Chartered Institute of Taxation
Excellence in Taxation

The Chartered Tax Adviser Examination

November 2017

VAT on Cross Border Transactions & Customs Duties

Advisory Paper

TIME ALLOWED – 3 ¼ HOURS

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1. You are an indirect tax manager in a firm of Chartered Tax Advisers. Strom Nordheim, the Finance Director of a new client, Norske Jegerrod ASA, has sent you the following email:

From: s.nordheim@NorskeJegerrod.com
To: Anne.adviser@taxfirm.co.uk
Date: 31 October 2017
Re: Due diligence and Business plans – UK VAT

Dear Anne

<u>Tromso SA</u>

As discussed previously, we are a transportation and logistics operator incorporated and established in Norway, where we have our head office.

We are currently considering purchasing the entire share capital of Tromso SA, a small independent Norwegian company formed in July 2014 whose primary business is the leasing of shipping containers to global international shipping clients who use them to transport goods around the world on their ships.

Whilst conducting due diligence, we established that in addition to premises in Norway, the company also took a 10 year lease in August 2014 on a secure compound in Liverpool, where containers are stored when not in use. There appear to be no staff or other functions in the UK and all invoicing, management and administration is performed from Oslo. It does however appear that some surplus scrap containers were sold in the UK in June 2015 to local charities.

Tromso SA has not registered for VAT in the UK at any time and we are concerned as to whether this is correct.

As part of the future integration of our UK activities, we anticipate Tromso SA will also sub-let part of its secure compound to us from 31 March 2018.

Continued

1. Continuation

Norske Jegerrod ASA

We are not UK VAT registered and wish to avoid registration if possible, however we anticipate that in 2018 we will be charged UK VAT on the following UK expenditure:

Tax Point	Description	Amount
March 2018	Rent payment for lease of secure compound in Liverpool	£40,000 plus £8,000 VAT
June 2018	Annual security charge to secure compound	£28,000 plus £5,600 VAT
1st of each month	Travel expenses for visiting manager from Norway	£1,250 per month incl. VAT
1st of each month	Accommodation rented for visiting manager	£1,500 per month no VAT
September 2018	Car Hire for visiting manager's wife (non-employee)	£1,000 plus £200 VAT
September 2018	Business entertainment for existing and potential UK clients	£5,000 plus £1,000 VAT
September 2018	Business entertainment – Norwegian and American existing clients (expenditure necessarily incurred)	£3,000 plus £600 VAT

Please can you advise whether we can recover any of the anticipated VAT and how much we may be able to recover using the budgeted spending shown above? Also when would claims need to be made?

Kind Regards

Strom Nordheim

Finance Director
Norske Jegerrod ASA, Oslo

You are required to prepare an email to Mr Nordheim responding to his questions and advising what actions he should take. (15)

2. You are Mrs Diana Prosperi, a Chartered Tax Adviser in a firm of tax consultants. You have received the following letter from your client, a newly established UK subsidiary of a large Italian manufacturing group.

Mrs D Prosperi
Debree LLP
Cellicon Place
Luton
LU1 5FF

Industries Formpro (UK) Ltd
47/49 Rail Cross Plaza
London
NW10 3HJ

1 November 2017

Dear Mrs Prosperi

HM Revenue & Customs Letters

We are currently undergoing an HM Revenue & Customs Corporation Tax and PAYE review. However, last week we received a letter from the HM Revenue & Customs officer conducting the review asking for copies of all hotel invoices relating to the secondment of overseas personnel to the UK on which we have claimed UK VAT. This has taken us by surprise as we thought this was a payroll review and it seems that they have completely changed their interest in the enquiries. Can they do this?

Although the seconded staff are not on our payroll, we have paid and recovered £3,000 of VAT on related hotel accommodation bills to save our parent making an EU refund claim. Is our claim likely to be accepted by HM Revenue & Customs and does it matter if we re-charge the hotel bills to our parent?

In addition, the letter asked us to:

1) Provide them with some background information and invoices for some Business to Business (B2B) sales we made to a customer in Germany. Following a brief internal review we noticed we had not recorded the customer's German VAT registration number on the invoice, but we zero rated the sales.

2) Explain why we recovered the VAT on legal advice taken by our Italian parent from a leading UK law firm regarding options for establishing a UK presence and structure. We reclaimed the VAT on our first VAT return ending 31 December 2016.

As we have only recently established a UK company we would appreciate your recommendations on how we should handle these four matters.

Yours sincerely

Marios Crespo
Financial Controller

You are required to write a letter responding to the letter from Marios Crespo.
You are NOT required to discuss penalty procedures. (15)

3. You are an indirect tax manager in an international firm of tax advisers. Your firm is acting for MacRosta Ltd, a Belfast based international catering group. Your tax partner has received the following information from Nigel McNickel, Group Finance Director and has been asked to advise on the various place of supply issues, and the input tax incurred by Brazil Ltd.

The MacRosta group trades through three main subsidiary companies: Almond Ltd, Hazelnut Ltd and Brazil Ltd, concentrating on catering, outsourcing and support services respectively.

<u>Almond Ltd</u>

Almond Ltd is a VAT registered UK established company that has café outlets in central Belfast, Dublin and Glasgow as well as at train stations in those cities. It also provides catering aboard the Belfast to Dublin train service (in both directions).

<u>Hazelnut Ltd</u>

Hazelnut Ltd is a British Virgin Islands registered company that franchises the MacRosta brand to independent businesses established in the Republic of Ireland, UK mainland and Gibraltar. All franchises are VAT registered in their respective member states with the exception of the one located in Gibraltar. Hazelnut Ltd also supplies coffee and other related sundries, from stocks kept in Belfast, to both Almond Ltd's outlets and to customers established in the Republic of Ireland and UK. Hazelnut Ltd arranges for goods to be delivered to customers' premises. Hazelnut Ltd is UK VAT registered with the Non-Established Taxable Persons Unit.

<u>Brazil Ltd</u>

Brazil Ltd is a UK established company registered for VAT in the UK. It provides services to catering business clients, comprising leasing industrial coffee percolating machines to UK and Republic of Ireland restaurants, and acting as an insurance agent in arranging optional insurance for the machines.

The insurance is underwritten by a related Guernsey established group company, Nutmeg Ltd. Brazil Ltd earns a commission of 15% of all premiums paid and takes the view that this is for providing insurance related intermediary services to the underwriter. Brazil Ltd earned £50,000 commission in the year ending 31 December 2016 and incurred £700,000 input tax relating to the importation and purchase of machines to be leased, plus £60,000 VAT incurred on administration services and general overheads attributable across all outputs.

The leased machines are manufactured in the USA and imported into the UK to be fitted with "intelligent" software that monitors the coffee being used to ensure that non–MacRosta coffee products are not used (as stipulated in the leasing contract). If breaches are identified, the contract allows for a £2,000 penalty to be charged by MacRosta.

In the event of an insurance claim requiring repairs to coffee machines, repairs are carried out by a third party UK repairer at its workshops in Holyhead. It then invoices our British Virgin Islands subsidiary, Hazelnut Ltd.

You are required to draft a letter to Nigel McNickel on behalf of your tax partner Peter Raines, advising on the matters requested and including references to relevant legislation. (20)

4. You are a Chartered Tax Adviser in a firm of accountants. Your firm is advising Derek Dimple, the Finance Director of a new client, Snow Cabins Ltd, a UK established VAT registered company involved in the manufacture of log cabins using timber grown in Scotland. You have received the following email:

To: CTAdviser@exams.com
From: DDimple@SnowCabins.co.uk
Re: VAT queries
Date: 6 November 2017

Dear Adviser

We have some queries concerning overseas VAT. If I tell you what we do perhaps you can help us?

Log Cabins

Our log cabins are sold and delivered in kit form ready for self-assembly by customers, or can be supplied and erected by us ready for immediate use at our customer's chosen location. Orders are currently only taken from customers located in the UK, France, Germany and the Netherlands.

Cabins in kit form have proved popular in France and Germany and since first being sold in October 2016, the following kit sales have been made to private customers in those countries:

	France	Germany
	€	€
October 2016	5,000	9,000
November	7,000	16,000
December	17,000	18,000
January 2017	0	24,000
February	12,000	22,000
March	17,000	33,000
April	5,000	28,000
May	62,000	19,000

In addition to these sales, in 2017 we have supplied and erected the following for business customers located in each of the following countries:

	France	Germany	Netherlands
	€	€	€
January – March	0	15,000	130,000
April – June	0	22,000	59,000
July – September	29,000	19,000	55,000
October – to date	14,000	25,000	70,000

As well as the sale of cabins direct to customers, we also have an independent distributor in Belgium. We have provided them with kits on a sale or return basis. We delivered approximately £100,000 of stock in February 2017 to them, expecting the goods to be sold or returned before 31 August 2017. We received payment for £30,000 of the adopted stock in July but heard last week that the remainder of the goods have been destroyed by fire and the distributor has ceased trading. What should we do in these circumstances?

Continued

4. Continuation

Roof Trusses

As a separate activity, we have also developed expertise in bonding metal joints to timber to form roof trusses. Our sole customer, St Gremain SA, is a company established in France. Under our arrangements with St Gremain SA, they deliver the timber used in manufacturing the trusses from France to our UK factory and they also retain ownership of it. We invoice them for cutting timber and the purchase and attachment of metal fittings. St Gremain SA then collects finished products from our factory in Wigan. Can you briefly advise how should we treat our sales for VAT?

Kind regards

Derek Dimple
Finance Director

You have established that France has elected to use the lower optional EU threshold and Germany has elected to use the higher EU threshold. All sales are made on the final day of the relevant month.

You are required to write an email to Mr Dimple responding to his queries and advising on the VAT implications of the information provided, including any requirements to register in other Member States. (20)

5. You are the Customs Duty adviser in a firm of Chartered Tax Advisers. You have received the following email from the exports manager of an existing client that is based in the UK.

From: exports@impsandexps.co.uk
To: darren@ctataxllp.co.uk
Date: 1 November 2017

Subject: Inward Processing Relief Suspension

Dear Darren

As you know we started using Inward Processing Relief Suspension (IP) in October 2013. Our Customs Manager, Josh Clarke, left the company suddenly in February 2016 because of ill-health.

The nature of his departure meant that there was no time for a hand-over and to be honest, the company has allowed some of his former duties to be overlooked. I have now been asked to take responsibility for IP as it ties in with exports and I am trying to sort things out and need some advice.

Josh's team have continued to maintain our IP records and to ensure that goods were correctly entered and traced through to export. As we frequently have goods diverted to free circulation they arranged for diversion entries to be submitted each time goods were diverted.

However, Josh was responsible for preparing and submitting the IP returns (Bills of Discharge). Our IP authorisation required us to submit calendar quarterly returns. Our throughput period is one month.

Our returns were submitted on time up to and including the one ending December 2015. However, we then forgot about IP and since then we have not submitted any returns.

A colleague in the accounts department advised me recently that we had received Right to be Heard letters and then Post Clearance Demand Notes (C18s) after each of the periods ending March 2016, June 2016 and September 2016. They passed the Right to be Heard letters on to Josh's team but in his absence no-one dealt with them and the accounts department paid the Demand Notes on receipt. Having looked at these we have been billed for the Duty and Import VAT on all the goods we imported to IP in those periods.

We re-exported most of the goods we imported to IP. If we put in the returns now, will HM Revenue & Customs cancel these Post Clearance Demand Notes (C18s) and are there any circumstances in which they show leniency? I think it is unfair that we have paid duty on goods that have been exported and I would like to have that decision looked at again. Would you explain any appeals process to me and explain any other actions necessary to reduce or overturn the C18s?

Also, our authorisation expired on 30 September 2016 but we have continued to import to IP and behave as if we were still authorised and have kept the same records. Is there anything we can do about that?

I look forward to hearing from you.

Martyn Gill
Exports Manager, Imports and Exports Ltd

You are required to respond by email to Martyn Gill's queries. You are NOT required to discuss penalties or Import VAT. You should assume that no Economic Test is required. (15)

6. You are the Customs Duty adviser in a firm of Chartered Tax Advisers. You have received the following letter from an existing client, who runs a number of shops selling wholefoods and lifestyle accessories aimed at the organic and eco-friendly shopper.

Mary Gold
Gold Tax Advice
11 High Street
Poole
BH1 1TA

John Cook
Whole Earth Nosh
Bath Road
Bournemouth
BH1 1GF

1 November 2017

Dear Mary

Re: Import Charges

At the moment, I buy everything from UK or EU-based suppliers, but I want to start importing goods from outside of the EU, and so I need some advice on import charges.

Candles

I want to start importing scented candles from Vietnam. I have read that the EU has recently imposed something called Anti-Dumping Duty (ADD) and Countervailing Duty (CVD) on these. Would you explain what these are and what effect these will have on the cost of importing the goods?

We have agreed a CIF Customs Value price of £1,000 for a shipment. The Customs Duty is 14%, ADD 53%, CVD 17% and candles are VAT standard rated.

Food

I will be importing foodstuffs from various countries and I have been told that Common Agricultural Policy (CAP) charges may apply. Can you explain how the CAP might affect me?

I have also negotiated a CIF Customs Value price of £25,000 for a shipment of 5,000kg of high quality chocolate covered biscuits from Switzerland. I understand the Customs Duty is 10% + €24 per 100kg. The biscuits are standard rated for VAT.

In addition, I am looking to import some dates from Israel. I have been told that in the past a safeguard charge has been imposed on these. I do not know what a safeguard charge is or whether there is any way to avoid paying it. I am only interested in real savings not delaying payments.

Export licence

I am currently negotiating selling some UK-produced foodstuffs to Hong Kong. I understand that I might need an export licence. Can you tell me why?

I look forward to hearing from you.

Yours sincerely
John Cook

You are required to write a letter responding to your client's enquiry and include calculations for all import charges that may be applicable. You should assume an exchange rate of £1.00: €1.20. (15)

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1. You are an indirect tax manager in a firm of Chartered Tax Advisers. You have been contacted by Zari Construction Ltd, an existing client which specialises in energy-efficiency projects. The Finance Director, Edward Lowther, has explained that the company has recently won two new contracts:

   1) Alba Housing Association will commission Zari Construction Ltd to carry out works both in its tenanted properties and in its properties which are subject to shared ownership schemes (whereby tenants, known as "homeowners", have purchased a 75% stake but continue to pay a reduced rent in respect of the remaining stake).

      Before carrying out any work, Zari Construction Ltd will first carry out an energy efficiency review of all the properties and make recommendations for energy efficiency improvements. It will charge Alba Housing Association a fixed fee for this review.

      Alba Housing Association will share the findings of the review with the tenants and homeowners. Following the recommendations, works to the tenanted properties will involve the supply and installation, at a fixed price, of electric storage heaters, cavity and loft insulation and double-glazing. Works to shared ownership homes will be limited to the supply and installation of electric storage heaters.

      The contract provides for Zari Construction Ltd to invoice Alba Housing Association for works carried out to tenanted properties and to invoice homeowners (should they choose to proceed with the works) directly for all works to their properties.

      As regards the costs of installing electric storage heaters, Edward Lowther explained that partial grant-funding may be available from the Local Authority. If so, it is intended the grants should be paid direct to Zari Construction Ltd for these works.

      Where tenants or homeowners wish Zari Construction Ltd to carry out any additional energy-efficiency works (for example the installation of solar panels), they will be entitled to benefit from fixed prices agreed by Alba Housing Association but will be invoiced directly and must bear the additional cost themselves.

   2) Russet Construction Ltd is a house builder. When confirming the specification of a new home, the purchaser may request Russet Construction Ltd to install additional insulation and solar panels. It has been agreed that Russet Construction Ltd will sub-contract this work to Zari Construction Ltd, who will invoice Russet Construction Ltd.

      It has also been agreed that Zari Construction Ltd will offer purchasers of new homes a free energy-efficiency review 12 months after they have moved in, in the hope that the purchaser may request further works to be carried out. It has not been decided whether these later works will be carried out directly for the purchaser or as a sub-contractor for Russet Construction Ltd.

   You are required to write a letter to the Finance Director explaining the VAT treatment of Zari Construction Ltd's two new contracts. (15)

2. You are an indirect tax adviser in a firm of accountants. Your tax partner, Andrew Pulman, has been emailed by a new client, Gala Conservation, as follows:

To:	Andrew.Pulman@taxllp.co.uk
From:	Jeremy.Watts@galaconservation.org.uk
Subject:	New community building
Date:	Tuesday 7 November 2017

Dear Andrew

I have recently been appointed as finance director at Gala Conservation, which is a charity whose aims are to further the protection of the environment by providing courses and seminars to local communities. Our income is mainly received in the form of grants and donations from public bodies, local authorities, other charities and local businesses. We also provide some specialist conservation courses for a fee to other organisations.

We are about to embark on a new project and I am keen to understand the correct VAT treatment. We are building a new community building which will be used to host our courses and seminars, together with other events of benefit to the community including our annual summer fête. We also plan to hire out the building to community groups (such as a local youth club, the Women's Institute and a local company which hosts antique fairs). We propose to charge a hiring fee determined by the level of our running costs but do not intend to make a profit from renting out the property.

In order to fund the construction, we are seeking grants from various bodies as well as hosting our own fundraising activities, but, in order to draw up the budget, we need to understand the extent to which we will pay VAT on the construction. We are not currently VAT registered as our previous advisers told us that our activities were not subject to VAT.

I should be grateful if you would contact me and arrange a meeting for later this month to discuss this matter.

Kind regards

Jeremy

You are required to prepare notes for Andrew Pulman's meeting with Gala Conservation, covering the VAT treatment of its activities and construction of the new building. (15)

3. You are an indirect tax manager in a firm of tax advisers. Monty Price is a housebuilder and is VAT registered as a sole trader. He has requested advice from your partner, David Purlin, on a new venture for the supply and installation of conservatories, which is to be operated through a limited company as a separate non–VAT registered business.

Monty proposes to set up this new company, Primoglass Ltd, with his wife, Priscilla, and her brother, Don. Primoglass Ltd will have its own website, designed by Priscilla, and marketing will mainly be done by Monty approaching people who have previously used his housebuilding services. He hopes to win 20 orders in the first year. If the customer wishes to proceed, Monty will draw up the plans and specification and quote an all-inclusive price. The customer will be asked to sign a written "Installation Agreement" appointing Primoglass Ltd as "project manager" and as "agent responsible for selecting and appointing contractors" to carry out the work. Monty believes that, by using such a structure, Primoglass Ltd will not be required to register for VAT. He is proposing to sign the Installation Agreement as a director of Primoglass Ltd.

A deposit of 50% of the price is payable to Primoglass Ltd immediately, with the balance payable on completion. Primoglass Ltd will undertake to ensure the work is completed on schedule, save in circumstances beyond its control.

Monty will be named in the Installation Agreement as "main contractor", although this expression is not defined. Monty will agree with Primoglass Ltd to purchase all building materials from third parties in his own name and to construct the floor and brickwork. Primoglass Ltd and Monty will select the other contractors to carry out the rest of the work. These are likely to be small independent businesses, such as Andy Casement (a carpenter and glazier) and Ed Sparks (an electrician), who trade below the VAT threshold.

By ticking a box on the back of the Installation Agreement, the customer may also purchase an extended warranty from Primoglass Ltd at additional cost. In fact, although the customer will not know this, the warranty will be underwritten by Redroof Insurance Company under a block policy issued to Primoglass Ltd and Monty will receive a 10% commission from Primoglass Ltd on every warranty sold.

Monty has provided some figures for a typical deal. The customer price will be £12,000, plus £600 for the warranty. Monty will charge Primoglass Ltd a total of £6,000 (inclusive of VAT) for materials and his building work. Casement will be paid £1,600 and Sparks £800. Monty's commission for arranging the warranty is £60. In the first year, the premium for the block policy will be £5,000 (plus Insurance Premium Tax if chargeable). Monty is excited that his proposals will save a lot of VAT and has arranged to meet with David Purlin to discuss them.

You are required to prepare a briefing note, with illustrative calculations, for David Purlin in preparation for his meeting with Monty on:

1) The VAT issues. (16)

2) Insurance Premium Tax issues. (4)

Total (20)

4. You are an indirect tax manager at a firm of Chartered Tax Advisers and have recently met with two brothers, Andy and Bill Matthews, who gave you the following information.

Their late father, Mort, was a fisherman. Mort owned *Storm Petrel*, a fishing boat of 12 tons gross tonnage based in a small fishing village in Cornwall. He also ran *Fish Plaice*, a fishmonger's shop, in the same village. On Mort's death in 2014, Andy inherited the boat and Bill inherited the shop.

Bill runs *Fish Plaice* in his own name but allows Andy to live rent-free in the flat above the shop. In 2015, Bill married Coral. Bill and Coral recently opened *The Cheerful Sole*, a fish restaurant behind the shop, which they carry on in partnership, sharing the profits equally. The shop and the restaurant are separately registered for VAT.

Andy currently carries on business in his own name. He sells most of his catch to *Fish Plaice*. He also uses the boat to fetch supplies from the nearby port for local businesses and to offer excursions during the season (fishing trips for holidaymakers and transporting birdwatchers to a nearby Island). Off season, he does decorating and recently enrolled for a part-time seafood cookery course. For the year ended 31 October 2017, Andy's turnover was £60,000. He is not registered for VAT.

The two brothers are close. Over the years, Bill has helped Andy with the cost of repairs to *Storm Petrel* and sometimes paid over market value for the catch when Andy was short of money. Bill now wants Andy to share in the business of *Fish Plaice*, and so they will form a new partnership. Andy has no assets other than *Storm Petrel.* He is happy to put the boat into the business and catch the fish required for sale in the shop, provided he can also continue to use the boat occasionally for his excursion activities. The boat, however, urgently requires some major repairs, which will be carried out by the new partnership. If Andy gets his cookery qualification, Bill and Coral would also consider bringing him into *The Cheerful Sole* business to assist them when he is not out in the boat.

You are required to write a letter to Bill explaining the VAT issues arising from these proposals, including the new potential partnership arrangements. (15)

5. You are an indirect tax manager in a firm of Chartered Tax Advisers. You recently met Gerald Archer and his son Tom, who own and operate Empire View Ltd, a camping and caravan park in the Lake District. The company is VAT registered.

Gerald is retiring and Tom will take over running the business. Tom has a number of ideas to expand the business which include:

1) Purchasing Kanzi Travel Ltd, which currently operates a ferry across the nearby lake. In order to improve this business, Tom wants to offer sunset lake cruises with a barbeque and entertainment.

2) Selling new residential caravans to site tenants. Tom will buy the completed caravans from Carvanho Ltd, the manufacturer. All caravans will be supplied with fully-fitted kitchens and bathrooms, kitchen appliances, furniture, carpets and curtains.

3) Offering transit to and from the local railway station (about four miles distance) in the camp mini-bus to arriving or departing camp site customers in return for an increased camping charge.

4) Offering coach trips to Hopleap, a micro-brewery, about 40 miles away. The trips include transport only, since admission to Hopleap is free and refreshments are on a self-pay basis.

You are required to write a letter to Tom Archer explaining the VAT treatment of the proposed new business activities. (20)

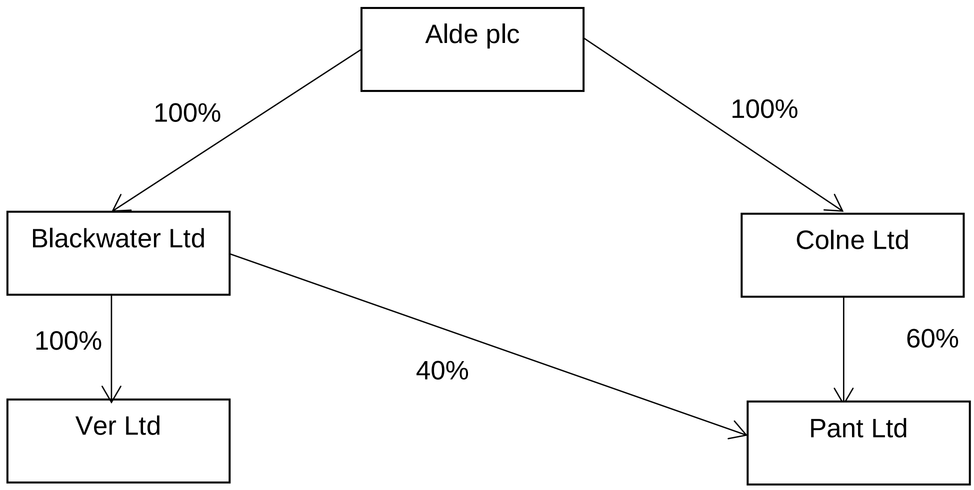
6. You are a tax manager in a firm of Chartered Tax Advisers. You have received the following email from Julius Fenwick, Finance Director of Alde plc, a property developer client:

To: andy.adviser@bridgetax.co.uk
From: j.fenwick@alde.co.uk
Subject: Property transfers
Date: 7 November 2017

Dear Andy

As Roger Ford, my tax manager, is currently away on extended leave, please can you advise me on any Stamp Duty Land Tax issues relating to the transfer of two properties which will complete on 30 November 2017?

As you are probably aware, the structure of the Alde Group is as follows:



Colne Ltd is the freehold owner of Prittle House, a building in Southend. Prittle House has a market value of £4.9 million and comprises 10 shops with flats above, all of which are let to tenants on 99 year leases. Colne Ltd wishes to transfer the building to Pant Ltd. Pant Ltd will not pay Colne Ltd, but has agreed to discharge Colne Ltd's indebtedness to Bures Bank (estimated at £5 million, including accrued interest, at completion).

Ver Ltd owns the freehold of a warehouse near Hertford, also to be transferred to Pant Ltd at market value. The purchase price for the warehouse will be £3 million: half payable on completion and the balance payable on 30 November 2018, as we wish to maintain certain levels of cash reserves in Pant Ltd.

I should perhaps mention that early next year, Colne Ltd will transfer the shares it holds in Pant Ltd to Blackwater Ltd. Colne Ltd will then be sold to Ouse plc, an unconnected company. Future changes in the business may involve the sale of Pant Ltd, with or without the two properties. This is unlikely to occur before 2021. However, if we do decide to keep the properties, one possibility is that before any sale takes place, Pant Ltd transfers them to Blackwater Ltd.

As I have not dealt with Stamp Duty Land Tax before, I should be grateful for the benefit of your advice.

Best regards

Julius

You are required to advise Julius by email on the Stamp Duty Land Tax treatment of the proposed transactions, including the calculation of any liability to SDLT. (15)

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Advanced Corporation Tax

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1. Alpha Ltd, a company that manufactures plastic bottles, holds 40% of the issued share capital of Beta Ltd, a company that produces and sells soft drinks. Under the Shareholders' Agreement of Beta Ltd, Alpha Ltd's Board of Directors holds the right to appoint a majority of directors to the Board of Beta Ltd. Two other corporate shareholders each hold 30% of the issued share capital of Beta Ltd; neither are otherwise connected to Alpha Ltd or to each other. Beta Ltd has only one class of shares, all with identical rights and powers.

   Alpha Ltd also holds 20% of the issued share capital of Finco Ltd. None of the other shareholders of Finco Ltd are otherwise connected to Alpha Ltd or Beta Ltd or to each other. Finco Ltd has only one class of shares, all with identical rights and powers, and there is no Shareholders' Agreement.

   In the year to 31 December 2015, Alpha Ltd lent Finco Ltd £10 million. Finco Ltd on-lent the £10 million on the same terms to Beta Ltd. Both loans are repayable on demand and were documented in a loan agreement. Repayment of both loans has now been demanded but Beta Ltd is unable to make the repayment and therefore Finco Ltd is unable to repay the loan to Alpha Ltd.

   In the year to 31 December 2016, Alpha Ltd sold bottles to Beta Ltd. One invoice, for £200,000, remains unpaid.

   A provision for bad debts of £10.2 million in respect of the £10 million loan and the £200,000 unpaid invoice has been included in the profit and loss account for Alpha Ltd in the year to 31 December 2017.

   All of the above-mentioned companies are UK tax resident.

   You are required to explain how the loan relationships legislation will apply to Alpha Ltd. (10)

2. You are a tax manager at Blue Buildings Ltd, a holding company of a UK based property investment group. Blue Buildings Ltd has two wholly owned subsidiaries, Pink Properties Ltd and Purple Properties Ltd. Blue Buildings Ltd and its subsidiaries all have 31 December year-ends.

   Blue Buildings Ltd subscribed £100 million for 100% of the share capital of Pink Properties Ltd on its incorporation on 30 June 2013. This cash was utilised to build residential investment properties and a supermarket building. Construction finished on 30 June 2015 and since this date, the residential properties have been let to individuals and the supermarket building has been let to a large supermarket chain.

   On 31 March 2017, Blue Buildings Ltd sold the entire share capital of Pink Properties Ltd to a rival company, Boutique Buildings plc. The conditions of sale were as follows:

   1) Boutique Buildings plc did not require the supermarket building. Therefore, the supermarket building was transferred to Purple Properties Ltd for its net book value of £5 million prior to the sale of Pink Properties Ltd. The market value of the supermarket building was £15 million at the time of the transfer.

   2) Consideration payable at completion comprised £150 million in cash plus £390 million in shares of Boutique Buildings plc.

   3) Further consideration of 25% of the profit before tax of Pink Properties Ltd for the year to 31 December 2018 will be payable in cash on 31 December 2020. The market value of the right to receive this consideration was estimated to be £60 million on 31 March 2017.

   You are required to draft a memorandum to your Chief Financial Officer explaining the Corporation Tax consequences of the transfer of the supermarket and the sale of Pink Properties Ltd. (20)

3. You are Bob Jingle, a tax manager at a firm of Chartered Tax Advisers and you have received the following email from Tom Smith, the new Finance Director of Homespun plc, a UK resident holding company of a multinational group, which owns and manages DIY stores.

To: Bob.Jingle@CharteredTaxAdvisers.com
From: Tom.Smith@Homespun.com
Date: 1 November 2017
Subject: Tax analysis on payments and receipts

Hi Bob

As you are aware, I'm not tax qualified. I would therefore appreciate some tax advice in relation to the following proposed receipts and payments planned for the year to 31 December 2018. I am taking local advice in each country we do business in and therefore you only need to deal with the UK tax consequences of the proposed transactions.

1) Homespun plc holds 100% of the share capital of a company resident in Finden, Homespun (Finden) Inc. It is looking to pay a dividend to Homespun plc. How will this be taxed?

2) Homespun plc has negotiated licences for a number of brand names, including "Crafted by you" and "Who needs experts?" It will pay royalties in respect of these licenses to UK resident individuals and a Malaydian resident company on a monthly basis. The Malaydian resident company is not connected to Homespun plc.

   Homespun plc will sub-license the brand names to its wholly owned subsidiaries in the UK, who will pay royalties on a monthly basis to Homespun plc. Is there anything the group needs to do when paying or receiving these royalties and how will they be taxed?

3) Homespun plc has recently established a wholly owned subsidiary, Homespun (Kugola) Pty Ltd, resident in Kugola. Homespun plc is planning to lend money to Homespun (Kugola) Pty Ltd on 1 January 2018. How will any interest payable by Homespun (Kugola) Pty Ltd to Homespun plc be taxed?

   I look forward to hearing from you.

   Tom

You have established that:

1) Malaydia, Finden and Kugola are non-EU countries.
2) The UK has a Double Tax Agreement with Malaydia and Kugola, both of which follow the OECD Model Convention, but not with Finden.
3) Under local tax rules, Kugola withholds tax at a rate of 15% on interest and has a Corporation Tax rate of 10%.
4) Under local tax rules, Finden withholds tax at a rate of 30% on dividends.

You are required to draft a response to Tom Smith's email. (20)

4. You are a tax manager at Extratax LLP and your firm has recently been engaged by a new client, Circle plc.

Circle plc has two wholly owned subsidiaries, District Ltd and Jubilee Ltd. It also owns 70% of the shares in Oveg Ltd; the remaining 30% of shares are owned by an unconnected company.

District Ltd, Jubilee Ltd and Oveg Ltd manufacture clothing. Circle plc does not trade, but owns the factories from which the other group companies trade and charges them a market rate rent. Circle plc also owns other properties, which it rents out to unconnected companies. All four companies are tax resident in the UK.

You have been provided with draft figures for the year to 30 September 2017 for the group companies:

	Circle plc	District Ltd	Jubilee Ltd	Oveg Ltd
	£	£	£	£
Turnover	0	14,854,000	11,245,000	4,292,000
Cost of sales	0	(11,228,000)	(7,653,000)	(4,352,000)
Rental income	5,187,000	0	0	0
Administrative expenses	(8,142,000)	(2,458,000)	(1,200,000)	(561,080)
Interest receivable	200,000	0	0	0
Interest payable	(54,000)	0	(250,000)	0
Profit on disposal	135,000	0	0	0
Profit/(loss) before tax	(2,674,000)	1,168,000	2,142,000	(621,080)

Fixed assets – Circle plc

	Freehold land and buildings	Leasehold land and buildings	Plant and equipment	Total
	£	£	£	£
Cost				
At 1 October 2016	20,000,000	200,000	664,000	20,864,000
Additions	0	0	376,000	376,000
Disposals	0	(200,000)	0	(200,000)
At 30 September 2017	20,000,000	0	1,040,000	21,040,000
Depreciation				
At 1 October 2016	5,200,000	32,500	320,000	5,552,500
Charge for the year	400,000	2,500	115,000	517,500
Eliminated on disposal	0	(35,000)	0	(35,000)
At 30 September 2017	5,600,000	0	435,000	6,035,000
NBV				
At 1 October 2016	14,800,000	167,500	344,000	15,311,500
At 30 September 2017	14,400,000	0	605,000	15,005,000

You have been supplied with the following information:

1) The depreciation charge is included within administrative expenses.

2) The administrative expenses in Circle plc include allowable repairs and relate entirely to its property rental business.

Continued

4. Continuation

3) At 1 October 2016, Circle plc had capital losses brought forward of £25,000 and a non-trade loan relationship deficit brought forward of £50,000. None of the other companies had any losses brought forward.

4) Neither Circle Ltd nor Oveg Ltd can utilise any losses arising in the current year in prior years.

5) On 1 October 2016, the tax written down value of the main pool of Circle plc was £350,000. The tax written down value of the special rate pool of Circle was £220,000. None of the other companies had any balances brought forward in their capital allowance pools.

6) Circle plc's fixed asset additions in the year to 30 September 2017 were as follows:

Date	Description	£
14 October 2016	New central heating system	270,000
2 May 2017	Machinery	106,000

The other companies did not acquire any fixed assets in the year.

7) Circle plc sold a leasehold warehouse on 31 March 2017. It had purchased the leasehold warehouse on 1 April 2010 for £200,000 when the lease had 40 years left to run. No other fixed assets were disposed of during the year within the Circle group.

8) Circle plc incurred £6,000 legal fees (included in administrative expenses) on an unsuccessful application for planning permission to extend one of the factories.

9) District Ltd made a cash donation of £10,000 (included in administrative expenses) to a charity.

10) Jubilee Ltd incurred total entertaining costs for the year of £20,000 (included in administrative expenses). Included in this figure is:

(a) The cost of a meal, £2,000, for the top 20 performing sales staff at the company. This was the only staff entertaining during the year.

(b) 20 pens costing £100 each which were given to key customers of the company.

The remaining expenditure all relates to entertaining provided free of charge to clients.

You are required to calculate the estimated taxable profits for the year ended 30 September 2017 for Circle plc, Jubilee Ltd, District Ltd and Oveg Ltd, together with explanatory notes. You should assume all beneficial claims are made. (20)

5. You are a tax manager at Tax Assurance LLP. The firm has a new client, Bigstone plc. Bigstone plc has two wholly owned subsidiaries, Catte Ltd and Crankton Ltd. All three companies are food and drink wholesalers in the UK and make up their accounts to 30 September.

Bob Bassett, your tax partner, had a meeting with the Financial Controller of Bigstone plc in October 2017, and sent you this email after the meeting.

To: Terry.Jones@TaxAssuranceLLP.com
From: Bob.Bassett@TaxAssuranceLLP.com
Date: 30 October 2017
Subject: Bigstone group tax issues

Terry

Bigstone plc has been approached by another firm of tax advisers, Special Tax LLP, who specialise in tax avoidance schemes. Apparently, they have designed a bespoke scheme for the group that will not be marketed to other companies.

The Financial Controller has advised that Bigstone plc is planning to loan funds to Catte Ltd to purchase a new warehouse. Special Tax LLP has suggested that if specific steps are inserted, Catte Ltd could receive a Corporation Tax deduction of £1 million for interest payable against its taxable profits, without a corresponding taxable receipt in Bigstone plc. However, if the group carried out the suggested steps, the main reason for doing so would be to reduce the group's overall Corporation Tax liability. The proposed draft scheme documentation includes several terms that a normal commercial loan arrangement is unlikely to have but according to Special Tax LLP, these terms are required to assist in obtaining the £1 million tax deduction.

Can you please consider whether the scheme is reportable to HM Revenue & Customs under the Disclosure of Tax Avoidance Schemes legislation? You should not consider any other legislation, case law or guidance at this stage.

On another matter, Crankton Ltd commenced trading on 1 October 2015 and has not informed HM Revenue & Customs of this or filed a tax return for the year to 30 September 2016. The Financial Controller explained that they had relied upon their previous tax adviser to do this but recently found out that he had not done so. Crankton Ltd has not received a notice to file a tax return or any other communication from HM Revenue & Customs. The Financial Controller would now like to make a full disclosure of Crankton Ltd's taxable profits for the year to 30 September 2016. Can you please set out the penalty implications of this proposed disclosure?

Bob

You are required to draft a memorandum to your tax partner addressing his two questions. (15)

6. You are a tax adviser working for Trustbuild LLP, a firm that specialises in capital allowance claims.

In the year to 30 September 2015, Duckford Engineering Ltd, a company which manufactures machine tools in the UK, built an extension to its existing factory to house new design offices, washrooms and a staff rest area.

At a meeting with you on 1 November 2017, Joel Peters, the company's Finance Director, who has a reasonable knowledge of capital allowances, provided a summary schedule of works for the extension:

Works	Cost
	£
Concrete ceiling, walls and floor	150,000
Windows	25,000
Electrical systems	40,000
Fixed ceiling and wall lighting	35,000
Built in heat and air conditioning	75,000
Tables and chairs	20,000
Loose rugs	15,000
Moveable desk lamps	2,000
Moveable partition system to accommodate variable seating arrangements in the design office	30,000

Joel Peters also gave you the following information:

1) All of the works were completed and paid for in the year to 30 September 2015.

2) Duckford Engineering Ltd purchased no other plant and machinery and made no disposals during the year.

3) The tax return for the year to 30 September 2015 has already been filed with HM Revenue & Customs but no claim for capital allowances was included. Although the company had intended to make a claim for capital allowances, due to changes in staffing, the claim was overlooked. There has been no enquiry by HM Revenue & Customs into the tax return for the year to 30 September 2015.

4) The company is in negotiations to purchase a warehouse located next door to the factory. The seller is an unconnected manufacturing company which until recently had used the warehouse in its trade since it was built in 2015. A preliminary review of the warehouse reveals a large quantity of fixtures including hot and cold water systems, heating and electrical equipment. Some moveable plant will also be sold with the warehouse. A single price is likely to be paid for the warehouse, the fixtures and the moveable plant.

You are required to draft a letter to Joel Peters explaining Corporation Tax implications of the information provided. Calculations are not required. (15)

The Chartered Tax Adviser Examination

November 2017

Human Capital Taxes

Advisory Paper

TIME ALLOWED – 3 ¼ HOURS

- The first 15 minutes is designated as reading time. During this time you may read your question paper and legislation and annotate your question paper. You are not permitted to write in the answer folder. The Presiding Officer will inform you when you can start writing. Calculators may not be used during this time.
- You should answer all **SIX** questions.
- Start each answer on a fresh page and do not write in the margins.
- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.
- Marks are specifically allocated for presentation.
- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should tick the appropriate box on the front of each answer folder.
- Unless otherwise indicated by the provision of additional table information, you may assume that 2016/17 rates and allowances continue to apply for 2017/18 and future years. Candidates referring to actual or pending rates and allowances for 2017/18 and future years will not be penalised.

1. You have recently had a meeting with Guy Sinclair who is head of Human Resources at Kiwi Ltd, a small trading company with approximately 200 employees, regarding the remuneration package of the senior management team.

During this meeting, you discovered that the company pays its senior management team a bonus based on profitability. In the past, this has been paid as an additional lump sum pension contribution by the company rather than as a cash bonus. In 2014/15 and in 2015/16 this amounted to £20,000 per person. Due to a downturn in performance and the introduction of car allowances, no bonuses were paid in 2016/17.

The company is expecting to make significant profits this year and is therefore considering making bonus payments before 5 April 2018 of £45,000 for each member of the management team. Again, the company may pay this by way of an employer pension contribution instead of a cash bonus but Guy would like advice from you as to what to do from a tax perspective.

Guy has advised you that the members of the management team are all on a similar package, which historically has been as follows:

	Year ended 5 April		
	2015	2016	2017
	£	£	£
Salary	120,000	130,000	140,000
Car Allowance			5,000
Employee Pension contribution (6%)	7,200	7,800	8,400
Employer Pension contribution (9%)	10,800	11,700	12,600

Pension contributions are paid gross into an occupational scheme. Both the 2014/15 and 2015/16 lump sum contributions were in addition to the regular contributions set out above.

The team will receive a small salary increase of £5,000 with effect from 6 April 2017. The car allowance remains unchanged from 2016/17 and the team will continue to contribute the same percentage of salary into their pension. Based on Guy's understanding, he does not believe that the team have any other sources of income nor do they intend to make additional personal pension contributions.

You are required to draft an email to Guy:

1) Advising on the Income Tax and National Insurance implications for the senior management team and for the company of the potential bonus.

2) Recommending how it should be paid.

(15)

2. You work in the Human Capital department of a large firm of accountants. Eabha Smith, the senior manager in your department, has recently attended a meeting with Keir Walker, a Human Resources manager at Duck Ltd, regarding a difference of opinion that has occurred in Duck Ltd's senior management team. Eabha has handed you the following meeting notes:

Meeting notes
Attendees: Eabha Smith, Keir Walker
Date: 31 October 2017
Re: Redundancy

The company has seven members in its senior management team. The company has the opportunity to acquire a rival firm but two of the members of the team (Bob Note aged 58 and Marion Jones aged 42) do not believe that this opportunity will be beneficial to the company in the long term. Instead, they think that the company should pursue other options by expanding its position in the European markets.

Negotiations for the purchase of the rival firm have commenced and these are likely to be completed by February 2018. However, due to the differences of opinion in the senior management team, it has been proposed that, should the purchase go ahead, Bob and Marion would be asked to leave.

Bob and Marion are aware that their positions are at risk and a consultation process has commenced between them and the Human Resources team. Based on the initial meeting, the current proposal is for the following cash payments to be made:

	£
Statutory redundancy	14,370
Ex gratia payment	85,630
Restrictive covenant payment	50,000
Assistance with legal fees	2,000 (to be paid direct to solicitor)

It is likely that the consultation will be completed in January 2018 and Bob and Marion would then work their notice periods (six months). Bob and Marion would be required to attend the office during their notice periods up until the point at which the acquisition goes through. Once the rival firm has been acquired, Bob and Marion would no longer be required to come into the office but would continue to receive their monthly salary of £8,000 until their notice periods have come to an end.

During the notice period, they would each continue to have use of their company cars and fuel would be provided for private use. These cars would then be given to them as part of the redundancy package. The details of these cars are as follows:

Marion has a Tesla Model S – CO_2 emissions 0g/km, list price £89,480, current market value £51,780.

Bob has a Maserati Ghibli 3l v6 diesel – CO_2 emissions 158g/km, list price £49,620, current market value of £30,950.

They would each continue to be included on the company healthcare policy (cash equivalent value of £2,500 each per year) for five years from the termination date.

Keir wishes to understand the UK tax and National Insurance treatment of the above proposals and any potential suggestions.

You are required to draft an email to Keir Walker advising on the issues arising from the meeting notes relating to the potential departure of Bob and Marion from the firm. (15)

3. You are a tax manager in a firm of accountants and you have received the following email from Harry Chasman, the Finance Director of one of your clients.

To: Matthew Weston
From: Harry Chasman
Date: 30 October 2017
Re: Business Trips

Dear Matthew

I was at a Director's Club meeting last week and a long-time contact of mine mentioned what he called "Reportable Business Visitors" and the need to provide information to HM Revenue & Customs about staff on a business trip. Can you give me more information on this as we will be having staff coming here from our Spanish Head Office?

As you know, we are about to commence our new project, Avon IV at our Stourbridge site. Three employees of our Spanish Head Office will be part of the project team and will have to spend time at Stourbridge and possibly at our Newcastle site too. According to the project plan, two of them will spend a 10-week period from 24 April 2018 to the end of June 2018 here in the UK during Phase 1. They will arrive on the early morning flight on Monday and leave Friday lunch-time to catch the afternoon flight home.

The third employee from Head Office will come here for Phase 2. Phase 2 is split into two parts. Phase 2a commences in February 2019 for six weeks to the end of March 2019. Phase 2b begins in April 2019 for eight weeks. He will be involved in both parts of Phase 2. Again, we expect him to arrive on the early morning flight from Spain on Monday and to catch the afternoon flight home on Friday.

As far as I see it, all three employees will be on business trips; they will still live in Spain, they will be here for less than 183 days, they will still be employees of Head Office and on the Spanish payroll. We won't pay them. Head Office are muttering about sharing costs via a recharge but I am resisting this at the moment as Avon IV is for the Group's benefit so it makes sense to me that Head Office should keep an element of the cost.

Can you let me know what it is that we're supposed to report to HM Revenue & Customs, if indeed we have to report anything at all?

Thanks, and best regards

Harry

You are required to write an email to Harry Chasman explaining any UK reporting obligations in respect of the Spanish employees. (15)

NOTE: Relevant extracts from the UK-Spain Double Tax Treaty are provided.

Continued

3. Continuation

<u>Extract from UK-Spain Double Tax Treaty</u>

Article 4 RESIDENT

1. *For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income or capital gains from sources in that State or capital situated therein. The term "resident of a Contracting State" includes a pension scheme established in that State.*

2. *Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:*

   a. *he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);*
   b. *if the State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;*
   c. *if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;*
   d. *if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.*

Article 14 INCOME FROM EMPLOYMENT

1. *Subject to the provisions of Articles 15, 17 and 18, 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 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 may be taxed in the Contracting State in which the enterprise operating the ship or aircraft is resident.*

End of Question

4. You are a tax manager in a large accountancy firm which provides expatriate tax consulting services for Antec plc, a UK resident company. Antec plc has a subsidiary in Belgium, Antec NV. Anna, the Global Mobility Manager of Antec plc, has recently contacted you regarding Geraldine, who is an employee of Antec NV. Geraldine began working in the UK for Antec plc on 1 February 2017 on a tax-equalised assignment.

Anna has advised you that Geraldine's assignment is expected to last until 31 January 2020 and until that point Geraldine will carry out approximately 30% of her work duties outside the UK. In the period 1 February 2017 to 5 April 2017, Geraldine spent 46 midnights and 32 workdays in the UK. Her husband has accompanied her to the UK and they are living in an apartment in London which is provided by Antec plc. Prior to her arrival in the UK, she was living in her apartment in Brussels. She continues to have use of that property and does actually use it on the occasions when she is required to work in Brussels. Her salary is paid into her pre-existing Belgian bank account. She has no source of income outside of employment other than bank interest in Belgium. She is not domiciled in the UK and has not been resident in the UK previously.

Anna has confirmed that Antec plc have an EP Appendix 6 Modified Payroll, under which Antec plc has been remitting PAYE to HM Revenue & Customs on a grossed-up basis on 100% of Geraldine's remuneration since her arrival in February 2017. However, Anna has mentioned that the business has a number of concerns regarding this approach. Firstly, for cash flow purposes, they are concerned that they may be overpaying PAYE during the year so they would like to have a better understanding of how her remuneration package will be taxed in the UK (including what income is treated as being remitted to the UK). Secondly, while Antec plc wish to minimise the grossed-up UK taxes they are paying for Geraldine, they wish to do this in a way that maximises the income which Geraldine can bring into the UK and keeps the computation of her UK tax liability as simple as possible. To enable you to advise on this, Anna has provided you with a copy of Geraldine's assignment letter, which confirms her net remuneration during her UK assignment as follows:

Base salary	300,000 Euros per annum
Bonus	50,000 Euros (usually paid in June in respect of the prior calendar year)
Private medical insurance	3,000 Euros per annum
Accommodation benefit	£50,000 per annum

In addition to the above, Antec NV also operates a Performance Share Award scheme, in which Geraldine participates. The awards vest on 1 December annually and have a vesting period of three years. Upon vesting, the shares are sold immediately and delivered in cash. You have established that the award is taxable under Chapter 5 of Part 7 ITEPA 2003.

You are required to write an email to Anna advising how Geraldine's remuneration will be taxed in the UK and what actions Geraldine and Antec plc can take to best address the company's concerns. (20)

NOTE: Relevant extracts from the UK-Belgium Double Tax Treaty are provided.

Continued

4. Continuation

UK BELGIUM DOUBLE TAX TREATY EXTRACT

Article 4

Residence

1. *For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature. However, this term does not include any person who is liable to tax in a Contracting State in respect only of income from sources in that State.*

2. *Where by reason of the provisions of paragraph 1, of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:*

   (a) *he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);*

   (b) *if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;*

   (c) *if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;*

   (d) *if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.*

3. *Where by reason of the provisions of paragraph 1. of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.*

4. *Notwithstanding the provisions of this Article, the Government of a Contracting State, a political subdivision or a local authority thereof, the Central Bank of a Contracting State or any agency (other than an agency with share capital) wholly owned by a Contracting State, a political subdivision or local authority thereof shall be deemed to be a resident of that Contracting State, whether or not it is liable to tax therein. The competent authorities of the Contracting States may determine by mutual agreement any other governmental institution to which this paragraph shall apply.*

5. *The term "resident of a Contracting State" includes:*

   (a) *a pension scheme established in that State; and*

   (b) *a non-profit organisation that is established and is operated exclusively for religious, charitable, scientific, cultural or educational purposes (or for more than one of those purposes) which is a resident of that State according to its laws, notwithstanding that all or part of its income or gains may be exempt from tax under the domestic law of that State.*

End of question

5. Your firm provides tax and social security consulting services to Newtex plc group, a multinational group of companies which is headquartered in the UK and has operations in the Far East. The payroll manager of Newtex plc, Bridget, has contacted you regarding their employee, Geoff, who has a number of unapproved stock options which he has indicated that he wishes to exercise in December 2017.

Geoff has been an employee of the group for many years and has previously been on tax-equalised assignments within the group to the Far East. Having reviewed his file, you note that he has been on the following assignments while employed by the UK company:

1 May 2009 to 30 June 2013	Tax-equalised assignment to Singapore
1 July 2013 to 30 June 2014	Tax-equalised assignment to China

During the above assignments, Geoff was treated as non-resident in the UK for UK tax purposes and did not have any taxable UK work duties. He did not return to the UK between the two assignments.

In addition, during 2008/09 Geoff spent three months working in Japan. He remained resident in the UK during this period.

While Geoff was on assignment in China, he met and married his wife, a Chinese national. After two years with her in the UK, they decided to move to China permanently and Newtex plc group agreed for Geoff to transfer to China on a local contract from 1 July 2016.

Newtex plc's unapproved stock options are granted every three years and have a three-year vesting period. Bridget has provided you with a schedule of the following unexercised stock options which have been granted to Geoff:

Option number	Number of shares	Grant date	Vest date
Option 1	2,000	1 March 2007	1 March 2010
Option 2	2,000	1 March 2010	1 March 2013
Option 3	5,000	1 March 2013	1 March 2016

You understand that the stock options are taxable under Chapter 5 of Part 7 ITEPA 2003.

In addition, Geoff is due to receive a Restricted Stock Unit (RSU) award which vests on 1 February 2018 and which was granted on 1 February 2015 while Geoff was working in the UK. Bridget has advised that the Newtex plc RSU awards are always paid in cash and the employee has no right to force the delivery of the award in the form of shares. However, the amount of the award is calculated by reference to the increase in the market value of shares in Newtex plc over the vesting period.

You are required to write an email to Bridget which explains how the equity awards should be handled for UK tax and social security withholding purposes and whether Geoff's ultimate liability on the awards will differ, if at all. (15)

NOTE: The UK does not have bilateral social security agreements with either Singapore or China. Relevant extracts from the UK-Japan social security agreement and UK-China Double Tax Treaty are provided.

Continued

5. Continuation

UK CHINA DOUBLE TAX TREATY EXTRACT

Article 4
Resident

1. *For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income or capital gains from sources in that State.*

2. *Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:*

   a) *he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);*

   b) *if the State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;*

   c) *if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;*

   d) *if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.*

3. *Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.*

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.*

Continued

5. Continuation

UK JAPAN SOCIAL SECURITY AGREEMENT EXTRACT

Article 5

1. *As regards compulsory coverage, subject to the provisions of Articles 6 and 7, where a person who is insured under the legislation of one Party, and employed by an employer with a place of business in the territory of that Party, is sent by that employer, either from the territory of that Party, or from a third country, to work in the territory of the other Party, that person shall be subject only to the legislation of the former Party as if that person were working in the territory of that Party, provided that the period of such detachment is not expected to exceed five years.*

2. *As regards compulsory coverage, where a person insured under the legislation of one Party, who ordinarily works as a self-employed person in the territory of that Party, works only in the territory of the other Party, that person shall be subject only to the legislation of the former Party as if that person were working in the territory of that Party, provided that the period of the self-employment in the territory of the other Party is not expected to exceed five years.*

3. *Where, by virtue of the provisions of paragraph 1 or 2, a person works as an employed or self-employed person in the territory of one Party while remaining subject only to the legislation of the other Party, that person shall not be entitled to pay contributions voluntarily under the legislation of the former Party, unless such voluntary payments are made under the legislation of that former Party with respect to voluntary payment of contributions only by those aged sixty or over.*

4. *For the purposes of this Article, "insured" means,*

   (a) in relation to Japan, that, immediately before the commencement of the period of detachment or self-employment in the United Kingdom, contributions have been paid by, or in respect of, or are payable by, or in respect of, the person concerned, or exemption from liability for contributions has been granted to, or in respect of, the person concerned, and

   (b) in relation to the United Kingdom, that, immediately before the commencement of the period of detachment or self-employment in Japan, contributions have been paid by, or in respect of, or are payable by, or in respect of, or have been credited in respect of, the person concerned.

End of question

6. You work for a firm of Chartered Tax Advisers and your client is Gapo Ltd, a UK company with operations in the UK and Newland. Newland has a 10% rate of Income Tax and does not have a Double Tax Agreement with the UK.

The HR Director at Gapo Ltd, Jane Smithers, has contacted you as the company is relocating its Head of Global Risk, Burt Thompson, from Newland to the UK on 1 January 2018. As the rate of Income Tax is higher in the UK than in Newland, the company agreed to increase Burt's salary from 1 January 2018.

Gapo Ltd have provided you with some background information on Burt. He has always been UK domiciled, but has been working in Newland for the last 10 years and has not been UK tax resident in this period. He has spent fewer than 90 days in the UK in each of the last 10 years.

He currently lives in a rented property in Newland (and has no other homes anywhere else). His rental agreement ceases on 31 March 2018 and he will continue to use the property for the remainder of this period when he is in Newland. He expects to be there for five nights for meetings in the first week in February 2018 and for seven nights between 24 March and 31 March 2018 to oversee the removal of his furniture and return the keys to his landlord.

He will acquire a UK home on 1 January 2018 and will immediately occupy it. He expects to remain in the UK permanently after his relocation.

Burt is single, has no children and only works for 30 hours per week. His working pattern will not change due to other personal commitments.

In the period 6 April 2017 to 31 December 2017, he will be present in the UK for 50 midnights. Except for the 12 midnights in Newland, he expects to spend every midnight in the UK between 1 January 2018 and 5 April 2018. Between 6 April 2017 and 31 December 2017, he will work in the UK for more than three hours on 20 separate days and expects a further 55 UK workdays between 1 January 2018 and 5 April 2018.

Gapo Ltd has agreed to meet any additional UK Income Tax liabilities which may arise in respect of employment income for the period up to 31 December 2017. Gapo Ltd believes that the potential liability if this income is taxable in the UK could be significant and has therefore asked you to advise on whether or not UK Income Tax will apply to this income.

You are required to write a letter to Jane Smithers advising on the application of UK Income Tax to Burt's employment income for 2017/18. (20)

The Chartered Tax Adviser Examination

November 2017

Inheritance Tax, Trusts & Estates

Advisory Paper

TIME ALLOWED – 3 ¼ HOURS

- The first 15 minutes is designated as reading time. During this time you may read your question paper and legislation and annotate your question paper. You are not permitted to write in the answer folder. The Presiding Officer will inform you when you can start writing. Calculators may not be used during this time.
- You should answer all **SIX** questions.
- Start each answer on a fresh page and do not write in the margins.
- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.
- Marks are specifically allocated for presentation.
- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should tick the appropriate box on the front of each answer folder.
- Unless otherwise indicated by the provision of additional table information, you may assume that 2016/17 rates and allowances continue to apply for 2017/18 and future years. Candidates referring to actual or pending rates and allowances for 2017/18 and future years will not be penalised.

1. Your client, Tom, met with you recently. He is a 75-year-old farmer who has farmed the land for more than seven years and is concerned about the Inheritance Tax on his death. He is planning to leave the farm (to include land and buildings) to his son, James, a stockbroker and is concerned that a significant Inheritance Tax liability may mean that the farm would need to be sold to pay the tax. Tom has only his own nil rate band to use against the liability and has made no lifetime gifts. He tells you the following:

   1) The farm has a farmhouse worth £350,000, which Tom inherited from his father 12 years ago at a probate value of £200,000. The farmhouse has been unoccupied since Tom moved out when his wife died eight years ago and it has since become dilapidated. There are plans to renovate the property so that James can use it at the weekends once completed. Tom has queried whether the Inheritance Tax position would be improved if the property was gifted to James now before the renovations are complete.

   2) Tom is currently living in a smaller farm property he owns worth £200,000 and from which he runs the farm.

   3) There is a further house on the farm. This is a furnished holiday let, which is currently valued at £100,000. Tom has no involvement with the running of the rental business and uses a property rental company to manage it.

   4) The farm has 200 acres of farm land, which is farmed by Tom. This farm land has an agricultural value of £1.2 million and an open market value of £1.5 million.

   5) Tom lets a further 20 acres to a neighbour on a grazing licence for grazing horses. Tom has not retained any responsibility for maintaining the land. The agricultural value of the land is £150,000 and the open market value is £175,000.

   6) The farm has several outbuildings valued at £40,000 which are currently used to store farming equipment. Tom estimates that the equipment is worth approximately £200,000.

   7) Tom also owns 100 acres of woodland, close to but not on the farm, worth £600,000. The woodland is not currently used for agricultural purposes but in the future it is intended to be used for the production of commercial timber. The land, excluding the trees, is estimated to be worth £450,000.

   You are required to write a letter to Tom advising him on:

   1) The Inheritance Tax implications of his death including calculations. (17)

   2) The Capital Gains Tax implications of the proposed gift of the farmhouse to James and how this may vary depending on the timing of the gift. Calculations are NOT required. (3)

   Total (20)

2. The Rothwell Grandchildren's Discretionary Trust was set up on 6 May 2009 by John Rothwell, a UK resident and UK domiciled individual. The trust was originally comprised of 15,000 shares in Rothwell Bank Ltd, which runs a bank and is controlled by his family. The value of the shares on the original gift into trust was £820,000 and John's original base cost for the shares (acquired after March 1982) was £135,000. On creation of the trust John Rothwell elected to holdover the capital gain under s.260 TCGA 1992.

The shares qualified for 100% Business Property Relief at the time of the gift into trust. The shares are slowly being sold and the Trustees now also hold a portfolio of listed shares and interest bearing investments.

John Rothwell has created no other trusts to date and made no chargeable transfers in the seven years prior to setting up the trust. He has never worked or held office at Rothwell Bank Ltd.

John Rothwell has four grandchildren; twins Edward and William who are 13, Ruby who is 18 and Anastasia who was 21 on 6 July 2016.

Under the terms of the trust the grandchildren each receive a life interest in a one quarter share of the fund on reaching age 21 and can receive capital at any time at the discretion of the trustees.

In 2016/17 the trustees received the following income:

	6 April 2016 – 5 July 2016	6 July 2016 – 5 April 2017
	£	£
Dividends	15,000	42,000
Interest	7,000	22,000

The trustees incurred £2,000 of trustee expenses relating to the trust income, which accrued evenly over the year and were paid out of the trust income.

Payments on account have been made towards the 2016/17 liability of £20,000 in total.

The trustees sold the following assets during the year:

1) 3,000 shares in Rothwell Bank Ltd for £167,000.

2) Shares in Wow plc for £8,000, which had originally cost £2,000.

3) Treasury stock for £30,000, which had originally cost £27,000.

The trustees made a capital distribution of £20,000 to Ruby on 18 May 2016 to help towards her university costs and the trustees have agreed to pay any Inheritance Tax that may be due.

You are required to:

1) Calculate the 2016/17 Income Tax and Capital Gains Tax liabilities of the Trustees and state the date of payment and any payments on account for 2017/18. (13)

2) Prepare the 2016/17 R185 figures for Anastasia. (2)

3) Calculate the Inheritance Tax due on the capital distribution to Ruby and state the date on which the tax is due. (5)

Total (20)

3. The audit partner at the accountancy practice where you are a tax manager has approached you regarding one of his clients, Charles Baron. Charles has inherited some shares in Go plc, a company listed on the London Stock Exchange, from his cousin who died 12 months ago. The probate value of the shares was £300,000 and they are now worth £365,000. No dividends have been declared since his cousin's death.

Charles has decided that he does not need the shares, nor the future dividends they may produce, and would therefore like to redirect them under a deed of variation to the Baron Discretionary Settlement. This is a discretionary trust set up by Charles' father on his death for the benefit of Charles and Charles' three children who are currently aged 21, 19 and 17.

You are required to prepare a memo to the audit partner explaining the requirements for the deed of variation to be effective for tax purposes and the resulting Income Tax, Capital Gains Tax and Inheritance Tax consequences. (10)

4. Albert Carpenter died on 14 February 2006.

Under the terms of his Will, he established the Carpenter Family Trust providing for an interest in possession for his wife Betty and on her death passing onto discretionary terms for the benefit of their two adult sons, Charlie and Danny. The residue of Albert's estate, which exhausted his nil rate band, passed to Charlie and Danny. Albert had made no lifetime gifts in the seven years prior to his death.

The property transferred into the Trust comprised cash of £195,000 and a 15% holding (750 shares) in Moonshine Ltd, an unquoted trading company. The shares were worth £129,600 at the date of Albert's death and had been owned by him since incorporation in 2003. The remaining shares in Moonshine Ltd are owned by unconnected third parties.

On 30 March 2009 Betty Carpenter died, leaving her entire estate to her sons Charlie and Danny in equal shares. The Trust property at that time comprised the 750 shares in Moonshine Ltd valued at £368,000 and cash of £132,750. Betty's free estate was worth £419,000 and the total of chargeable lifetime transfers made by her in the seven years prior to her death was £203,000.

On 27 September 2013 the trustees exercised their discretion to appoint 250 shares in Moonshine Ltd, worth £175,000, together with capital of £32,000 to Charlie.

On 13 February 2016 the Trust assets comprised the remaining 500 shares in Moonshine Ltd worth £412,500 and cash of £98,750.

On 5 May 2016 the trustees exercised their discretion to make a capital distribution of £50,000 cash to Danny.

The trustees agreed to pay any tax due on the distributions.

You are required to calculate the Inheritance Tax arising on all the events listed above, stating the due dates for payment. You are NOT required to consider any Capital Gains Tax implications. (20)

5. You are a tax manager in a firm of Chartered Tax Advisers and you have recently had a meeting with a new client, Max Owen.

Max, who is 46, has always been UK resident and UK domiciled and is an additional-rate taxpayer. He is one of the beneficiaries of two separate discretionary family trusts and is seeking advice in relation to the tax implications of a number of recent transactions in relation to those trusts. The settlor of both trusts was Mr Owen's grandfather, Nathan Owen, who died in December 2007 having also been UK resident and UK domiciled throughout.

Trust 1 – The Owen Company Trust

This trust was established on 1 July 2002 as a vehicle to hold shares in the unquoted family trading company, Panda Productions Ltd. Nathan Owen started the company with £50 nominal share capital in the 1990s and owned 100% of the shares prior to the transfer of his entire holding to the trust. The shares were valued at £645,000 in July 2002 and a claim was made by Nathan Owen to holdover the gain under s.260 TCGA 1992.

The Trustees of the trust are Quentin and Rosemary Owen who are Nathan's son and daughter-in-law (and are also Max's parents). On 1 October 2014, they emigrated to Canada to enjoy their retirement but failed to take any tax advice in relation to the trust prior to their departure from the UK. Prior to emigration they had always been resident and domiciled within the UK.

On 1 October 2014 the shares in Panda Productions Ltd were valued at £1.2 million. On 1 January 2016, the entire shareholding was sold to an unconnected third party for £1.3 million.

In October 2017 the Trustees exercised their discretion to make a cash distribution of £500,000 to Max. Undistributed income in the trust at that time was £38,000.

Trust 2 – The Owen Property Will Trust

This UK resident trust was established by Nathan Owen's Will following his death in December 2007 and comprises a residential property in Manchester. The probate value of the property was £394,000. The Trustees are now proposing to appoint the property, which has a current value of £315,000, to Max and wind up the trust. Max intends to keep the property as an investment and let it out to an independent third party.

The Trustees are two of the family's legal advisers based in London.

You are required to write a letter to Max Owen, with supporting calculations where appropriate, explaining the Income Tax and Capital Gains Tax implications of the actions taken by the trustees of both trusts. You are NOT required to consider any overseas tax issues. (20)

6. Emily Long died on 6 August 2016, leaving a net estate valued at £617,750.

The following gifts were made by Emily during her lifetime:

February 2010	£315,000 to her daughter Frances
September 2010	£250,000 to a discretionary trust for her grandchildren

Emily's first husband, Harrison, had died in January 1998. He left £161,250 of his estate to their daughter Frances and the remainder to Emily. Emily's second husband, Gordon, died in October 2004, leaving £223,550 to his sister Iona and the remainder of his estate to Emily. Neither Harrison nor Gordon had made any lifetime transfers.

In June 2015, Emily's brother James died leaving his entire estate of £457,000 to Emily. The Inheritance Tax payable on James' death was £52,800. Emily's Will leaves a tax-free legacy of £286,000 to her daughter Frances and the residue to a registered charity.

You are required to calculate the Inheritance Tax payable by reason of Emily's death indicating the persons upon whom that tax burden will fall, the due date for payment and the distribution of the estate. (10)

The Chartered Tax Adviser Examination

November 2017

Taxation of Individuals

Advisory Paper

TIME ALLOWED – 3 ¼ HOURS

- The first 15 minutes is designated as reading time. During this time you may read your question paper and legislation and annotate your question paper. You are not permitted to write in the answer booklet. The Presiding Officer will inform you when you can start writing. Calculators may not be used during this time.

- You should answer all **SIX** questions.

- Start each answer on a fresh page and do not write in the margins.

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

- Marks are specifically allocated for presentation.

- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should tick the appropriate box on the front of each answer booklet.

- Unless otherwise indicated by the provision of additional table information, you may assume that 2016/17 rates and allowances continue to apply for 2017/18 and future years. Candidates referring to actual or pending rates and allowances for 2017/18 and future years will not be penalised.

1. You are a tax manager in a firm of accountants. Clients of the firm, Ben Hacker and his wife Amanda, returned to the UK on 2 September 2016 following a period when they had been non-UK resident for tax purposes. Both Ben and Amanda are UK domiciled. Ben has approached you to deal with their 2016/17 tax returns and provided the following information:

   1) Amanda became UK resident on 1 November 2010 having lived in France since 2000.

   2) Ben and Amanda left the UK on 6 April 2013. Ben worked full time overseas throughout the period they were outside the UK.

   3) Split year treatment applies for 2016/17. The UK part of the tax year commenced on 2 September 2016. Ben and Amanda had no UK income in the period 6 April 2016 to 1 September 2016. Ben's income in the period 2 September 2016 to 5 April 2017 was £60,000 and Amanda's was £30,000.

   Whilst non-UK resident, Ben sold the following assets:

   1) On 10 April 2013, the entire issued shares in an unquoted trading company, Hacker Innovations Ltd, for £750,000. He was a director of the company and had acquired the shares for £300,000 on incorporation in 2004.

   2) On 19 December 2014, an antique painting for £8,200 which he had bought at an auction in 1996 for £3,126.

   Whilst non-UK resident, Amanda sold the following assets:

   1) On 15 January 2015, a minority shareholding in a quoted company, Imagining Relativity plc, for £176,000 which she inherited in May 2010. The probate value had been agreed as £100,000.

   2) On 5 May 2016, a residential property in which she had never lived for £340,000. This had been bought on 5 November 2010 for £190,000 and had a market value of £320,000 on 5 April 2015.

   Ben and Amanda had jointly purchased a property overseas in June 2014 which they had lived in and this was sold on 27 August 2016. The purchase price was £400,000 and it was sold for £535,000.

   No overseas tax has been paid or will be due on the above disposals and Ben and Amanda were not resident in a country that has entered into a double taxation agreement with the UK.

   You are required to prepare a briefing note for your tax partner ahead of a meeting with Ben and Amanda to explain, with computations as necessary, the Capital Gains Tax implications of the transactions described above. (20)

2. Your client is Andrew Nightingale, who is UK resident and domiciled.

Andrew and his non-resident siblings are intending to acquire a residential property in the UK and are considering doing this through a company incorporated and tax resident in Utopia. The property will initially be used by Andrew's nephew who is going to be attending university in the UK and will subsequently be used as a base for non-resident family members when they visit the UK. The purchase price is £1.5 million and it is expected that the purchase will be made on 1 December 2017. Andrew believes that there may be additional annual tax charges arising from this decision and has approached you for advice on this issue.

Andrew also owns a portfolio of furnished properties which he rents out to students. He has been claiming wear and tear allowance but now wants advice as to what he can claim as he understands the rules have changed. You have not yet prepared his 2016/17 tax return and he would like a general idea of any additional tax he might pay as a result of the changes. He has provided an example of a nine-bedroomed house which he rents out to students with the total rent received over the year being £43,056 inclusive of all bills. On average, he incurs the following costs each year:

1) £500 on carpets and curtains
2) £1,000 on furniture
3) £500 on white goods
4) £700 on repair and redecoration
5) £695 insurance
6) £3,056 on utilities and water rates

Andrew is a higher rate taxpayer.

Utopia levies no taxation and there is no double tax agreement between the UK and Utopia.

You are required to write a letter to Andrew explaining:

1) Any additional annual tax charges which may arise if the new UK property is held by a Utopian company rather than directly by Andrew and his siblings. (6)

2) The difference between his taxable rental profits for 2016/17 and for 2015/16. (9)

Total (15)

3. You are a tax manager with a firm of accountants. You have just had a meeting with Frank Smith, a new client, who has received a letter from HM Revenue & Customs opening an enquiry into his 2016 tax return. Frank had prepared the return himself and it was filed on time.

In addition to his employment income of £85,000, he reported a rental profit of £14,000 on his return, Frank owns four buy-to-let properties and HM Revenue & Customs have queried the level of rental income reported in the tax return.

Frank calculated the rental income declared on his tax return by adding up the rent paid into one of his bank accounts during the period 6 April 2015 to 5 April 2016. He now recalls that the rent from one property was paid into a separate account and this income was not reported. As a result, he has inadvertently under-reported his rental income by £10,000.

Frank is very worried by this discovery and the possibility that he may have to pay a penalty and has asked you to deal with the enquiry on his behalf.

The deadline set by HM Revenue & Customs for responding to their letter is now two weeks away.

You are required to write a letter to Frank explaining his position and how you propose to deal with the matter. (15)

4. You are the tax manager in a firm of accountants. Several staff in your department have raised questions as to how they can continue to provide effective tax advice to your firm's clients given the amount of anti-avoidance legislation and in particular the General Anti-Abuse Rule. The tax partner has therefore asked you to run a training session for the department and to produce notes for that session.

You are required to prepare training notes explaining the General Anti-Abuse Rule. (10)

5. Simon works for Jay Ltd. During 2016/17 he received a salary of £135,000, a car allowance of £6,000 and commission of £35,000. PAYE of £58,000 was deducted at source. During the year, Simon received a number of benefits from Jay Ltd:

1) Mileage at the rate of 15p per mile for the 12,000 miles he travelled for business.

2) Childcare vouchers of £25 per week.

3) Medical insurance at a cost to Jay Ltd of £750.

4) Membership of his local golf club, as he uses the facilities for meetings with clients. He never visits the club outside of work. The cost to Jay Ltd in 2016/17 was £450.

5) On 6 October 2016 Jay Ltd made an interest free loan of £15,000 to Simon. The loan is being repaid by way of a deduction from his net pay of £1,000 per month. Simon's salary is paid on the last day of each month. The average method was used to calculate the benefit in kind reported on his P11D.

6) In February 2017 Simon received a round sum allowance of £1,000. He used this to purchase flights and other travel expenses for work which amounted to £950 by 5 April 2017.

7) On 6 April 2015, Jay Ltd lent Simon photographic equipment for his own personal use. The equipment originally cost the company £2,000 in 2013 and was valued at £1,000 when it was first lent to Simon. No other employee had borrowed the equipment before this date. On 6 July 2016 Jay Ltd agreed that Simon could purchase the equipment for its current market value of £200.

8) Pension contributions of £20,000 into a defined contribution pension scheme. In addition, Simon made net contributions of £16,000 into the scheme. Simon had no unused pension annual allowance brought forward from previous years.

During 2016/17, Simon paid £500 for membership of a professional body relevant to his employment. This professional body appears on HM Revenue & Custom's list 3.

His investment income in the year was as follows:

	£
Dividends from UK companies	9,000
Dividend from Wombat Investments Ltd – see below	5,000
Bank interest	2,000

Simon had invested £250,000 in Wombat Investments Ltd, a qualifying Venture Capital Trust, on 1 May 2015.

Simon made gift aid donations of £800 during the year.

Simon had an underpayment of tax of £1,500 from 2014/15 which he had previously elected to be collected through his 2016/17 tax code.

On 6 January 2017, he invested £10,000 in Zing Investments Ltd, a qualifying Venture Capital Trust.

Neither Simon nor his wife received any child benefit in the year.

You are required to calculate, with explanations, Simon's Income Tax liability for 2016/17. (20)

6. You are a tax senior in a firm of accountants and your manager has asked you to review the information provided by Mr Balt, a client of the firm, to determine how the remittance basis will apply for the 2016/17 tax year.

Mr Balt has been UK resident since 6 April 2003. He is non-UK domiciled and has not previously claimed the remittance basis of taxation.

Mr Balt has two overseas accounts in his sole name (Account 1 and Account 2) plus one in joint names with his wife.

The balance of Account 1 on 6 April 2016 was £270,000 which consisted of a legacy of £250,000 from Mr Balt's mother, who died on 9 May 2015, plus £20,000 net UK employment income. The legacy was paid to him on 13 September 2015. The employment income was earned during 2015/16 and paid directly into the account by his employer.

During 2016/17, the following amounts were added to Account 1:

1) £2,000 net UK employment income on the 10th of each month paid directly into the account by his employer.

2) Interest of £100 on 1 May 2016, £220 on 1 September 2016 and £240 on 1 January 2017.

3) A £500,000 dividend from an overseas company, Spinach Ltd. The dividend was received on 18 December 2016. The dividend was net of 5% foreign tax.

During 2016/17 Mr Balt transferred the following amounts out of Account 1:

1) £225,000 into the joint overseas bank account with his wife, Mrs Balt, on 20 December 2016.

2) £20,000 into a UK bank account on 22 December 2016.

The balance of Account 1 on 5 April 2017 was £549,560.

Account 2 was opened on 5 March 2017 to receive the proceeds of the sale of an overseas property on that date on which Mr Balt realised a gain of £50,000. On 19 May 2017, Mr Balt used all the proceeds to repay part of the mortgage on his UK property.

On 11 June 2017, Mr Balt sold shares in two overseas quoted companies realising a gain on one holding of £20,000 and a loss on the other holding of £40,000. The proceeds were paid into Account 2.

Mr Balt has made no other disposals of assets in 2016/17 or 2017/18.

Mr Balt believes his total overseas income for 2017/18 will be less than £1,000.

Mrs Balt did not make any remittances into the UK during 2016/17.

You are required to write a briefing note for your tax manager explaining the remittance basis, any associated elections and their application to Mr Balt for 2016/17 and 2017/18. (20)

You are NOT required to calculate any tax liabilities.

The Chartered Tax Adviser Examination

November 2017

Taxation of Owner-Managed Businesses

Advisory Paper

TIME ALLOWED – 3 ¼ HOURS

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1. You are a tax adviser in a firm of Chartered Accountants. One of your clients, Cranwell Farms, is a partnership which owns and operates a number of farms in Norfolk.

The partners in the partnership are Alex Barlow (who runs all of the day-to-day operations of the farms) and Barlow Ltd (Alex's family-owned company, which operates in a number of business sectors). Barlow Ltd has not provided any services to the partnership during the year.

Both Alex and Barlow Ltd have a 50% interest in the profits and capital of the partnership. Alex and Barlow Ltd have each contributed capital of £200,000 to the partnership.

The partnership prepares accounts to 31 March each year. Barlow Ltd prepares accounts to 31 December.

The partnership's profit and loss account for the year ended 31 March 2017 is below:

	Note	£	£
Gross profit			556,000
Overheads:			
Maintenance	1	30,000	
Vehicle expenses	2	20,000	
Rent		25,000	
Wages, NIC and pensions		100,000	
Insurance		30,000	
Legal and professional fees	3	48,000	
Contractors		40,000	
Bank charges		15,000	
Interest	4	60,000	
Sundry expenses		7,500	
Profit on sale of farm assets		(2,500)	
Depreciation – vehicle (held on finance lease)		8,000	
Depreciation – other fixed assets		22,000	
			(403,000)
Net profit			£153,000

Note

1) Maintenance

	£
Repairs to farm outbuildings	19,000
New shed	6,000
Repairs to office	2,000
Replacement windows in office	3,000
Total	£30,000

2) Vehicle expenses

Leasing costs	
Ford Transit van – CO_2 180 g/km	8,000
Running costs	
Ford Transit van – CO_2 180 g/km	5,000
Toyota Hilux car – CO_2 185 g/km	4,000
Audi A3 car – CO_2 90 g/km	3,000
Total	£20,000

The Audi A3 was purchased in January 2015 and is used 50% privately by Alex.

Continued

1. Continuation

3) Legal and professional fees

	£
Creation of pension scheme	2,750
Purchase of farm land	5,000
Unsuccessful application for planning permission on farm land	4,000
General provision for possible future legal fees	5,000
Accountancy and tax fees	3,000
General employment, contract and business matters	28,250
Total	£48,000

4) Interest

The interest charge comprises bank interest of £60,000.

The money lent to the partnership by the bank is secured on the farms and carries an interest rate of 5% per annum. Unsecured loans for similar amounts would be available at interest rates of 10% per annum.

In addition, in accordance with the terms of the partnership agreement, Barlow Ltd is entitled to interest of £40,000 on its capital contributed to the partnership. Alex is not entitled to any interest on his capital.

5) Capital allowances information

	£
Tax written down value brought forward (main pool)	60,889
Qualifying expenditure in the period	95,000
Proceeds of asset disposals (all below original cost)	17,000

6) Alex had no other income in the 2016/17 tax year. He has made payments on account for 2016/17 totalling £55,000.

7) Barlow Ltd's taxable profit share for the year ended 31 March 2016, as returned in the 2015/16 partnership return, was £87,250.

You are required to calculate with explanations:

1) The adjusted taxable profits which should be allocated to both Alex and Barlow Ltd for the year ended 31 March 2017 within the 2016/17 partnership tax computation. (14)

2) The amount which Alex will be due to pay HM Revenue & Customs on 31 January 2018. (5)

3) The amount which should be included within Barlow Ltd's Corporation Tax return for the year ended 31 December 2016 in respect of the partnership. (1)

Total (20)

2. You are a tax manager in a medium-sized accountancy firm.

One of your clients, SpillClean Ltd, is a company which manufactures cleaning products for supermarkets and industrial customers. For many years, the company has operated from rented premises on the outskirts of Newcastle.

The company identified an opportunity to purchase a warehouse property on the edge of the city centre, which it would then convert into office and manufacturing space. This would mean that the company could leave its rented premises.

The purchase was completed on 30 June 2016 for £500,000, with £100,000 of this price being allocated in the contract to the fixtures incorporated within the building. Substantial expenditure was then incurred on renovating and converting the property.

The company's Finance Director, James Green, has provided the following list of expenditure incurred in the project:

Freehold land and buildings

Date	Description	Cost
		£
30 June 2016	Purchase of warehouse property	500,000
18 July 2016	Stamp Duty Land Tax	14,500
18 July 2016	Legal fees in respect of property purchase	7,500
31 July 2016	Replacement of roof	25,000
14 August 2016	Formation of internal corridors and rooms	85,000
20 August 2016	Purchase and installation of four solar panels	30,000
28 August 2016	Installation of plumbing and electrical systems	6,500
30 September 2016	New energy-efficient boiler	10,000
14 October 2016	Painting, decorating etc.	3,000
30 June 2016 – 20 October 2016	Site management, security and plant hire costs during works	4,000
Total		£685,500

Following completion of the transaction, the lawyers acting for the company in the purchase have forwarded a copy of a signed election under s.198 CAA 2001, in which it has been agreed that the amount of the purchase price which should be allocated to integral features and to other plant and machinery is as follows:

Main pool plant and machinery – £1
Special rate pool plant and machinery – £1

Although manufacturing equipment was transferred from the former premises as part of the move, the company has incurred capital expenditure in purchasing equipment to expand its product range, and in general capital asset replacement. James has also provided a list of these transactions below:

Plant and machinery

Date	Description	Cost
		£
17 November 2016	Plastic blow moulding machine	40,000
15 December 2016	Plastic granulator	80,000
16 December 2016	Forming moulds	9,000
20 March 2017	Assembly line – 20% deposit paid	60,000

Continued

2. Continuation

During the year, the company received a £40,000 grant from the Government for capital asset expansion. This was spent in full on the plastic granulator.

On signing the contract for the purchase of an assembly line for £300,000, a 20% deposit was paid. Due to the size of the machinery and the time required to manufacture, this was not delivered and installed until June 2017, when the balance was paid.

Motor vehicles (purchased new)

Date	Description	Cost
		£
5 May 2016	BMW 320i car – CO_2 159 g/km	30,000
10 November 2016	Porsche Cayenne 3.0S Hybrid car – CO_2 75 g/km	65,000

The company prepares accounts to 31 March each year. The brought forward values on the company's capital allowances pools at 1 April 2016 were:

Main pool – £80,000
Special rate pool – £250,000

Other companies within the same group as SpillClean Ltd have utilised the Annual Investment Allowance for the year in full.

You are required to calculate, with brief explanations, the maximum amount of capital allowances which the company can claim for the year ended 31 March 2017.

You should assume that all beneficial claims are made. (15)

3. You are the tax manager responsible for preparing the Corporation Tax computations of Retro Ltd. The company is incorporated in the UK and the issued shares are wholly owned by Peter Brown.

From 1 May 1982 Retro Ltd traded as a wholesaler of shoes and handbags supplying large retail customers from a warehouse and office based in Reading. This trade ceased on 31 December 2007 due to declining sales and profits and it invested residual cash funds of £300,000 in a wide portfolio of UK listed shares.

Retro Ltd retained its freehold warehouse, which was let to a third-party tenant from 1 January 2008. The lease expired on 1 November 2016 and the property is now used as the company's trading premises.

The company recommenced trading on 1 January 2017 selling shoes and handbags through a retail internet site.

You have obtained the following information from the draft accounts to 30 June 2017 and the management accounts for the six months to 31 December 2016 and to 30 June 2017.

Profit and loss

	Management Accounts for six months to 31 December 2016	Management Accounts for six months to 30 June 2017	Draft Accounts for year to 30 June 2017
	£	£	£
Net trading profits	-	120,000	120,000
Rental income net of expenses	25,000	-	25,000
Dividends received	8,000	2,000	10,000
Interest received	1,000	-	1,000
Profit on sale of investments	-	16,000	16,000
Net profit before tax	34,000	138,000	172,000

Chargeable gains on the sale of investments have been computed as £15,000.

Expenses already charged in arriving at net trading profits of £120,000 above:

	£
Depreciation on plant	10,000
Overdraft arrangement fees	3,000
Directors' remuneration	60,000

Overdraft arrangement fees were incurred in December 2016 and include £1,500 relating to securing personal guarantees given by the shareholder.

Directors' remuneration of £60,000 includes £1,500 for each six-month period for managing the company's investments.

Retro Ltd has £12,000 of excess management expenses brought forward at 1 July 2016.

On 1 December 2016, the company spent £100,000 on moveable shelving systems in the warehouse.

Continued

3. Continuation

The tax written down values of the capital allowances pools at 30 June 2016 were nil. There are no related companies. The market value of fixtures and other plant in the warehouse at 1 November 2016 belonging to Retro Ltd was £25,000.

You are required to:

1) **Prepare the computation of taxable total profits for Retro Ltd for the year ended 30 June 2017.** (12)

2) **Calculate the Corporation Tax liabilities for Retro Ltd and state the due dates for payment.** (3)

Total (15)

Note: The Corporation Tax rate for Financial Year 2017 is 19%.

4. Bellissimo Ltd manufactures ice cream from a factory in South Wales. The company was incorporated by Mr Tony Rossi in 1995 with 900 ordinary £1 shares.

Maria Rossi

Maria acquired the 900 ordinary £1 shares in Bellissimo Ltd as a gift from her father, Tony, in March 2014. The Capital Gain arising was subject to a joint hold-over election under s.165 TCGA 1992. Maria is the sole director of the company.

The freehold factory premises were purchased by Maria in April 2013 for £1.5 million. The current market value is £3 million.

The company is charged rent based on 50% of the full market rental value.

Alan Jones

Alan is a family friend and is not an officer or employee of the company. 100 ordinary £1 shares in Bellissimo Ltd were issued to Alan at a premium on 12 December 2016, for cash, as the company required additional funds for trading purposes.

Proposed sale

The shareholders have received an offer of £5 million from a third party to purchase all 1,000 ordinary shares in Bellissimo Ltd for cash. It is intended that the sale will be completed by 31 December 2017.

Immediately following the share sale, it is proposed that Maria will grant a new five-year lease to Bellissimo Ltd at a market value rent (with no premium). On expiry of the lease in December 2022, Bellissimo Ltd may exercise an option to acquire the freehold at its then market value.

A non-statutory clearance has been obtained from HM Revenue & Customs which confirms the company satisfies the conditions of a trading company within the definition of s.165A TCGA 1992.

Maria and Alan are both higher rate taxpayers.

You are required to write a letter to Maria Rossi explaining the Capital Gains Tax consequences for both shareholders on the disposal of the shares and the property. You should include any suggestions to mitigate any tax that is due. (15)

Calculations are NOT required.

5. Mr Morse is a new client to your firm and he has sent you a letter and accompanying discovery assessment issued by HM Revenue & Customs for the tax year 2013/14. He has asked you to explain why they are now querying his return as he thought the enquiry period was closed.

Mr Morse has traded as a builders' merchant, Builders R Us, for many years. Taxable profits from his sole trade for the year to 31 December 2013 of £85,000 were reported in his 2013/14 self-assessment return, which was filed with HM Revenue & Customs on 1 October 2014. The following items were disclosed in the Capital Gains Tax pages of the 2013/14 self-assessment return:

15 Station Road, Birmingham – gain £70,000

214 Winston Road, Sutton Coldfield – gain £25,000

The letter from HM Revenue & Customs says:

31 October 2017

Dear Sir

<u>A Morse - self-assessment return - 2013/14</u>

Mr Morse's self-assessment (SA) return for 2013/14 included two property transactions for which we have established the facts outlined below. This information was provided at a meeting with your client in relation to an enquiry into his 2015/16 SA return.

1) The property at 15 Station Road was purchased in February 2013 for £275,000 inclusive of acquisition costs. This transaction was funded from the Builders R Us current account and the business subsequently had to raise an overdraft to maintain its working capital. The property was subject to some repairs (costing £5,000) and marketed for sale in June 2013 for £385,000. It was subsequently sold for £350,000 (after selling costs).

   In my view the purchase and sale of 15 Station Road has the hallmarks of a trading transaction and the profit of £70,000 should be subject to Income Tax at 40%. Class 4 National Insurance will also be payable.

2) Mr Morse purchased 214 Winston Road in May 2013. The materials for the refurbishment were drawn from Builders R Us stocks and no reimbursement was made by Mr Morse for those items. The expenditure was made to enhance the property and therefore capital in nature. The estimated stock value is £75,000, with a purchase price of £30,000. No adjustment has been made in the SA return in respect of the stock.

   The house was rented to tenants from 31 July 2013 to 31 March 2014, when it was sold. Adjusted rental income was included in the SA return. I agree that the profit on the sale of 214 Winston Road is not a trading transaction.

As the time-limit for an enquiry into the 2013/14 return has passed I attach an assessment under s.29 TMA 1970 for Income Tax. Information on how your client may make an appeal is also attached…."

Continued

5. Continuation

Mr Morse has advised you that:

1) He has not undertaken any property renovation projects for sale or letting other than the transactions undertaken during 2013/14.

2) He has never lived in these properties.

3) No additional information on the properties was provided to HM Revenue & Customs in the 2013/14 return.

You are required to write a letter to Mr Morse advising him on matters relating to the Inspector's letter. (20)

You are NOT required to comment on anti-avoidance rules for transactions in UK land.

6. You are a tax manager in a national firm of Chartered Accountants.

Sally Barnes is one of your long-standing clients. She is the sole shareholder of Lothian Engineering Ltd, a company specialising in the design and manufacture of precision engineering tools, which she founded in 1997.

Over the 20 years of the company's existence, it has grown significantly. Turnover for the year ended 30 June 2017 has grown to £15 million and gross assets at the same date were £3.5 million. The company has 85 full-time employees.

Sally has built up a small but talented management team, who look after the day to day running of the company's operations.

As she is now 60 years of age, Sally is looking to retire from the business within the next five years and it is likely that she will sell the business to a third-party purchaser at that time. Sally regards the management team as being crucial to the ongoing success of the business and the loss of some of them to competitor companies would have a negative effect on the value of the business.

As a result, Sally has come to you to discuss potential tax-efficient ways in which she could incentivise the management team to remain with the company. One option she would like to explore further is how the management team could share in the value of the company on an eventual sale, as they have helped to create it. However, this should only be the case if the manager remains with the company at the time of its sale and so Sally does not want to simply give them share capital at this point.

You are required to draft a letter to Sally Barnes advising her on how she may share value with her management team on an eventual sale of the company. (15)