THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Human Capital Taxes

May 2024

TIME ALLOWED

3 HOURS 30 MINUTES

- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.

- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should indicate this where relevant.

- Scots law candidates may provide answers referring to Land and Buildings Transaction Tax rather than Stamp Duty Land Tax.

- Unless otherwise indicated by the provision of additional information in the question, you may assume that 2023/24 legislation (including rates and allowances) continues to apply for 2024/25 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.

- Additional marks may be awarded for presentation.

- You must type your answer in the space on the screen as indicated by the Exam4 guidance.

1. Akrem Ltd is a UK-resident marketing company. Kit is the sole director and shareholder, having incorporated a successful sole trade in September 2022.

Akrem Ltd engaged employees for the first time in January 2023 and registered for PAYE. Salaries are paid on the last day of each month and Kit manages the payroll. The company operates a pension scheme using a net pay arrangement, with employees and Akrem Ltd both contributing 4% based on the full salary.

Akrem Ltd has two employees with outstanding student loans:

1) Felicia, 26, joined Akrem on 6 April 2023. She has a loan from her postgraduate studies. Her salary is £14,400 per annum, but in March 2024 she received a bonus of £6,000. Felicia has opted out of the pension scheme. Akrem Ltd deducted a total of £327 from her salary towards her postgraduate loan in 2023/24, all of which was taken from her March 2024 payment. Felicia believes this deduction was excessive and hopes Akrem Ltd can repay it to her.

2) Sylvester, 22, joined Akrem Ltd on 1 January 2024. This is Sylvester's first employment. His monthly salary net of the 4% pension deduction is £2,400. Sylvester told Kit when he joined that he has a student loan, which he thought might be Plan 2. No deductions have yet been made from his salary towards this. On 1 April 2024, Sylvester found a document from the Student Loan Company confirming that Plan 2 applies to his loan and he gave this to Kit.

Akrem Ltd's March 2024 PAYE payment to HMRC was made on time. April salaries have been paid to all six of the company's employees, but with no student loan deductions made, and no payslips or other documentation issued yet. Kit will do the same thing in May, before catching up in June 2024 with the April and May PAYE submissions and any documentation for employees. The amount due to HMRC for PAYE for each month will be £3,100.

Kit is trying to manage the company's cashflow and would prefer PAYE and National Insurance payments to be made on a quarterly basis in future.

Akrem Ltd does not pay Kit any salary, but the company made a loan to Kit of £5,000 in July 2023, with interest payable at HMRC's official rate. Kit intends to repay the loan in full by the end of June. The first Corporation Tax return, for the year ended 31 August 2023, will be prepared soon.

Requirement:

1) Discuss any actions needed in respect of student loan deductions made by Akrem Ltd for 2023/24, and explain the consequences of making the April and May PAYE submissions on 30 June 2024. (12)

2) Discuss the tax implications for Akrem Ltd of Kit repaying the £5,000 loan in June 2024. (3)

Total (15)

2. Raj has been employed by ABC plc, a UK company, since 6 March 2003. ABC plc assigned Raj to Poland on 6 March 2022. On 6 November 2023, ABC plc asked Raj to return to the UK on 5 March 2024. Raj was UK non-resident from 6 March 2022 to 5 March 2024.

On 5 March 2024, Raj was informed that his role would immediately be made redundant and that he did not need to work his six-month notice period. His salary has always been paid in equal monthly instalments.

Raj's severance package is set out below.

Remuneration item	Amount and additional information
Bonus for calendar year 2023	£150,000
Payment in lieu of notice	£20,000 covering a reduced period of two months by mutual agreement.
Unused 2024 holiday pay	£2,000
Payment to UK pension scheme	£18,000. No other contributions had been made to any pension schemes during 2022/23 or 2023/24. Raj had been a member of this scheme since 2003.
Outplacement counselling	£12,000. This is available to all employees who are made redundant.
Ex-gratia payment	£80,000
Redundancy pay	One month's salary (£10,000) for each year of employment with ABC plc.
Hypothetical tax and NIC	40% flat rate applied on each item above that would normally be subject to UK tax/NIC.

All payments were made in March 2024, and before Raj was issued with his P45. At this time, Raj was UK tax resident under the Statutory Residence Test with a tax code 0T in operation. He was tax resident in Poland for the 2023 calendar year but will not be tax resident in Poland for the 2024 calendar year.

Poland will subject Raj's 2023 calendar year bonus to tax in full, as it was earned whilst he was Polish tax resident. His redundancy payment will be taxed in Poland based on the time spent in Poland as a proportion of the total time he was employed by ABC plc. No other parts of the severance package will be taxable in Poland. The Polish tax rate that will apply is 35%.

Raj will be tax equalised on all parts of his severance package and had no other UK taxable employment income in 2023/24.

Requirement:

1) Explain how UK tax and National insurance Contributions will apply to Raj's severance package. (10)

2) Calculate the tax on the severance package that will be due from ABC plc in 2023/24, after accounting for tax equalisation, relevant reliefs and credits. You should ignore National Insurance Contributions. (5)

Total (15)

3. RedCo group of companies is headquartered in the UK. Lee is the Finance Director of the group. He is employed by the Singapore subsidiary, RedCo Pte Ltd. Lee is domiciled in Singapore and has not previously been UK tax resident.

Lee has been undertaking regular business trips to the UK since 6 April 2024, spending four workdays and three midnights in the UK every month. He works 20 days every month. During his UK visits, he stays in different hotels. He attends leadership meetings, reports to the CEO, and meets his UK based teams. The costs of his employment are ultimately borne by the Group's UK entity, RedCo Ltd, which also benefits from the services he provides in the UK. His wife and home remain in Singapore. He is paid the following annual amounts after hypothetical tax deductions:

Item	Amount
	£
Salary	336,000
Car allowance	18,000

No withholding taxes are operated in Singapore.

In May 2024, RedCo Group asked Lee to start a three-year assignment to the UK on 6 August 2024. On this date, Lee will relocate to the UK with his wife, and move into a flat provided by RedCo Ltd. His Singapore family home will continue to be available to him, until it is rented out on 6 October 2024.

Whilst on assignment, Lee's monthly travel and workday pattern will be:

UK workdays	Seven workdays
Non-UK workdays	13 workdays
UK days of presence	14 midnights all spent in the UK flat

His annual assignment package will be:

Item	Amount
	£
Salary	350,000
Car allowance	18,000
Hypothetical tax on salary and car allowance	(80,000)
Cost of Living allowance	8,000
Rent paid by RedCo Ltd	48,000
Utilities paid by RedCo Ltd	4,000

He will set up a new bank account in Jersey into which the cash items of his assignment package will be paid from 6 August 2024 onwards. He will deposit no other amounts into this bank account. He will transfer £12,500 a month to a UK bank account on the last day of each month starting 30 August 2024 onwards.

Lee will be tax equalised on all his UK taxable income, and RedCo Ltd operates Appendix 4 and Appendix 6 agreements.

Requirement:

1) Explain Lee's 2024/25 UK Income Tax position and RedCo Ltd's PAYE tax compliance obligations. (10)

2) Calculate the tax that should be due from RedCo Ltd to HMRC for the 2024/25 UK tax year. (10)

Total (20)

Extract of UK / Singapore Double Tax Agreement

ARTICLE 15
Dependent personal services

(1) Subject to the provisions of Articles 16, 18 and 19 of this Agreement, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; and

(b) the services are performed for or on behalf of a person who is a resident of the first-mentioned Contracting State; and

(c) the remuneration is subject to tax in the first-mentioned Contracting State; and

(d) the remuneration is not directly deductible from the profits for tax purposes of a permanent establishment or a fixed base in the other Contracting State

(3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

End of Question

4. Gauged Ltd is a design company based in Manchester.

Three of the company's laptops are used as follows:

Arlo has been a Gauged Ltd employee for many years. His company laptop cost £1,750 on 6 April 2023, when it was purchased and provided to him. The laptop is helpful, though not essential, for Arlo's work, and Arlo uses it mainly (around 90%) during his spare time. Gauged Ltd also purchased a wheelchair mount on 6 April 2023, for £830. This is essential equipment which assists Arlo in performing his work duties and is provided in compliance with disability and equality legislation.

Arlo has requested voluntary redundancy and will leave his employment on 5 July 2024. His redundancy package will include statutory redundancy pay of £12,000, an ex-gratia payment of £17,600, and the wheelchair mount, which by then will have a market value of £670. He will return the laptop to Gauged Ltd.

Becca has been a Gauged Ltd employee for five years. Since 6 April 2022 Gauged Ltd has provided her with a laptop which cost £2,300. This is used only minimally for her work (around 1%), with its primary use being by Becca's children at weekends. On 6 May 2024, Gauged Ltd will transfer the laptop to Becca free of charge when its value is £1,270. The same day, Becca will be provided with a tablet costing £3,500 which is necessary for a project she will begin soon and she will use it almost exclusively (95%) for her employment.

Connor is a sole trader who assisted Gauged Ltd as materials consultant on a short project in 2023. From 6 May 2024, Connor will work three days per week at Gauged Ltd's main office, with a laptop costing £840 provided for use only in his work for the company, and a company email address. This arrangement has been agreed verbally and will continue for at least a year. Connor will invoice his fees to Gauged Ltd each month, charging £500 per day.

Connor will sign an agreement on 6 May 2024 not to work for the main competitor of Gauged Ltd before 2026. In return for this, Gauged Ltd will make an immediate one-off payment of £10,000 to Connor.

Requirement:

1) **Explain the 2024/25 employer's National Insurance Contributions liabilities arising from the equipment provided by Gauged Ltd in the year.** (7)

2) **Explain the tax consequences for Gauged Ltd of Connor's work for the company in 2024/25 and the company's payments to him. Calculations are NOT required.** (3)

Total (10)

5. Banjo Ltd is a UK resident company that wants to set up a branch in China.

A number of senior UK domiciled employees from Banjo Ltd will travel to China to help with setting up the branch and sourcing and training employees. The assignment is expected to last eight months and will start in July 2024. They will remain on the UK payroll whilst visiting the Chinese branch.

Banjo Ltd has been advised that the UK employees will not be deemed tax resident in China, but a payroll will still be required in China to report their remuneration and to withhold Chinese income tax and social security on earnings arising from their trip. There is no reciprocal agreement for social security contributions between the UK and China.

Travel to the Chinese branch, including a return trip home for two weeks at Christmas will be met by Banjo Ltd, as will accommodation in China. The UK employees will retain their UK homes whilst on assignment which prior to the start of the assignment was their only accommodation.

One employee has asked that Banjo Ltd pays for a return trip to China for their spouse and child to celebrate the child's 18th birthday as a family. Banjo Ltd has agreed to reimburse the cost of the trip.

Employees will be provided with a car in China for visiting clients and commuting to the Chinese branch. No restrictions have been put in place on employees' use of the cars.

In the future, it is expected that Chinese employees of the Chinese branch will visit the UK office for training and to work on projects. Such trips are not expected to last more than four weeks in total in any tax year and will be ad-hoc. Chinese employees will remain employed and remunerated by the Chinese branch.

Requirement:

Explain the UK employment tax and social security implications which arise for Banjo Ltd and their employees under the above plans, including potential cashflow and administrative reliefs available.

(20)

<u>Extract from the UK/China Double Taxation Agreement signed 27 June 2011</u>

ARTICLE 15
Income from Employment

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a. the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; and

b. the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

c. the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

End of Question

6. Miguel is 56 years old and will soon retire as an employee of Segovia Ltd, a UK company. When he does so, he will move permanently to Spain and will cease to be UK tax resident. On retirement he will become eligible to draw benefits from the Segovia pension schemes.

Segovia Ltd has two occupational pension schemes managed for the benefit of employees.

1) The Segovia 1998 Company Pension Plan is a UK registered, defined contribution pension scheme. The trustee and administrator of the plan is Segovia Ltd. Segovia Ltd pays 10% of pensionable salary into the scheme each year and the employee is entitled to make additional voluntary contributions. Miguel's member account currently contains £750,000.

2) The Segovia Employer Top Up Plan is a defined contribution pension arrangement. It is not a registered pension scheme. It was set up by Segovia UK Ltd under trust for the benefit of employees. Segovia UK Ltd act as trustee and administrator. Miguel's member account contains £200,000.

Miguel has submitted the following request to the pension team at Segovia UK Ltd:

1) A transfer of 50% of his account in the Segovia 1998 Company Pension Plan to a private pension scheme based in Malta called the 'Easysave Recognised Overseas Pension Scheme'.

2) The payment to him in some form of the remaining pension benefits.

An extract from the UK/Spain Double Taxation Convention is provided.

Requirement:

Explain the different pension benefits and transfer options that Segovia Ltd can make available to Miguel under UK tax rules and the Income Tax, PAYE and National Insurance consequences of those options. (20)

<u>Extract from the UK/Spain Double Taxation Convention 2014</u>

Article 17 PENSIONS

Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to an individual who is a resident of a Contracting State, shall be taxable only in that State.

End of Question