In terms of the UK Banjo ltd will still have reporting obligations to deduct and tax the individuals on 100% of their earnings through payroll as normal. These indiviudals will then be able to claim a foreign tax credit on the Chinese tax suffered against the UK taxes paid and the credit will be the lower of the chinese tax suffered and UK taxes paid and this will be claimed via their tax return.

As the tax return for the 2024/2025 tax year is not due until 31st January 2026 if it is filed as early as possible these indiviudals will still have double taxation on cashflow issued until the refund is obtained. Therefore it is recommended that an Appendix 5 is obtained, this will allow Banjo ltd to account for the foreign tax credit on the Chinese income through payroll as opposed to one lump sum at the end of the year and this will allow the refunds of the foreign tax credit to be offset against the liability due to HMRC within the year.

Alternatively a s.690 could also be applied to prorate the withholding on the income to 8/12ths of the annual income however this is unlikely to be applicable and an Appendix 5 should be applied for instead.

In terms of the social security, as there is no social security agreement between China and the UK this will be considered a rest of the world country, therefore these individuals on assignment

to China will remain part of the UK social security for national insurance contributions for 52 weeks provided they meet the following conditions:

- Ordinarily resident
- resident in the UK
- resident and ordinarly resident just before the assigment to China

As the individuals on assignment to China will meet this requirement they will remain on UK NIC for 52 weeks aka the whole assignment while in China on all of their employment income. This is crucial as the appendix 5 will only apply to the income tax and the social security will still remain in the UK. Appendix 7a and 7b are available in relation to social security but as the SS is due in the UK and not china this will not be required.

As the individuals will be working in China for 8 months this will be considered a temporary accommodation, as a result the travel to and from China as well as the accommodation in China will not be taxable in the UK and will be exempt as travel and accommodation to a temporary worlplace is exempt from tax in the UK. This is provided the workplace is for less than 24 months or 40% of the time there.

In terms of the accommodation for family to and from China this will not be met but temporary accommodation rules. s.374 will not apply as they are not non-domiciled however s.371 may apply as these indiviudals will be performing their duties abroad. The conditions for these to be met are that the employees are absent from the UK for a period of 60 consecutive days, the journey is from a place in the UK and a place outside the UK (china) and the employees spouse or child is either accompanying at the beggining or visiting them overseas.

To be eligible only 2 trips are allowed per tax year as well as the child will need to be a minor so they will need to be below the age of 18 prior to the start of the trip overseas. If the child's 18th birthday is when he is in China this will be allowable and not benefit will arise however if this is before they travel to China as 18 years old will no longer be appliacable for him and a taxable benefit. The fact the employee incurs the cost and this is reimbursed is still applicable.

Additionally s.370 may also apply however as temporary workplace does no need to look further.

In relation to the indiviudals coming to the UK from the chinese branch in the future, the plan is for them to be in the UK for only 4 weeks which is 28 days therefore assuming they are non-resident in the 3 years before they will likely remain non-UK resident. As they're remuneration and costs bourne remain in China and below 183 days they will meet Article 15 of the DTA.

It is important that if this is for training this will be considered incidental and not a taxable trip however if this is work projects as a substantive trip could be considered taxable and therefore will be taxable and these workdays will be taxable in the UK.

As a result 100% of earnings reportable in UK but as they meet the article 15 conditions stated above we will be able to exempt them from tax in the UK and an appendix 4 will be required to be submitted byt 31 May end of tax year but as they will be below 30 days likely no infofmraiton needed to be submitted but should be monitored incase above.

--------------ANSWER-5-ABOVE---------------

--------------ANSWER-6-BELOW---------------

Answer-to-Question-_6_

As Miguel is 56 years old and is looking to retire we will need to consider the EFRBS rules as any payments made in relation to retirement will be treated as fully taxable.

Withdrawal of the pension fund is a taxable benefit and will be taxable as general earnings. The withdrawal of the funds of the pension pot will therefore be taxable based on the DTA between the UK and Spain.

Based on this double taxation agreement the individuals will be taxable in the country in which he is resident of when he withdraws his pension income only therefore, as he is resident of Spain under Article 17 the withdrawal will be taxable in Spain.

Any contributions made the pension scheme provided that they were below the annual exemption this will be exempt for tax when contributed. Therefore the 10% employer contributiosn as well as the emplloyee contributions will not have been taxable at inception or any interest or gains made on this.

There are numerous way in which Miguel could withdraw his pension income from the UK pension pot, this can be to use the funds to buy annuity, this will be guarenteed income for life however long that may be.

He could withdraw 25% as a lump sum completely tax free in the UK. This will be free of income tax and national insurance contributions.

He could also withdraw the funds via a flexidraw. This is when he will be able to withdraw some money flexibly by having the remainder of his fund being reinvested and take some money out and have the pot remain accruing interest and gains however this will be risker as even though the pot is growing he may take out too much or not enough

He could also withdraw the money in the fund by taking out small amounts of money and having this 25% tax free and the rest taxable.

Finally could do a mix and match of the above to take 25% tax free and an annuity etc.

The amount taxable as annuity or flexi access or small amounts will be taxable as general earnings for tax and this will need to be reported via the self assessment tax return. This will have personal allowance applied so likely could all be tax free if no other income is received or will be at the lower rate of tax. Additionally employer will need to provide a P45 to Miguel when he retires and leaves employment if this is taken out while working for them then they will need to take this into consideration and not apply.

The pension can only be withdrawn once you are 55 years only in the UK therefore he will be eligible to do this.

In terms of the transfer of the pension to the overseas Malta transfer. Normally the transfer of the pension pot will trigger a 40% tax charge for tranfer overseas and there will be an additional 15% charge if the transfer is above 25% of the pot. As this is the case this will be a taxable transfer.

However if the transfer is to a qualifying recognised overseas pension scheme, which is either situated within the EU or with a country the UK has an agreement with then the transfer may be free of tax or at a reduced rate of 20%.

In order for a scheme to be considered a QROPS this will need to be recognised by HMRC, provide tax relief in the country the scheme will be, the individual will need to be resident in the country that he is moving his scheme to, the scheme will allow individuals to withdraw from the fund by age 55 and not earlier and available to all individuals in the country.

As this meets the conditions this transfer will normally be free of tax. However as Miguel is resident in a country different to where the transfer of the pension pot will be moving to this will trigger a tax charge of 20%.

The second pension pot that Miguel has is not registered and was set up under a trudt for benefit of employees. This will be an employer financed retirement benefit scheme as this is not a registered scheme and does not meet 615(3) condition of being a super annuation.

As this plan will be providing benefit to Miguel as a result of his retirement from or planned soon retirement from work this

will be considered to provide relevant benefits in the form of £200,000 cash.

Additionally as the provision is not an excluded benefit, such as ill health, death or disability this will be a relavent benefit and the relevant charge will be the amount that Miguel receives will be employment income and taxable in the year for the tax year in which Miguel receives this

Therefore any withdrawals of this will be taxable earnings.