

## **CHIEF EXAMINER'S COMMENTS**

### Exam Format

This was our second session run using the Exam4 software and again it proved to be reliable with very few problems. Those that did arise were mainly down to candidates failing to download and try out Exam4 in advance (see <https://www.tax.org.uk/onlineexams>). We have received comments that the interface is old fashioned looking and we were also aware that there were difficulties in formatting computational answers in the previous sitting. For this session the formatting abilities were enhanced slightly to make it easier to present computations. We acknowledge that the interface is old-fashioned, but this simplicity means it is reliable and we think this is more important at the present time. We are currently investigating longer term solutions for the CIOT exams, which will not be returning to the pre-Covid large exam hall, hand-written format.

### Exam Performance

Overall candidates performed well this session with the indirect tax candidates in particular performing significantly better than in the past in both their Advanced Technical and Application and Interaction papers. Candidates also performed particularly well in the OMB Advanced Technical and Companies Application and Professional Skills papers. The most disappointing paper was the Human Capital Taxes Advanced Technical with a pass rate of 31% where candidates did not seem to have studied the full syllabus.

There was a particular problem with question 4 of the Taxation of Individuals Advanced Technical paper, which is discussed in more detail below. Despite the marks being adjusted to compensate for the difficulties on this question, the overall pass rate was slightly down on last session. This seems to be a result of candidates not spotting that question 6 was about the GAAR.

### Advance Technical Answers

On the Advanced Technical Papers in general, although we have removed the requirement to produce written answers in a particular format, such as a letter, candidates should note that we still expect candidates to produce an appropriately worded and reasoned answer rather a series of brief bullet points. On a number of papers it was noticeable that candidates were no longer writing in full sentences and were abbreviated some comments to the point where they failed to explain the point they were making and hence failed to gain marks.

## **AWARENESS**

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

#### Overall comments

Most candidates displayed a good knowledge of the rules across all of the core areas.

Candidates are encouraged to give a clear answer, using the correct terminology and supported by a brief explanation. Candidates should restrict their answer by reference to the requirement; in many cases, candidates wasted time on providing information/analysis that was not requested and for which no marks could be given.

#### Question 1

Most candidates performed well in this question. Many candidates stated that the VAT threshold was/was not breached without stating the amount of the VAT threshold. A common error was to fail to adjust for the sale of plant and machinery.

#### Question 2

Most candidates displayed a good knowledge of the rules in this area. Some candidates did not refer to the need to consider gifts made to the individual previously.

#### Question 3

This was a relatively high-scoring question. A common error was to fail to take into account the non-monetary consideration when calculating the VAT.

#### Question 4

This proved to be a challenging question for many candidates, in some cases because they were unsure of the rules (particularly around the recovery of input VAT on cars) and in others because they did not explain their answers, as required by the question.

#### Question 5

Quite a few candidates struggled to apply the test for de minimis input VAT. A common error with regard to the residual VAT calculation was to omit to round the percentage to the next whole number.

#### Question 6

Most candidates performed well with this question. A common error was to omit to reduce the flat rate percentage for the first year discount.

#### Question 7

A significant minority of candidates did not attempt this question. Of those that did, most showed a good understanding of the rules. Some candidates provided analysis that was not required; eg whether Derek could recover VAT suffered in connection with the building.

### Question 8

Most candidates displayed a good knowledge of the TOGC rules. Although not required, a significant number of candidates set out the VAT treatment of the transaction.

### Question 9

Most candidates performed well in this question with many scoring full marks. Where candidates did lose marks, it was often as a result of not supporting their answers with explanations (eg identifying the companies that could form a VAT group and not explaining why the others couldn't).

### Question 10

A common error for Part 1 was simply to state that HMRC had four years to raise the assessment. For Part 2, some candidates did not keep to the requirement, describing the penalty provisions rather than providing calculations.

### Question 11

Most candidates showed a good knowledge of the rules. A significant minority calculated stamp duty at 5% rather than 0.5%. A common error was to omit to round to the nearest £5.

### Question 12

Although not all candidates attempted this question, most of those that did scored high marks, showing a good understanding of the rules.

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

### General Comments

There was generally a satisfactory performance by most candidates, particularly on the computational questions. Comments on particular questions where errors arose are as follows:

### Question 14

The most common errors in this question were to treat the lifetime gift to Pablo as a PET rather than being covered by the spouse exemption, and where the spouse exemption was applied, the failure to recognise that the spouse exemption is limited to £325,000 if the recipient spouse is non UK domiciled. Another error was to deduct the RNRB against the value of the house in the death estate, rather than it being an amount of the chargeable estate to be taxed at 0%.

### Question 15

Answers to this written question were often muddled. Where a question is in two parts, candidates must ensure that they make it clear which part of the question is being answered and give clear and concise explanations.

### Question 16

The majority of the marks available in this question were given for the QSR, which was often calculated incorrectly. A figure of £61,076 was frequently calculated when the asset was only worth £18,000 when inherited. Candidates should do a sense check on any figure that they produce. Some candidates stated that there was no QSR as the asset was inherited tax-free.

#### Question 18

Most candidates did not consider the successive transfer rules applicable to the scenario, but did get the marks for correctly stating the situation where only 50% APR was available. However, many seemed to think that it would have been at 100% if Charles had owned the farm for at least two years.

#### Question 19

This question on post-mortem reliefs was the most omitted, and where it was attempted, most candidates calculated a net loss but did not restrict it for the reinvestment by the executors.

#### Question 20

This question was not well done. Several candidates did not relate their answer to the question and simply wrote in general terms about trusts, mainly about how the income would be taxed in the trust rather than on Mick, the beneficiary.

#### Question 22

The most common errors in this question on a part disposal of land were to ignore the Inheritance Tax paid by the trustees as part of the cost of the land, and to calculate the apportioned cost on the basis of acreage rather than values.

### **Module C - Corporation Tax**

#### Overall comments

This paper was generally well answered although a number of candidates did not attempt all twelve questions. This could have been due to time pressure since it was mainly one or more of the later questions (33 to 36) that was missed. On the other hand, those candidates may not have been well prepared for the topics that these questions covered.

#### Question 26

Whilst generally well answered, a large number of candidates failed to calculate the augmented profits correctly.

#### Question 27

A significant number of candidates were unable to correctly calculate the indexation allowance applicable to the September 2017 disposal.

#### Question 31

A good number of candidates made use of the ruler function in the exam software to produce a well presented answer. Even where this function was not used, most managed to answer this question correctly.

#### Question 32

Some candidates scored poorly for part 1 because although part 1 specifically asked about a capital gains group, some answers instead referred to group relief, which was relevant only for part 2.

#### Question 33

This question was generally well answered, with very few candidates mixing up the R&D relief available for SMEs with large companies. Where marks were lost, it was often on the point about the availability of the first year allowance for capital expenditure.

#### Question 34

Very few candidates recognised that the salary paid during the year of £24,000 would result in an employer National Insurance charge, with very few calculations of this being prepared. Otherwise the calculations were generally accurate.

#### Question 35

This question was generally well answered although a reasonable number of candidates produced no explanation, instead giving only a calculation of the tax position. Marks were awarded to these answers in part (for using the gross value of the overseas property income) and offsetting double tax relief against the corporation tax liability.

#### Question 36

This question was left unanswered by a significant number of candidates, although those who were well prepared scored highly.

### **Module D - Taxation of Individuals**

#### General comments

Generally the paper seems to have been very well received with virtually all questions well attempted. However, there was evidence that some candidates were not adequately prepared such that questions slightly outside of their basic knowledge posed problems.

#### Question 37

This was generally quite well attempted. The most common mistake was forgetting to make any pro-rating adjustment to the benefit calculation for the fact that the property was only available from 1 August 2020.

#### Question 38

Generally well attempted. Candidates now seem more prepared to expect this type of Income Tax liability question which considers fundamental areas of the syllabus. Often candidates included only

one of the savings income starting rate band **or** the personal savings allowance rather than recognising that both would be available in this case.

#### Question 39

This fairly simple and straightforward calculation of rental income received for the year was surprisingly poorly answered demonstrating a lack of basic knowledge. In too many cases the loss position in property 2 was not identified making it impossible to demonstrate an understanding of the loss offset rule thereby missing out on gaining two fairly easy marks.

#### Question 40

This was generally well attempted but there were some very basic errors which led to a loss of easy marks. Too many candidates referred to **1** January and **1** July rather than 31 January/July as the dates for payments on account whilst others failed to specify a date at all and referred only to the month when the payments would be made. There is an expectation that for any question which asks for a date the answer must provide a precise date by reference to the day, month and year.

#### Question 41

This was well answered by the better prepared candidates. However, for some candidates it did demonstrate a lack of understanding of pension contribution relief in the form of confused and illogical answers whilst a small number of candidates did not attempt to answer the question at all.

#### Questions 42, 43, 44, 46, 48

No comments.

#### Questions 45

This was a well answered question overall. However, a reasonable number of candidates either did not attempt or answered this question poorly demonstrating a less than basic understanding of the residency rules.

#### Question 47

This question on the income v capital treatment of company share buyback was not attempted by a good number of candidates but those who did scored well. It is always difficult to be sure whether poorly answered questions which appear later in the module are due to timing issues or an inability to answer but it is suspected the latter applies here.

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

#### General Comments

Performance in this module was generally disappointing, with few candidates performing well. Quite a few candidates omitted questions. Comments on questions which caused particular issues are as follows:

#### Question 50

This question was generally not well done, with several candidates failing to answer the question set. Instead of calculating the trading income, some simply did a capital allowances computation. Several candidates calculated writing down allowances on the assets instead of balancing adjustments, leaving balances to carry forward despite the sole trader ceasing to trade.

#### Question 51

Few candidates performed well on this question on restriction on the use of trading losses. Some candidates just applied the restriction to the property income in 2019/20 and/or failed to recognise that there is no restriction against profits of the same trade. Some thought that the current year claim needed be made first.

#### Question 53

Some candidates were confused and thought that this was a question on CGT incorporation relief. Others thought that if the conditions for s86.ITA 2007 were satisfied, the sole trader losses were transferred to the company.

#### Question 54

This question on change of accounting date was omitted by several candidates and badly done by most who attempted it. Practice is clearly needed on this area.

#### Question 55

Some candidates did not know how to calculate the trading profits for the tax year of cessation and frequently apportioned the amounts given to reflect the period from 6 April to the date of cessation. Class 2 NIC was often calculated for the full tax year despite the sole trader ceasing to trade on 28 February. Candidates need to pay attention to dates given in the question.

#### Question 56

Lack of clarity of explanation was a problem for most candidates, especially with regard to the interest on the loan on the shares. Candidates should remember that this is a tax paper, so stating that the machine would be capitalised in the balance sheet did not earn any marks, but stating that it would be eligible for capital allowances did.

#### Question 57

This question was frequently omitted and where it was attempted, most candidates failed to realise that as there is no BADR on the goodwill, the premises and the goodwill needed to be dealt with separately and so lost at least 2 of the 5 marks available.

#### Question 58

This question on Income Tax administration was generally well done, but candidates need to read the question carefully and tailor their answer to the specific requirements. Despite the question stating that the omission of the dividends was careless, several candidates concluded that it was deliberate or deliberate and concealed and proceeded on that basis. Many did not realise that as Roger had received a notice of an enquiry, any disclosure after that point would be treated as prompted. Although a calculation of the potential penalty was not required, many candidates seemed to think

that the penalty percentage was applied to the amount of the income omitted, not the potential lost revenue on that income.

#### Question 59

This was the most omitted question, and when attempted, was generally done badly. Although the market value of the shares was given, some candidates used the value of the assets in the company as proceeds in their computation. The gift relief was rarely calculated correctly, with net current assets being included in the fraction. As the question asked for the taxable gain, an easy mark was available, but often missed, for deducting the annual exempt amount.



## **ADVANCED TECHNICAL**

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

#### General comments

The overall performance was good with candidates seeming to cope better using Exam4 with the computational questions. At 66%, the pass rate this session was significantly better than in recent past sessions.

#### Question 1

This was an adjustment of profits and capital allowance computational question with brief explanations of adjustments. The question was generally well answered with most candidates gaining a pass mark.

Most of the adjustments to profit were correctly made; the main one which presented problems was the adjustment for leasing, where the 15% disallowance was not limited to rental costs alone and/or a further adjustment was incorrectly made for private use, despite the car being provided for an employee.

The areas where most errors arose were: dealing with the 18-month accounting period; claims for Annual Investment Allowance on the tractor despite being acquired from a connected party; failure to include the insurance proceeds on the disposal of the tractor; no restriction of capital allowances on the solar panels for personal use and explaining the rule for deferred payment terms despite then going on to say that this didn't apply to hire purchase agreements. Some candidates did not consider Structures and Buildings Allowance and where they did, mistakes were made claiming it for the wrong expenditure and not restricting the allowance for the period for which the asset was in use in the accounting period.

#### Question 2

The question involved a corporation tax computation with standard adjustments and brief explanations for those adjustments.

Most candidates produced an appropriate answer on this question with no areas being identified as causing significant problems for the candidates. Some explanations were however inadequate: for example simple saying that an expense is "added back" rather than explaining why it has been added back.

#### Question 3

This question involved a purchase of own shares for shareholders with different tax outcomes. Most candidates made a reasonable attempt at this question. The basic statement of the rules around for the application of capital treatment on a share buy-back was well set out but fewer candidates considered their practical applications. There was a general assumption that capital treatment would always be the most advantageous rather than considering the circumstances of the individual.

Specific comments:

- Candidates identified that the "connection" test had been failed but then proceeded to with a CGT computation.

- Many candidates struggled with the correct calculation of the CGT base cost of Paula's shares following the exercise of her EMI options
- There was some confusion over the difference between "subscription cost" and base cost. This resulted in a poor response to the CGT element of a non-qualifying share buy-back.
- Stating that HMRC clearance is not a prerequisite for capital treatment.

#### Question 4

This question required the calculation of rollover relief where two assets with part business use were replaced by three assets: one non-depreciating, one depreciating and one which was used for non-trading purposes.

The majority of candidates were able to identify the conditions for rollover relief to apply, to calculate the trade and non-trade components of both the acquisitions and disposals and the implications of investment into a depreciating asset. Very few were able to combine these elements with a computation of rollover relief and the majority of candidates stopped short of taking the final step of calculating the gains and resulting base costs. Where candidates did attempt this, full credit was given regardless of the choice of replacement asset to allocate the rolled over gain into.

Problem areas included:

- Deducting the gain from the base cost – many students deducted the proceeds reinvested.
- The treatment of an asset not immediately brought into use.
- Ignoring the non-business element of the Old Foundry
- Only allocating asset to disposal to each reinvestment, thereby missing out on significant relief.
- When rolling into a low-cost asset, calculating a larger gain than the original gain as a result of proceeds not reinvested.

#### Question 5

This was a question in two parts covering discovery assessments and penalties for an incorrect return.

Some answers were voluminous with more content than some of the 20 mark questions. Perhaps this was because the exam was open book and with this question, candidates were able to quote direct from the guidance manuals. Discovery equated to 40% of the marks and most candidates were able to score a pass on this section with a few bullet points from the guidance.

On the penalties part of the question, most candidates scored marks for the nature of the inaccuracy (e.g careless/deliberate) and whether prompted or not. The vast majority failed to mention the behaviours required to mitigate the penalty charges. There were some marks for stating the obvious, that a penalty is charged where there is an understatement of tax and there was an understatement in this instance. Most candidates missed these marks. Some candidates went on a tangent to discuss late payment penalties and interest, but these were in the minority.

Most candidates made a stab at this stating whether they felt discovery assessments were valid and providing a view on the appropriate level of the penalty charge.

#### Question 6

The question was in three parts; the first part considering the cost to an employer of providing an employee with a company car, the second part giving the employee a cash alternative and the final

part looking at the implications of paying the employee's travel costs. It was generally well answered with good responses to the first part making up for shortcomings in the second and third part.

The most common error in the first part was failing to exclude the maintenance element from the leased car restriction and calculation. The second part, an area commonly encountered in practice, was however less well answered. Whilst a reasonable number identified the need to include employers NIC in the cost, few identified that the cost should be grossed up to reflect the corporation tax deduction available to the company. In the final part candidates showed a good understanding of the rules and differences between the costs of permanent and temporary workplaces. Many however were confused between the tax deductibility for the company and the tax liability for the employee. They assumed that the costs of travel to a permanent workplace would not be allowable for the company.

## **Taxation of Individuals**

### General comments

Well prepared candidates performed well in this paper, with most candidates gaining good marks in questions two and five. Candidates performed poorest in question six with many failing to discuss the GAAR, which was the main focus of the question. This is likely to be the main reason why candidates failed this paper.

Unfortunately, there was an error in the second requirement of question four where the incorrect company was referenced. The question referred to Pine Ltd where it should have referred to Oak Ltd. More information on this is given below.

### Question 1

This question concerned the residence status of an individual leaving the UK part way through a tax year and the subsequent treatment of their UK rental income and property disposal.

On the whole candidates were aware of the Non-Resident Landlords scheme and answered this section of the question well.

Unfortunately, a lot of candidates confused the temporary non residence rules with the rules for non-UK residents disposing of UK property and as a result missed out on the marks available for this section. Many candidates also wasted time detailing the rules for the disposal of a property that was purchased prior to April 2015, which were not relevant to the scenario.

Most candidates were aware of the split year rules, but the majority failed to provide enough detail in terms of the specific conditions for Case 1 and how these applied to the question's protagonist.

### Question 2

Many candidates lost easy marks on this question, which they could have gained even without an in depth knowledge of excess pension contributions.

A common error was where candidates used the employer's actual contribution of £50,000 instead of the pension input amount to calculate the excess contribution, even though quite a number of these

candidates had calculated the pension input amount. Quite a few candidates added the employer contributions and the pension input amounts together.

Many candidates wasted time working out Polly's salary for the year, and a number then used an incorrect salary figure in their answers even though the question clearly stated the P60 totals.

It was disappointing to see that even the basics of foreign tax credit relief are poorly understood by many candidates.

### Question 3

This question was generally answered to a good standard, but most candidates missed what should have been easy marks.

Nearly all candidates identified that Panos' employment income relating to his UK duties whilst he is not UK resident would be taxable and that he would be eligible for the remittance basis together with overseas workday relief, once he becomes UK resident. However, many candidates did not include any detail about these reliefs beyond saying that they would be available to Panos.

Candidates should have included advice about how Panos would be taxed because of the reliefs. For example, very few candidates included the suggestion that Panos should use separate bank accounts if he begins claiming the remittance basis.

Candidates struggled to give a concise summary of Panos's NIC position and some had clearly spent too much time answering this small part of the overall requirement.

The overseas mortgage caused confusion. A common suggestion was that if Panos brings any funds into the UK, there would be a taxable remittance. A distinction between clean capital, taxed income and untaxed income was not provided and as a result, many of the answers were incorrect.

### Question 4

This question required the candidate to consider the application of the remittance basis for personal assets which are derived from relevant foreign gains. It also required candidates to consider a disposal to a connected person.

On the whole, many candidates picked up marks by identifying that there would be a remittance on bringing the asset to the UK and that there was an exemption available. However, many candidates lost easy marks regarding the disposal of the asset to a connected person.

Candidates were also required to consider the application of the transfer of assets abroad rules. Many candidates had a good understanding of the key issues, such as the application of the motive defence.. However, a number of candidates assumed that a distribution was being made from the structure to the settlor's daughter, and wasted time considering this.

As mentioned above, there was an error in the second requirement of the question where Pine Ltd was referenced rather than Oak Ltd. Most candidates answered in relation to the Oak Ltd as intended. After the initial marking, marks were broadly what we expected for this question. What we could not tell was whether those who answered by reference to Oak Ltd wasted time through being confused. Accordingly, we uplifted all scripts to recognise possible confusion.

However, a number of candidates either answered for both companies (and clearly wasted time), or answered for Pine Ltd only (and could not possibly achieve all the marks for this part). We therefore reviewed all these scripts that could potentially pass if they scored more marks on this part. Candidates were given the benefit of the doubt in marking and in particular, those candidates who only answered for Pine Ltd (as the question required) had their marks scaled up so that a perfect answer for Pine Ltd could score the full marks available for this part.

### Question 5

This question required the candidates to calculate, with explanations, the Capital Gains Tax liability arising on three disposals.

Two of the disposals were of shares in unquoted trading companies with one qualifying for Business Asset Disposal Relief and the other for Investors Relief. On the whole candidates were aware of the conditions for both reliefs and were able to explain these well. A lot of candidates lost marks for failing to state the deadline for claiming the reliefs.

One of the disposals included some unascertainable deferred consideration. The majority of the candidates dealt with this correctly and were able to explain the relevant rules.

The final disposal was of a residential property. One of the expenses relating to this disposal was the cost of demolishing a derelict outbuilding to make way for a new one. Very few candidates identified that the demolition costs were allowable because they were small in relation to the overall cost of constructing the new outbuilding.

Most candidates gained the marks available for correctly claiming the Annual Exempt amount against the residential property gain.

### Question 6

This question was generally answered very poorly as many candidates did not include any discussion of the GAAR.

Candidates were given marks for coming to a reasoned conclusion based on the facts of the scenario. There were very few candidates who weighed up the facts of the transaction. Most candidates who did discuss the GAAR, decided that Rupert had clearly engaged in an abusive tax arrangement with little discussion of why they had come to this conclusion.

Many candidates discussed the anti-avoidance legislation directed at converting QCBs into non-QCBs. This was not relevant to the question as Rupert received non-QCBs during the takeover and they were never QCBs. Candidates should ensure they read the question carefully.

Some candidates included a discussion of the tax treatment of QCBs and non-QCBs alongside the relative merits of both options. This was not required.

Some candidates suggested that Rupert could gift the loan notes to charity to prevent a frozen gain being chargeable to CGT. Although this is not in the model answer, this was a good suggestion for which credit was given.

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

### General Comments

Overall, the pass rate at 41% was a little lower than we have seen in recent sessions, which was a little disappointing.

Virtually all candidates attempted all questions.

Candidates scored well on questions 3, 5 and 6 with most achieving at least 50% and a high proportion achieving over 75% with some almost perfect scores achieved by the better prepared candidates.

Conversely questions 1, 2 and 4 were less popular with most candidates failing to score at least 50% on these questions and with some very low scores being recorded. Questions 1 and 4 were particularly poorly answered with mean scores of 34%. Better prepared candidates scored between 50% and 75%.

### Question 1

This written question concerned a long-term non UK resident individual (Fiona) temporarily returning to the UK and the implications for her and her trust by reason of her 'formerly domiciled resident' status. This question was poorly answered by most candidates.

Most candidates identified that Fiona would fall within the formerly domiciled resident rules. Some considered this would make the trust UK resident because Fiona was a trustee but this was incorrect as there were mixed trustees and as she was not domiciled or resident when she created the trust.

Most candidates did discuss how the trust income/gains would be treated whilst Fiona was UK resident and many suggested that she be removed as a beneficiary prior to becoming UK resident. Few candidates understood that the definition of settlor interested is different for different taxes and assumed that removing Fiona from benefit would prevent realised gains being taxable on her on an arising basis. In fact the settlor interested rules for CGT are very wide and include trusts where the settlor's children/ grandchildren can benefit. Most candidates referenced S720 when the relevant legislation is actually S624 ITTOIA.

Most candidates failed to discuss the trustees filing requirements once Fiona became UK resident which lost them valuable and easy marks.

## Question 2

This question tested candidates' knowledge of disabled person's trusts. It had a very mixed response and overall, it was clear that even the better candidates had not really considered this area in their studies with average scores bearing this out.

Most candidates were able to identify that this was the crux of the question although a minority missed the point entirely instead commenting on trusts generally and settlor interested trusts in particular.

Candidates that considered the question facts performed better in that their answers were relevant, concise and gained easy marks. However, some candidates lost easy marks for failing to define a disabled person adequately.

Well prepared candidates identified that the self-settlement was IHT neutral whilst others lost marks for deeming it a PET or even a CLT. Some candidates also failed to differentiate between the treatment for income tax (settlor interest) and CGT (vulnerable person).

## Question 3

This trust income liability and distribution computation question was well answered by most candidates with almost all candidates correctly calculating the IHT exit charge.

The main point of difficulty was the treatment of the accrued income scheme profits, which very few candidates dealt with correctly.

The other area where some candidates struggled was the calculation of the R185 entries, with some candidates forgetting to deduct the tax or the trustees' expenses when calculating the net amounts available for distribution.

## Question 4

This was a written question on IHT planning and considered the gift with reservation of benefit (GWROB) and pre-owned asset tax (POAT) impact of the proposals raised. It generated a mixed response demonstrating a lack of understanding of the basic rules and failure to read the question.

Most candidates could correctly identify the GWROB and POAT issues, however, for POAT in particular most candidates failed to provide much detail beyond identifying there was an issue. There were easy marks available for explaining the concepts and the tax treatment but the failure to provide detail meant many candidates missed out on these marks. Very few candidates identified that it is the contribution condition which was in point or that market rent could be paid to avoid the charge.

Some candidates performed extensive calculations of the potential IHT liability on PETs and on Mary's estate on her death but these were not required and no marks were available.

## Question 5

This was an estate administration question covering aspects of both income tax and CGT. Overall candidates performed well on this question as compared to similar questions in recent years with the better candidates benefiting from concise and logically set out computations.

A disappointing number of candidates failed to identify that the interest income due but paid late fell outside the estate and that ISA income/gains were not taxable.

Most candidates correctly identified that the interest on the IHT loan was allowable for 12 months and a majority of those calculated the restriction correctly. A majority then failed to include the disallowed interest in the admin expenses netted against the income available for distribution. SP2/04 calculations, to the extent the relief was recognised, were hugely variable and the confusion for many candidates was very evident.

Well prepared candidates identified that capital losses arising during the deceased lifetime were not allowable against estate gains but too many candidates did incorrectly claim the relief.

Easy marks were lost for not stating due dates and missing payments on account.

Only the best candidates calculated the R185 entries correctly by splitting the distributable income 50:50 before distributions were considered, a fair proportion of candidates were able to state Eliza's R185 for 2019/20 but nothing for 2020/21.

Some candidates were caught out in calculating the share pool especially with regard to the rights issue and lost marks there.

### Question 6

This question was centred on the availability of Business Property Relief (BPR) for a chargeable lifetime transfer and assets within the estate on death considering the before and after sale position of unquoted shares in a trading company holding an excepted asset. Overall, it was a well answered question by a majority of candidates.

Some candidates entirely missed the BPR issue or assumed full availability, both of which curtailed the marks available. Better prepared candidates considered the excepted asset and took reasonable care in comparing the before and after sale position setting out their answers logically. Those candidates also not only identified the transferable NRB and RNRB/TRNRB but applied them correctly and tapered these appropriately according to the circumstances. Less confident candidates simply assumed that RNRB and TRNRB did not apply once the estate value exceeded £2million, losing marks as a consequence.

Some candidates went down a rabbit hole with exit and principal charges, neither of which were appropriate in the context of the question facts or requirements.

Various valid suggestions were made for mitigating the additional liabilities arising to the executors and trustees, most of which had merit and were awarded marks appropriately.

## **Human Capital Taxes**

### General Comments

Overall, candidates' performance on this paper improved compared to the last session with more candidates gaining sufficient marks to achieve a pass. However with a pass rate of 35%, this continues to be disappointing. Although this is perhaps the most narrow syllabus, it appears that candidates



may specialise or have experience of only part of the syllabus and consequently struggle with some of the questions. To be successful, candidates need to be familiar with the entire syllabus.

### Question 1

Candidates who recognised that this was a question about motivating and rewarding candidates not just a question on share schemes did well. The question was asking candidates to find a way of giving shares with tax benefits comparable to the Dutch schemes on offer and most candidates recognised the opportunity for an EMI scheme. Too many candidates hedged their bets and discussed all schemes or forfeiture restrictions for more and less than 5 years. They were expected to decide which applied. Candidates also wasted time discussing the details of s431 elections, which did not make the schemes significantly more attractive or solve the UK tax treatment issues. The candidates who demonstrated they understood the outcomes of the different schemes and not just the rules did best. Only one candidate got the answer right in respect of the double tax treaty and how the foreign tax credit would work.

### Question 2

The bulk of this question was testing the candidate's knowledge of the Construction Industry Scheme ("CIS") whilst 6 marks were allocated to a question around non-resident freelancers.

The majority of candidates answered the second part of the question well, recognising that the status of the workers should be based on UK interpretation, that the workers should be treated as employees and that no Treaty Relief was due. No candidate explained why the interpretation of what is an employment was with the UK, despite the relevant Treaty extract being provided, though candidates were given the benefit of the doubt if they concluded correctly on the status. A number of candidates limited themselves to answers on this second part of the question and commentary on the agency rules and therefore limiting marks available to them.

The CIS part of the question was generally less well answered. Those that answered the question understood the client's general obligations as a contractor – although commentary on the specific application to the scaffolding company was relatively weak. A smaller number of candidates spotted that the client was also a subcontractor. Very few, however, spotted the reg 22 considerations.

### Question 3

This question was a basic PAYE Settlement Agreement ("PSA") calculation with notes. Candidates needed to understand some fundamental PSA principles and the conditions for certain exemptions, namely business entertaining, annual parties and functions and trivial benefits.

A variety of different formats for the PSA calculation were provided which would be unfamiliar to anyone who had seen a PSA in practice.

A number of candidates identified that client entertaining expenses needed to be disallowed in computing the profits of the employer that are chargeable to tax but the vast majority of these failed to then make the correct conclusion of the effect of the employer being a representative office.

The trivial benefits questions were generally answered well, though few candidates understood the potential challenges from HMRC about benefits being regarded as "contractual".

The answers to the annual events point were more mixed. Most understood the exemption was a de minimis and that if there were more than one qualifying annual event, they could select the event with the highest spend. There was a split though between those that did and didn't understand the implication of an event not being open to the Scottish employees.

#### Question 4

This question was testing candidates' knowledge of travel and subsistence rules for area-based employees. Candidates were very aware of the temporary workplace rules but not for area-based employees. There was a lot of confusion over which elements of travel and subsistence could be exempted. Candidates struggled to relate the rules to the specific examples.

The candidates were also expected to review the company's procedures for expense reporting and recognise where improvements were required. A lot of candidates did not demonstrate that they understood how a company should operate bespoke agreements nor how the different expenses should be monitored and then reported to HMRC.

#### Question 5

This question tested candidates' ability to segregate the specific living accommodation rules from board and lodging rules under general charging provisions. Candidates were very aware of the living accommodation rules, but only two candidates correctly recognised the board and lodging provision via hotel rooms. This resulted in nearly all candidates excluding the board and lodging benefit under the better performance exemption for living accommodation, which would not have been available under these circumstances.

A number of candidates included the furniture as an improvement cost to Donagh Henley's accommodation calculation, which resulted in an under reporting of benefits. No candidates provided advice that as the furniture had been available for more than 6 years the benefits charges each year exceeded the value of the items provided and therefore it may have been better for the items to be purchased to stop the annual benefit charge from recurring.

#### Question 6

Most candidates correctly identified this as a question where advice and some element of lateral thinking was required, particularly around the treatment of flu-jabs and trivial benefits rules.

Candidates showed good understanding around the exemptions for eye tests, medical checkups and spectacles for VDU use, as well as the medical treatment exemption. There were a number that failed to point out that medical benefits had been correctly reported on P11D or the interaction with medical treatment already received under this medical cover that this was therefore not taxable. Also, marks were lost by a number who recognised the availability and use generally of the sports equipment but failed to reference the recreational facilities exemption.

A large number of candidates failed to consider fully the different Class 1 and Class 1A NIC implications of how the contract for the additional medical treatment was structured.

Finally, only a handful considered the contribution to spectacles not wholly for VDU use could also be considered under the trivial benefits rules.

### **Taxation of Major Corporates**

## General comments

Overall this paper was generally well answered although many candidates demonstrated only an awareness-level of tax technical knowledge where a deeper understanding was expected. For example, on question 5, some candidates said that qualifying net group interest expense (QNGIE) was not given when it essentially was - it was just not explicitly labelled as such. Also, many candidates found questions 3 and 6 difficult. Candidates wasted time providing explanations of tax rules that were not directly relevant to the question requirements.

### Question 1

The question concerned a UK incorporated subsidiary company of an overseas trading company. Activities of the UK company were carried on in the UK and in the overseas territory. Candidates were asked to explain if the UK company was liable to UK Corporation Tax and whether that would change with the appointment of a UK-based director.

Most candidates identified that the company was dual resident and the need to consider the tie breaker/competent authority provisions of the OECD model treaty. They also correctly identified the initial outcome of the tie-break, but some were less sure of the impact of the new director. The possible existence of, and impact of, a UK permanent establishment was not always addressed, although when it was, most candidates scored well on that aspect. Unfortunately, some candidates failed to provide a conclusion, that is, to specifically state whether or not the UK company was liable to UK tax.

### Question 2

This was a routine capital allowances, other reliefs, and capital-versus-revenue question. Candidates were provided with facts about a UK manufacturing company's spending programme and asked to describe the available capital allowances and other required computational adjustments.

The question was well answered by the majority of candidates, who generally addressed nearly all the points and mostly gave technically correct answers. Some candidates provided unnecessary explanations of why capital allowances are given, how they are claimed and the different types available. Areas less well answered included the distinction between hire-purchase and finance leases, the scope of Structures & Buildings Allowance and the availability of a revenue deduction for re-decorating. Unfortunately, few candidates dealt with the disposals correctly, failing to limit proceeds to cost, disallowing profits on sale and taxing a capital gain.

### Question 3

Candidates were required to calculate the Corporation Tax liabilities of five group companies. Information provided included trading results, non-trade loan relationships debits and credits, withholding taxes suffered, losses and Research & Development (R&D) expenditure.

Few candidates demonstrated a grasp of all the technical issues and their interactions, and some failed to address all the issues. Most candidates identified the availability of group relief. While R&D issues were identified in most cases, few candidates showed the required comprehensive knowledge. The different treatments of brought forward losses and deficits were frequently incorrectly dealt with, and many failed to correctly calculate restrictions on double tax relief on various sources.

Some candidates provided unnecessarily long explanations of what constitutes a group and the conditions for claiming group relief.

#### Question 4

This question involved a trading group undertaking a hive-down and sale of a business division. The requirement asked about the chargeable gains implications of that transaction.

Overall this question was answered well but many wasted time explaining the tax rules that apply to other aspects of the hive-down other than chargeable gains, for example capital allowances or trading losses, which were not relevant.

Most candidates correctly identified the relevance of the Substantial Shareholding Exemption (SSE) to the disposal of the transferee company, Antelope Ltd. However, relatively few referred to the second subsidiary exemption which allows the SSE to apply following an intra-group transfer to a newly-formed company, which led most candidates to conclude that SSE did not apply. While credit was awarded to candidates that demonstrated an understanding of the SSE even where their overall conclusion was incorrect, many candidates concluded SSE did not apply by reference to the holding period condition only, without explaining the other conditions, which limited the marks that could be awarded. Candidates showed awareness of the trading requirement but few explained what that actually meant or identified the potential relevance of the investment in Allenby plc shares to Antelope Ltd's trading status.

#### Question 5

This question involved a private equity owned UK trading group with loans from both a bank and its shareholders. The first requirement asked about the UK tax rules that governed the deductibility of the interest payable on those loans, while the second requirement asked about the administration requirements of the corporate interest restriction (CIR).

Answers to the first requirement were mixed. Most candidates correctly identified that the CIR was in point and explained the key features of that regime including the £2m de-minimis, the fixed ratio rule (FRR) and the group ratio rule (GRR). However, many answers followed a formulaic step-by-step approach that did not take account of the specific features of the question. For example, many candidates calculated the group's total interest expense from first principles by applying the interest rates to the loan principal even though the interest amounts were given in the question. Some candidates also stated that values for group interest expense were not provided, which prevented a GRR calculation. However, relevant values were provided in the question – they were just not explicitly labelled, indicating a lack of understanding. Few candidates explained the circumstances in which the GRR would generally be more favourable than the FRR. Of those that did, many did not recognise that the GRR would assist UK-only groups with high levels of external debt.

Only a minority of candidates properly explained other rules relevant to interest deductibility, such as transfer pricing/thin capitalisation, unallowable purpose or the hybrid mismatch rules. Some provided explanations of transfer pricing and thin capitalisation as if they were separate regime rather than different aspects of the same regime. Unfortunately, some candidates explained rules that were not directly relevant to the question of interest deductibility in the UK, such as the withholding tax implications for the interest recipients.

Answers to the second requirement were generally good, with most candidates demonstrating an understanding of the role of the reporting company, the content of an interest restriction return and relevant filing deadlines.

## Question 6

This question involved a multinational group which transferred an IP-rich business to the UK from overseas. The first requirement asked about the relief available under the intangible fixed assets (IFA) regime as a result of the transaction, while the second requirement asked about the deferred tax treatment of trademarks acquired by the UK entity.

Many candidates failed to identify that because the transferor company was non-UK resident, the transfer of assets to the UK should not be treated as a tax neutral intra-group transfer. This led to difficulties in correctly working out the IFA relief available, although follow-through credit was given for relevant explanations.

Candidates generally applied the right treatment to the patents and trademarks. Many candidates also demonstrated understanding of the specific rules for post-1 April 2019 goodwill, sometimes with minor errors in the application of the qualifying IP cap or the 6.5% fixed writing-down rate. Some candidates spent time discussing the treatment of assets other than the IFAs, which was not required.

Many candidates correctly explained the role of deferred tax in accounting for timing differences between the accounting and tax measures of profit, and many produced reasonable calculations of the deferred tax position in relation to the trademarks for one or both years. Relatively few explained the accounting entries that would be necessary, or identified the need to assess the likelihood of future profits when determining whether a deferred tax asset should be recognised. Some candidates attempted to calculate deferred tax entries for assets other than the trademarks, which was not required.

## **Domestic Indirect Taxation**

### General Comments

Many candidates performed well on this paper, though there were a few that were clearly unprepared and should not have sat the examination.

With the change to the way requirements are drafted so that specific documents are no longer required, it was noticeable that a number of answers were more of a list of points than a thought through and reasoned whole answer. Another noticeable feature, in particular in Question 4, was the number of unsupported assumptions made, especially in relation to figures intentionally not provided in the question. There was also number of 'hedging bets' points made, where a candidate clearly spotted a reference to something, had knowledge about that and therefore included it, with no thought given as to whether it was remotely relevant to the question. Finally on Questions 4-6, the length of answers varied greatly (in part because of the issue raised above concerning lists of points rather than full answers), but candidates seemed to give little thought to the fact that Question 6 had 20 marks available as opposed to the 15 marks for both Questions 4 and 5, and did not write sufficient material to come close to the 20 marks, even if it was all correct.

### Question 1

This question tested candidates' knowledge of the VAT aspects of insolvency, including bad debt relief. Many candidates failed to address all the points raised in the question and so missed out on some of the 'easier' marks, for example the default surcharge regime was not mentioned by the majority of candidates. Very few candidates picked up on the fact that it would be the representative member of the VAT group at the time which is eligible to make a claim for VAT overpaid, and few candidates were

aware of the more recent changes to HMRC's preferential status as a creditor. Some good advisory points were raised around partial exemption restriction on input tax recovery for higher marks.

### Question 2

This question examined the VAT and SDLT aspects of a barter transaction involving land development by a college.

Many candidates didn't pick up on the barter point or the disapplication of the option to tax, while it was often stated, incorrectly, that the grant of a long lease in a new commercial building is automatically standard rated (therefore missing marks on the option to tax provisions). Some candidates misread the question and referred to construction services in return for the supply of land by the college (rather than a sublease) which highlights the importance of reading the question carefully.

With regards SDLT, some candidates failed to mention the exemption for the sublease.

### Question 3

This question looked at options for maximising VAT recovery by a holding company.

There was a wide range of approaches taken by candidates and marks were awarded for all valid points. Some very good advisory answers were provided with a range of relevant case law being quoted. Candidates clearly showed good knowledge of case law in this area.

### Question 4

This question tested candidates' knowledge of errors in VAT returns, the penalty regime and a few points about the VAT treatment of specific supplies.

On the whole, candidates were able to explain the basics of the penalty regime, although often they set out the possible arguments for different types of behaviour without coming to a view on which they thought applied. In relation to the VAT treatment of the supplies, many did not even discuss whether or not the correct position had been set out in the previous advice, and often assumed that the previous advisers or HMRC were correct without giving this any thought.

For the calculations, a number stated an assumption that the figures were VAT inclusive, despite the question stating otherwise. There were also a number of assumptions on further figures not provided in the question, which were not needed and were entirely unsupported by the information given in the question. Many candidates included details about HMRC assessments and the time limits for these; credit was given as appropriate. Candidates also gave details about HMRC review, ADR and appeals. Minimal credit was given for this, as the question was not focused on this, and given the errors an appeal would be unsuccessful, and advising to pursue such would be bad if not negligent advice – this is an example of where candidates saw a point and included information on it without considering how it applied to the facts. Credit was only awarded if this was caveated in some way such as the assessments being out of time, or included advice that such was unlikely to be successful.

### Question 5

This question examined the candidates' knowledge of SDLT, and what would constitute chargeable consideration and the VAT considerations of residential developments.

Generally, candidates picked up the main points and scored well on these. However, many candidates considered that the option to tax could be disapplied because dwellings would be built on the land, without recognising that this only applies to individuals. Some worked on an assumption that the taxpayer was a housing association without any indication of such in the question. Only a small number considered the position of the easements, and none did so correctly. A number also considered the tax position of the commercial property on the retained land, which was not relevant to the taxpayer; although since the change in format it may have been less obvious that the question was only focused on the property developer. Despite being a specific part of the question requirement, very few identified further information required from the client, and some instead made assumptions on these points.

### Question 6

This question concerned partial exemption, the standard method, the override and consideration of whether a special method would be more appropriate, and a few points on IPT.

Generally, the IPT part was done well. As for the VAT part of the question, this was much more mixed, and, overall, the scores were fairly low. A number of candidates gave a lot of detail and consideration as to whether there were single or multiple supplies here, but the question was quite clear they were distinct supplies, so no additional credit was given for this. In relation to the allocation of costs as taxable, exempt and residual, and the following calculation, many candidates mixed methods based on value and use rather than setting out both and comparing them. Overall, there was a lack of sufficient detail from the majority of candidates for a 20 mark question.

### Cross-Border Indirect Taxation

#### General

Overall, the standard of knowledge exhibited was the highest for some time and many candidates performed well.

However, as for the Domestic Indirect Tax paper, it was noticeable that some answers were so brief as to almost be bullet pointed lists with insufficient explanation to gain the marks available. Some candidates failed to draw their answer together to with conclusions. It was also noted that the incidence of “hedging bets” has increased, as candidates describe the outcomes of 2 or 3 courses without stating which they believe actually applies on the available facts.

### Question 1

This question tested candidates’ knowledge of the treatment of goods and services, including triangulation and agency. Candidates generally scored well and handled the triangulation aspects thoroughly. The agency point proved more challenging with many candidates stating the common features of disclosed and undisclosed agency, but being less able to determine which they were commenting upon and in some cases had difficulty identifying who the client was.

### Question 2

This question predominantly examined international supplies of services where charities are involved and specifically called for reporting requirements. Whilst candidates showed clear knowledge of leasing and the movement of goods to support such activity, a surprising number did not recognise

the donation of a £100,000 business asset as a supply, albeit one that would qualify for zero rate treatment. The liability of services of transportation of goods for export was not always correctly recognised although it was pleasing to see a number of candidates correctly identifying that the London office of a Swiss charity may be considered the recipient of the donation and transportation and that standard rating should apply. Reporting requirements were well covered but technical interpretation was less thoroughly displayed.

### Question 3

This question concerned supplies related to Insurance and the international transfer of part of a business, it was based on a complicated fact pattern taken from two earlier cases. Candidates were widely aware of the Hastings case and subsequent changes to legislation. They also quoted Ocean Finance and Halifax as prompted by the requirement and many explored whether Neckcrop had a UK fixed establishment created through Remindon. Many recognised the inability of the transfer to be a TOGC, although they had greater difficulty recognising whether commissions related to an earlier exempt supply of insurance or something different – those who reverted to first principles scored well in recognising the services were reverse chargeable.

### Question 4

This question concerned supplies to and by an overseas entity registered for VAT but without a UK fixed establishment. Many candidates correctly identified the absence of a fixed establishment and the ability of the Swiss entity to receive a range of supplies without being charged VAT. Well prepared candidates identified the import obligations and choices Oegn GmbH would have for complying with VAT requirements. A minority of candidates considered whether the arrangements may be abusive and whether HMRC would raise challenges. A small number of candidates questioned whether the entities could form a VAT group to eliminate charging VAT (they couldn't) and some lost time by analysing the current arrangements rather the proposed arrangements in the requirement.

### Question 5

This question tested the Customs Civil Penalty and Civil Evasion Penalty regimes. Some candidates made a good attempt at the question but nearly all made very few or no recommendations.

As has been the case before candidates seem to half-learn subjects or are able to find the legislation but not interpret it. For example, many who wrote about Customs Civil Penalties knew that there are two maximum limits (per penalty) but few realised that these limits apply to specific breaches and could therefore identify that the maximum penalty per breach in this case was £2,500. Similarly nearly all candidates who listed the “excuses” that the legislation state cannot be a reasonable excuse, or those that a HMRC or a Tribunal may not consider, stated incorrectly that these were examples of excuses that would be considered when mitigating penalties.

Unfortunately around half the candidates wrote about the penalty regime for a different tax, or discussed criminal sanctions which were specifically excluded in the question.

### Question 6

This question asked the student to identify Processing (specifically Outward Processing) as the appropriate relief and discuss the possibilities for saving duty.



This question was answered well by most candidates. Scores could have been improved had more candidates made recommendations. Most candidates mentioned but discounted the use of authorisation on a Customs Declaration because, as they correctly identified, it can only be used a limited number of times and for a limited value. However, it can be used immediately and would gain the business relief while an application for full authorisation is being made (remembering that a retrospective authorisation would go back to the date of acceptance of an application).

It was good to see practical advice given such as the need to ensure the correct CPCs were used.

## **APPLICATION AND PROFESSIONAL SKILLS**

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

#### General Comments

This question focussed upon the tax implications of an individual (Adrian Charl) returning to the UK to expand his sole trader business in a way that reduced his personal risk. The expansion required the purchase of some equipment and a property to be funded from the sale of chosen personal assets. Adrian Charl was looking to retain the property personally and was planning to sell the business in five years' time.

#### Structure

Candidates were required to prepare a draft report. No serious problems were identified with regards the structure of the reports drafted. In some instances, however, executive summaries were over verbose and lacked punchiness in outlining key points. Some reports would have benefitted from greater sub-division, with many separate topics being dealt with together in a single section.

It was also noted that general explanation of issues was quite often not converted into specific advice or a recommendation being made. For example, the election to substitute market value with the higher of cost or actual price paid for stock might be explained without leading to a recommendation as to whether this would be advisable.

#### Identification & Application

To demonstrate competence candidates were required to identify and explain:

- (1) An appropriate asset to be sold to fund the business expansion.
- (2) A suitable business structure for the expanded business.
- (3) The taxation issues surrounding the incorporation of the sole trader business, particularly in the context of a proposed personal purchase of business premises and the expected remaining five-year life of the business.

Competence was generally demonstrated for the first two of the above.

With regards the first, most candidates realised that the temporary non-resident rules were in point and were able to apply these rules to the two significant personal assets held by Adrian Charl. Some answers, however, included a discussion (sometimes extensive) of irrelevant assets (notably the goodwill of the sole trade business or specialist equipment used within it) and did not include any discussion of the availability of private residence relief. It was also noted too often that some candidates deducted their CGT liabilities from the chargeable gains themselves rather than from the proceeds in determining the net funds available to purchase the required assets.

Nearly all candidates identified that a limited company was the other option for structuring the business. Most candidates also went onto to demonstrate that there could be tax advantages with a limited company insofar that Adrian would only be personally taxed on income that he took from the company and that these `takings` could be structured tax effectively. Fewer, however, went onto to compare the absolute annual tax savings that could be achieved with taxable profits of £100,000.

With regards the third, the majority of candidates dealt with the income tax, VAT and stamp duty/SDLT aspects of the incorporation well. Further the basic initial CGT aspects of incorporation were usually

well dealt with although more than a few candidates failed to pick up that the specialist machinery would also produce a chargeable gain upon incorporation.

The major area where competence was often not adequately demonstrated concerned identifying and explaining the more complicated CGT aspects of incorporation, particularly in the context of Adrian wanting to retain the property personally and the eventual sale of the business in five years. Very often incorporation relief ('IR') was the only relief considered. Candidates also needed to identify that gift relief ('GR') was also an option and even the possibility of no initial relief at all, given that the initial CGT liability was relatively modest and could be more than compensated for with a sale of all of the assets to the company (generating a significant loan account that could be extracted tax-free over the remaining life of the business and high base costs for the eventual business sale, whether by way of a share sale or a (often over-looked) trade and asset sale).

### Relevant Advice and Substantiated Recommendations

To demonstrate competence candidates were required to provide advice and recommendations in the following areas:

- (1) Selection of the preferred asset to sell.
- (2) Selection of the preferred business structure.
- (3) A consideration of both IR and GR, including not using them, having regard to the timing of the property purchase, to determine the optimal incorporation strategy.
- (4) Other relevant matters including concerning capital allowances, stock and VAT.

Competence was generally demonstrated for the first two and last of the above. Most candidates concluded that a sale of the Morovan property was preferred, because it resulted in no CGT becoming payable such that all funds would be available to fund the business expansion, and that a limited company was the preferred business structure, because it would reduce Adrian Charl's personal risk exposure as well as providing tax advantages.

The third was, however, more problematic. Many candidates failed to consider (i) the timing of the property acquisition (often concluding that the property needed to be transferred to the company to preserve the preferred IR, without considering the possibility that it could be acquired personally after the incorporation or that GR, applying on an asset-by-asset basis, or no reliefs at all were also possibilities) or (ii) the impact of the incorporation options on future base costs. Additionally, virtually no candidates attempted to offer advice based on a consideration of the entire five-year period and, in particular, the use of loan accounts as a means of extracting funds in a tax-free manner reducing the extent to which those extractions were otherwise exposed to income tax at relatively high (or even high) tax rates over the entire period.

## **Taxation of Individuals**

### General Comments

The scenario focused mainly on the various income tax and capital gains tax issues relating to property.

The change of use of 2 Orchard Road from long-term to short-term letting required consideration of the tax advantages available for properties qualifying as Furnished Holiday Lets, including the wider impact of mortgage interest rate relief on overall tax liabilities, while the purchase of 7 High Street

brought up issues around main residence reliefs, and the differences between the treatment of rental income and employment income.

Overall, the question was answered reasonably well. Candidates showed the ability to work through the scenario to identify the relevant issues, although in some areas knowledge of the tax implications of those issues wasn't strong. Advice and recommendations were given based on the issues identified.

### Structure

Reports were generally split into sections and sub-sections, for both the issues identified and for the two different properties. The stronger reports took the whole scenario into account, whereas weaker reports focused on each section in isolation, for example saying that an advantage of letting 2 Orchard Road as a FHL would be that the income would count as earnings for pension contributions, without considering that Julia already had employment income in any case.

### Identification and Application

#### *Issues relating to finance costs*

All candidates knew about the restriction of relief for finance costs, and that the restriction does not apply to a FHL. Almost all candidates realised that there was therefore an advantage in borrowing for the FHL, as tax would be saved at 40% rather than 20%. Generally, candidates did not go on to consider the impact of the restriction on the clawback of child benefit.

There was also valid discussion to be had around whether interest allowable would be restricted due to the rules about capital at commencement of the business, but those candidates who attempted to discuss this often did not do so well. Converting 2 Orchard Road to a FHL would represent a separate business, with the capital used (£550,000) based on the date of commencement of the FHL rather than the previous rental.

#### *Rental vs employment income and deductible expenses*

Almost all candidates recognised that employment income is subject to NI, whereas rental income is not. In relation to expenses, most candidates discussed the temporary workplace rules, but discussion was fairly muddled and few had detailed knowledge of which expenses may be allowable. Some candidates believed that if Julia stayed at 7 High Street her travel expenses would no longer be allowable, and almost no candidates considered additional expenses such as subsistence.

#### *Main residence issues*

The possibility of making a main residence election for 7 High Street was missed by most candidates. There was some valid discussion around rent-a-room relief in relation to whether the property would be Julia's main residence.

#### *FHL issues and BADR*

The conditions for Orchard Road to qualify as a FHL and the advantages were covered well, though only the better candidates related the discussion specifically to the scenario, rather than simply listing out the rules. The availability of BADR on sale of the property was missed by a surprisingly large number of candidates. Even where BADR had been listed as one of the advantages of FHLs, candidates often did not go on and consider BADR further in relation to the future sale of the property.

### *Other issues*

The main other issues were the clawback of child benefit, which was dealt with well, and that Julia would be taxed on rent paid by her son, which was also dealt with well on the whole. There were valid points made about the tax savings available if the property was gifted to Steven, although making such a large gift to a teenager who's not good with money did not seem a particularly practical idea, which lead candidates on to the idea of using a trust. Again, there were valid points which could be discussed in relation to this.

### Relevant Advice and Substantiated Recommendations

#### *Which property should be funded by the mortgage?*

Most candidates concluded that the mortgage should fund 2 Orchard Road, due to the restriction of finance costs against 7 High Street. Better answers also considered the impact of the mortgage on child benefit.

#### *Whether Julia Anderson should stay at 7 High Street*

Most candidates recommended that Julia should not stay at 7 High Street, based on the additional NI due on employment income in comparison to rental income. The possibility of making a main residence election, which may have changed the recommendation, was not often considered. Marks were given in any case for reasonably argued recommendations based on the issues identified by candidates.

#### *Recommendations relating to 2 Orchard Road*

There were fairly straightforward recommendations which could be made to ensure that 2 Orchard Road met the conditions to be a FHL, and to ensure the conditions were met for two years prior to sale to claim BADR. The first of these recommendations was made by most candidates, the second was often missed.

#### *Whether a main residence election should be made*

This issue was missed by many candidates, with the result that no recommendation was made.

#### *Other recommendations*

Good recommendations were made in relation to reducing the child benefit clawback through making pension contributions, and not charging Steven rent to avoid being taxed on the money he paid. Recommendations to gift 7 High Street to Steven did not seem very realistic. Recommendations to put 7 High Street into trust were sometimes reasonably well argued (in which case credit was given), but often not (in which case credit was not given).

### **Human Capital Taxes**

#### General Comments

The scenario considered a UK online media company which was ceasing to trade after a decline in sales. Some of the employees were being made redundant and others were moving to become employed by a parent company.

The question focused on the termination packages being offered to five employees and the impact for the business in a number of areas. Of the five employees selected for redundancy one had suffered a disability following a stroke and was already on long-term sick leave. The other four employees were close to retirement age.

The HR Director had proposed a couple of options for the redundancy packages whilst the Finance Director had some concerns about the timing of the payments and whether the payments should be made from the parent company or the ceasing subsidiary.

Candidates were required to comment on the redundancy options and identify which option proved to be the more appropriate route for the employees and the business. Candidates were also required to comment on the corporate tax relief and deductibility of expenses as well as the practical actions which the business should take in this situation with an emphasis on employment law.

Overall, candidates performed well on this paper and demonstrated that they were able to absorb the facts provided, understand the nuances of the case, identify the issues, and provide advice and recommendations.

### Structure

Overall, the structure of scripts by all candidates was to a high standard including an introduction, background, executive summary and provided caveats around the use of the advice.

### Identification and Application

#### *Tax & NIC treatment of the termination options*

The majority of candidates showed competency in this area and were able to identify the contractual and non-contractual elements of the proposed packages and the risk of option two being considered a bonus for the performance of services as opposed to a qualifying redundancy payment. The majority were able to identify there was a risk of a EFRBS arrangement for the employees close to retirement age and the special treatment for the payment for the employee retiring due to disability.

Most candidates identified that statutory redundancy has not been specifically calculated although only the more capable attempted a calculation of the maximum amount due to each employee.

Whilst the majority understood the PENP requirements only a small proportion of the more capable candidates were able to identify the need to add back the salary sacrifice deduction for pension contributions and included this in their analysis as well as their calculations.

A few candidates unfortunately transposed the two redundancy options, which in turn made their analysis on opposing options confusing and ultimately factually incorrect.

The suggestion to pay some of the redundancy payment into a pension scheme was made by a large proportion of the high performing candidates but only the most capable estimated the amount of the amount which could possibly be paid into the pension.

#### *PAYE and NIC payment and reporting requirements*

Most candidates were able to identify the PAYE & NIC treatment of the redundancy package and attempted to advise how reporting should be made to HMRC for the cash termination payments. The majority of candidates were also able to accurately explain the Class 1A NIC position for qualifying redundancy payments in excess of the £30,000 exemption.

Some candidates struggled with the reporting requirements to HMRC for non-cash benefits and incorrectly advised that P11Ds should be completed for post-employment benefits in kind.

The more capable candidates were able to explain what actions were needed for the employees leaving the business.

#### *Impact of benefits in kind in the termination package and optional remuneration error in previous P11D*

This section was noticeable in that only a small percentage of candidates demonstrated sufficient competency.

Although the majority of the candidates were able to identify that the redundancy package included benefits in kind the majority did not comment on the practicality of whether private medical insurance could indeed be provided by a company which was ceasing.

Also, only a few of the higher performing candidates identified that optional remuneration arrangements were in place for company cars and cash alternatives and errors had been made by the company in reporting company car benefits which needed to be addressed.

#### *Identifying employment law aspects relating to termination of employees such as need for compromise agreement and employment law advice.*

Whilst the majority of candidates identified the employment law aspects, only a few went into detail of the risks for the business in not obtaining advice.

#### *Corporation tax aspects including restriction of relief and impact of paying from parent or subsidiary.*

It was good to see that many candidates understood there would be a restriction for the redundancy payments as the company was ceasing to trade and the impact for the business if the payments were made by the parent company. It was common, however, for candidates to mention transfer pricing regulations which was irrelevant for this case.

#### *Corporation tax impact of loss relief and long accounting periods and transfer of assets within group at no gain/no loss.*

Most candidates showed some awareness of the group relief provisions and the ability to claim relief for the losses which the closing company had stored. The more competent candidates mentioned the restriction for pre-April 2017 losses.

A point which only the more capable of candidates mentioned was the no gain/no loss principles of transferring assets between connected businesses.

The question included information about long accounting periods; only a very small number of candidates acknowledged this and identified actions which would be necessary for reporting to HMRC.

#### Relevant Advice and Substantiated Recommendations

*Advice regarding which option to choose, recommending disability payments and advice to improve the tax efficiency of the options*

The majority of candidates performed well in this area providing a recommendation about which option was preferable for the company. The majority recommended option 1 and gave a good information as to why this decision was made, often with accompanying calculations.

Advice was typically provided about the practical aspects such as requesting rulings of the packages from HMRC and operation of PAYE and Class 1A.

Most provided advice on the use of pensions but few recommended the tax efficient use of outplacement, retraining services and legal services.

*Advice and recommendations on which entity should make the payments, timing of payment, impact on gross loss relief and transfer of assets.*

The more capable candidates were able to make recommendations on the timing of the payment and which entity should make the payment giving reasoned arguments for this.

*Employment law advice, compromise agreements and other practical aspects*

The majority of candidates recommended employment law advice be sought but only the most capable candidates recommended a compromise agreement and legal advice needed for the employees.

The better candidates also recommended independent financial advice for pension contributions. Credit was given in this section for other practical advice to the company about amending P11D for the optional remuneration error and recommending a voluntary disclosure was made to HMRC. Other practical recommendations which were credited included considering any possible age discrimination claims which the employees being made redundant could raise as well as the contractual arrangements which needed to be considered for employees transferring to the parent company.

Candidates were also credited for recommendations on VAT, company cessation actions, redundancy policy and providing a cash alternative where it was not practically possible to remain in the company's private medical insurance scheme once the business had been wound down.

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

### General Comments

This question required a report to be prepared for the trustees of an interest in possession settlement. Candidates were required to advise on the proposed sale of either a plot of land or a residential property in order to settle an overdue Inheritance Tax liability. They were also required to advise on the tax implications of the beneficiaries becoming entitled to the trust assets on their 30<sup>th</sup> birthdays and any action to be taken prior to the first beneficiary's birthday.

Most candidates dealt with the first issue well and recommended which asset should be sold and explained why. In comparison, the tax implications of the beneficiaries becoming entitled to the trust



assets were not dealt with as well, with many candidates only concentrating on the land and property leaving the trust and failing provide any recommendations in relation to the unquoted shares.

### Structure

Nearly all the candidates produced their answer in report format and included an introduction, executive summary, dealt with each issue in turn and included their calculations as appendices. For a few, the report was set out in a more truncated bullet point format akin to a list.

Some candidates produced an overview of the trust which served as a good introduction to their report. However, in several instances it was clear that this had been prepared in advance of the exam based solely on the pre-seen information. Whilst this is acceptable, it is important to ensure that any overview must be updated to account to reflect the additional information provided in the exam paper and in several cases this had not been done. As a consequence the overview did not sit correctly with the facts given.

### Identification and Application

#### *CGT on the sale of Bramble Cottage or the sale of the paddock*

Most candidates were able to correctly calculate the CGT liability on the sale of Bramble Cottage and the majority recognised that the trustees' IHT liability arising on the creation of the trust and on Lily's death were also allowable deductions for CGT purposes.

Credit was also given to candidates who stated that only the IHT relating to the creation of the trust should be allowed for CGT and who apportioned the IHT figures shown in Exhibit B accordingly.

In the main, candidates were able to calculate the gain arising on the sale of the paddock and correctly apply the 20% CGT rate. Unfortunately, there were a lot of candidates who used Lily's original purchase price as the trustees' base cost, so incorrectly calculated a capital loss arising on the sale. As CGT holdover relief is only available to holdover capital gains, not capital losses, this relief would not have been available to Lily on the paddock, so the trustees' base cost was the market value on 12 August 2014.

#### *Availability of APR on the paddock*

All candidates recognised that the paddock would qualify for 100% APR for IHT purposes once the trustees had owned the land for seven years, but not all explained why this was the case.

Most were also aware that the loss of the relief would increase the IHT liability on the exit charges arising on Amanda and Darcy's birthday. However, very few candidates attempted to quantify the additional IHT payable to compare this to the CGT charge arising on the sale of the paddock.

#### *Analysis of the shares in Cresswell Garden Centres Ltd for BPR purposes and calculation of the IHT exit charges.*

The changes made to the business since 2019 required reconsideration of the availability of BPR. This was dealt with well by over half the candidates and in many cases all the relevant factors were explained and considered in detail. However, of the remaining candidates many made their decision based on a single factor, such as the fact that the profits of the investment side exceeded the trading

element or the fact that 60% of floor space was still used in the trade, rather than considering the overall business.

Some candidates were also confused by the balance sheet entry for 'investment property' valued at £2.4 million, as they thought that this related to an additional separate investment premises, when it actually related to the 40% of floor space in the garden centre allocated to third party lettings.

Most candidates made a reasonable attempt at calculating the IHT exit charge arising on Amanda's entitlement and the majority calculated the actual rate of IHT correctly. Unfortunately, very few candidates applied the actual rate of tax to the correct figures, due to either forgetting to include or miscalculating the balance of the trust's cash account. In addition, only a handful of candidates calculated the IHT exit charge arising on Darcy's birthday if no action was taken.

#### *CGT issues on cessation of the interests in the trust in relation to the shareholding in Cresswell Garden Centres Ltd*

Despite having analysed the BPR status of the shares in the company, many candidates did not go on to consider the CGT implications of Amanda and Darcy becoming entitled to the shares on their respective 30<sup>th</sup> birthdays. Of the candidates who did consider this, generally most were able to calculate the CGT liability on the deemed disposal using the correct base cost and some also referred to the availability of CGT holdover relief.

#### *CGT liability on the cessation of the interests in the trust in relation to the paddock and Wilton House*

Again, a large number of candidates did not calculate the CGT liability arising on the paddock or Wilton House when Amanda and Darcy become entitled to them and just explained that CGT holdover relief could be claimed in respect of both properties if the trustees exercised their power of advancement. Whilst this is correct, it is important to remember that this claim still requires a calculation of the gain to be heldover and without calculating the gain it is impossible to advise the client how much tax is being saved or deferred.

#### *Impact of the rule in Crowe v Appleby on the capital distributions and recognition of the trustees' power of advancement*

Surprisingly, nearly every candidate attempting this question appeared to be aware that the rule in Crowe v Appleby applied, although it is safe to say that many candidates failed to correctly understand why it was relevant nor were able to explain its impact on the availability of CGT holdover relief for Amanda on her share of the land and buildings.

However, many candidates did suggest that the trustees exercise their power of advancement to enable Darcy to receive her entitlement at the same time as Amanda paving the way for CGT holdover relief to be claimed on the full land and building gains.

Credit was also given to candidates who suggested an exercise of the power of advancement on the basis that 100% BPR may not be available by May 2023 when Darcy would become entitled, if Cresswell Garden Centres Ltd continue to expand the letting side of the business.

#### Relevant Advice and Substantiated Recommendations

##### *Sale of Bramble Cottage vs sale of the paddock*

The vast majority of candidates (even those who incorrectly calculated a capital loss on the sale of the paddock) recommended the sale of Bramble Cottage in order to preserve the APR available on the paddock at the IHT exit charge dates.

#### *Business property relief on shares in Cresswell Garden Centres Ltd*

Most candidates concluded that the business carried on by Cresswell Garden Centres Ltd was still wholly or mainly trading, so 100% BPR would be available.

Only a handful of candidates felt that the investment side of the business exceeded the trading side and of these, the majority were candidates who had misinterpreted the 'investment property' entry on the balance sheet as representing a separate building to the garden centre.

#### *CGT and holdover relief on the transfer of shares to Amanda and Darcy*

Overall, this part of the report was dealt with quite poorly in comparison to the land and buildings. It seems that candidates either ran out of time to deal with this aspect or went off on a tangent explaining the rule in *Crowe v Appleby* and the related CGT holdover relief implications and completely forgot to address the CGT issues relating to the shares in the company leaving the trust.

Several candidates advised that Amanda and Darcy could be made directors of the company to qualify for Business Asset Disposal Relief going forward and credit was given for this suggestion.

#### *Consideration of the impact of the tax charges on Amanda & Darcy's inheritance and the trustees' power of advancement*

Most candidates recommended that the trustees advance Darcy's interest in the trust to her on Amanda's birthday and that holdover relief should be claimed on all the trust assets.

The majority were aware that this would result lower IHT exit charges and no other tax liability due on the cessation of trust, but very few candidates considered quantifying the balance remaining out of Amanda and Darcy's inheritance both before and after this planning suggestion. This means they would have been unable to confirm the tax saving achieved as a result of their recommendations to the client.

## **Taxation of Larger Companies and Groups**

### General Comments

The question required candidates to write a report about the proposed expansion of the UK subsidiary of a larger multinational group. Candidates were asked to consider three main areas: a) the choice between the construction of a new factory or buying and adapting an existing structure; b) the choice between a trade and assets or share acquisition; and c) the options for financing the expansion.

Overall the question was well answered with the majority of candidates considering the impact of capital allowances and other tax costs and reliefs on the overall costing of the alternatives, but it was disappointing that a number failed to refer to the importance of commercial considerations, in particular when considering a share acquisition.

### Structure

All candidates produced an answer in an appropriate report style with a summary and some level of recommendations. In some cases, the recommendations were debated and advised on only in the Executive Summary rather than the body of the report.

### Identification and Application

#### *Factory construction or acquisition*

Almost all candidates included a good discussion of the capital allowances position, explaining the different forms of relief associated with a new build and most included a table showing the allocation of expenditure to different pools. Most identified the potential for capital allowances on the expenditure on plant and machinery to be incurred in the case of acquisition of the existing factory, although the quality of the discussion on the relief associated with the acquisition of this factory varied significantly. Disappointingly, a number of candidates failed to set out a clear comparison of the initial costs and future tax benefits, with some failing to include, for example, the acquisition cost of the land. Such errors were generally avoided by those who set out a clear table of the figures, although there was some confusion as to how to deal with the benefit of the capital allowances.

#### *Stamp taxes and VAT*

Most candidates identified the basic SDLT costs associated with the alternative acquisitions, but some appeared confused with regard to the VAT position and many missed the impact of this on the SDLT, simply stating that as VAT would be recoverable, it was not included in the comparisons.

#### *Forms of corporate acquisition*

While most candidates identified the significant SDLT cost associated with a trade and assets purchase, it was disappointing that more candidates did not identify the potential for capital allowances on such a purchase, nor the benefit on future base cost in the case of an asset sale.

Most candidates identified that in the case of a share sale, there was a risk of taking on liabilities but few seemed to fully appreciate the commercial risk, focusing on tax risks only. Similarly, most identified that whilst a share purchase would potentially allow access to the trading losses, the MCINOCOT rules could restrict the use of these, although the quality of discussion of this risk varied significantly. Disappointingly, no candidates considered the possibility of disclaiming capital allowances to mitigate this risk.

#### *Financing*

This was probably the weakest area, both in terms of discussion and recommendations. A surprising number of candidates failed to identify and discuss the three options – equity financing or internal or external debt. The majority of candidates identified the potential for the UK group interest charge to exceed the £2 million de minimis and the fact that the Corporate Interest Restriction could therefore be relevant. However, a number of candidates indicated that this was a timing issue only and did not therefore consider it further, failing to explain that if the financing structure did not change, there was the potential that this would be a long-term issue. Candidates suggested that this was a reason to favour external finance, presumably due to the potential of using the group ratio rule. However, given that the question stated that the worldwide group had no external finance prior to the acquisition, this was not likely to change the analysis significantly.

### Relevant Advice and Substantiated Recommendations

### *Factory construction or acquisition*

Some candidates recommended the construction of the factory simply due to the level of capital allowances available, failing to appreciate the higher costs, whilst others directly offset the allowances against the cost (rather than the associated tax benefit). The stronger candidates either included the tax benefit of the deductions over the life of the project, ideally noting that some of the relief would not be received for a number of years, or considered the year 1 position, focusing on short term net cash outlay, and noted that further relief would be available in future years. The best candidates also considered the commercial aspects, such as the timing as to when the premises would be available, although it was surprising that a number suggested constructing the factory if the share acquisition would not allow access to the factory on a timely basis.

### *Forms of corporate acquisition*

Credit was given for recommending either a share or trade and asset purchase provided that the candidate provided a well-presented argument for their advice. A number of candidates recommended a share purchase on the basis of the lower cost without acknowledging that this would come with the assumption of £23 million of debt – hence the cost differential was not in fact in excess of £20 million. A lot of importance was attached to the availability of the losses, although the better candidates did caveat this, albeit on occasion by advising that future activities be carefully monitored. Had candidates taken into account the potential benefit of capital allowances, the cost comparison would have been much closer, and candidates could have given more consideration to the risks of acquiring a company with unknown history.

### *Financing*

Unfortunately, a number of candidates suggested bank debt rather than internal debt to avoid transfer pricing issues, not seeming to appreciate the commercial aspect of cashflows outside the group. Few candidates seemed to appreciate the net tax benefit arising from the differential in tax rate, albeit that this could be impacted to the extent that any interest was non-deductible. Some candidates identified the benefit of debt finance, up to a certain level, i.e. the point at which the Corporate Interest Restriction would result in the disallowance of interest.

## **Vat and Other Indirect Taxes**

### General Comments

This question required candidates to advise the client on the tax implications of the proposed acquisition of land and buildings currently used by a Chington Links Golf Club, the undertaking of the Club itself, and a nearby country house. The pre-seen material alerted candidates to the involvement of Sandsails Ltd, a private company operated by Pete, its principal shareholder. Max Slazenger, an individual, owned the land and buildings as well as the house. The Golf Club undertaking, however, was owned by its members, operating through a company limited by guarantee. Pete/Sandsails wished to purchase the land and buildings, integrate the golf club undertaking into the existing business and also to purchase the house as Pete's family home. Candidates were required to advise on possible options for the acquisitions and to evaluate the tax implications of each. At the heart of the question lay the need to analyse who was supplying what to whom, how the tax treatment would differ depending on whether Sandsails Ltd or Pete was purchaser, and which of the available options produced the optimum tax and commercial results for the client.

Most candidates correctly identified the respective roles of the parties. Unfortunately, however, some candidates conflated Max with the Golf Club which led them into error. Certain information provided in the Question came from third parties (Terraspec LLP, the Valuers, and Col. Penfold, the Golf Club Secretary). Some candidates took this too literally (for example, by accepting that the Golf Club's cavalier approach towards its own tax affairs was completely accurate). These misapprehensions highlighted the need for candidates to examine third party information critically and, where appropriate, alert the client.

It was apparent that most candidates had made efforts to master the pre-seen material and consider the topics arising. The weaker candidates seem to have fallen into error by not reading the question carefully and by failing to apply fundamental concepts of VAT to the scenario with sufficient rigour. In their advice and recommendations, too, they failed to have sufficient regard to reality and the client's commercial objectives. There were several cases of the tax tail trying to wag the commercial dog. That said, many scripts were a pleasure to read and those candidates who achieved a pass are to be congratulated on demonstrating a good grasp of VAT and the interaction of other relevant taxes.

### Structure

Most candidates structured their answers well, with appropriate opening paragraphs and an Executive Summary. However, few included a suitable concluding paragraph, summarising the advice given and next steps. Several candidates lacked consistency in their use of "I", "we", or in the abbreviations which they adopted. Whilst all candidates framed their answer as a letter to the client, some referred to it as a report. Most were of sufficient length, though some were too short to cover the topics adequately.

### Identification and Application

Most candidates displayed a good knowledge of VAT. This question potentially raised a large number of points for consideration, though not all required in-depth discussion in order to provide the answer. Candidates failed adequately to consider some fundamental points and were too ready to jump to conclusions. One striking example was the concept of "taxable person". Few candidates addressed whether Max was a taxable person at all (while noting he had, apparently, not opted to tax the golf course land). The astute candidate, however, might also have spotted that the club house was a "new non-residential building" and that the golf course was a "new civil engineering work". Unfortunately, few candidates recommended protective measures such as further enquiries/warranties and indemnities.

The above points may seem unduly technical, in the context of the answer as a whole. However, they exemplify the need for candidates always to consider fundamental concepts of VAT (such as taxable person and the person by whom/to whom a supply is made) and rigorously apply them to the factual scenario.

It was pleasing to see that the VAT sporting exemption was well-understood and explained.

Most candidates correctly identified that no VAT was chargeable on sale of The Larches or on that part of the consideration attributable to Gorse Cottage. The partial exemption implications of VAT-exempt lettings were generally well understood.

Most candidates demonstrated a good awareness of the SDLT issues and of ATED. Helpfully, some candidates provided SDLT computations, which was pleasing.

Most candidates identified the VAT and corporation tax effects of Sandsails Ltd buying the Larches and renting it to Pete. A couple of candidates, however, thought he should buy it and rent it to the company. This suggested a careless reading of the question. Some candidates assumed The Larches would be let to Pete at a market rent (despite the Instructions contemplating a lease on 'soft' terms) and therefore did not go on to consider the income tax/NICS treatment of a benefit in kind. This was a major point against Sandsails Ltd acquiring The Larches and to have overlooked it was disappointing. Corporation tax issues were generally addressed competently. Disappointingly few candidates identified that Pete and Sandsails Ltd were "connected" which potentially impacted on some of the tax treatment.

#### Relevant Advice and Substantiated Recommendations

Overall, candidates performed better in this skill than in November 2020. There is, however, scope for improvement. In order to pass the examination, candidates must demonstrate the required level of competence both in identifying and applying tax technical rules to the facts and in offering their advice and recommendations on how best to structure the proposed transactions. It was very disappointing to see a number of candidates achieve a pass in the former, only to fail in the latter.

A few candidates offered useful recommendations regarding the possible availability of capital allowances, Annual Investment Allowance and Structures and Buildings Allowance. They were awarded appropriate credit.