(Ensure this number matches your candidate number on your desk label and on your candidate attendance letter)

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Chartered Institute of Taxation

Excellence in Taxation

☐ Tick box if you have answered in accordance with Scots Law

☐ Tick box if you have answered in accordance with Northern Ireland Law

Please tick which Advisory Paper you have attempted (if not already ticked below)

☐ Taxation of Owner-Managed Businesses
☐ VAT on UK Domestic Transactions, IPT & SDLT
☐ Inheritance Tax, Trusts & Estates
✓ Human Capital Taxes
☐ Taxation of Individuals
☐ VAT on Cross-Border Transactions & Customs Duties
☐ Advanced Corporation Tax

☐ Please tick here if you have used an extra answer booklet (ensure you attach your second answer booklet to the first using a treasury tag which will be provided).

Advisory

You must ensure that the Advisory Papers chosen are not the same as the corresponding Awareness Modules you have sat or will be sitting.

- For those candidates on the Indirect Tax Route you must sit the VAT on UK Domestic Transactions, IPT & SDLT Advisory Paper.
- For those candidates on the Indirect Tax Route you must sit the VAT on Cross-Border Transactions & Customs Duties Advisory Paper.

Instructions

Your script will be scanned electronically. Failure to comply with these instructions may lead to your script not being marked. You must:

(a) Complete the details on this page and in the booklet using BLACK or BLUE ballpoint pen only.
(b) Write on both sides of the page.
(c) Not write in the margin areas indicated.
(d) Start a new page for each question you answer and indicate the question number in the box provided at the top of each page.
(e) Not remove any pages from this answer booklet or damage it in any way.

Please do all of the above before the end of the examination.

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QUESTION NUMBER | 1

Appendix

2014/15

Employee conts = 7,200

Employer contributions = 10,800 + 20,000 = 30,800

Annual Allowance = (40,000)

Carry forward = (2,000)

2015/16

Employee conts = 7,800

Employer conts = 11,700 + 20,000 = 31,700

Annual Allowance = (40,000)

AA Brought forward = (2,000)

Carry forward = (2,500)

2016/17

Threshhold income = 145,000 − 8,400 = 136,600

Adjusted income = 145,000 + 12,600 = 157,600

Threshhold > 110,000, Adjusted > 150,000

Annual Allowance Tapered.

~~Adjusted Net income = 157,600 − 8,400~~

Annual Allowance = 40,000 − ½(157,600 − 150,000)

= 36,200

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QUESTION NUMBER | 1

2016/17 cont.

Employee conts = 8,400

Employer conts = 12,600

Annual Allowance = (36,200)

AA Brought forward = (2,500)

Carry forward = (17,700)

2017/18

Threshhold income = 150,000 − 8,700 = 141,300

Adjusted income = 150,000 + 13,050 + 45,000 = 208,050

Annual Allowance = 40,000 − ½(208,050 − 150,000)

= 10,975

Employee conts = 8,700

Employer conts = 13,050 + 45,000 = 58,050

Annual Allowance = (10,975)

Brought forward = (17,700)

38,075 Annual Allowance excess

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QUESTION NUMBER 1

Email

From: Tax Adviser

To: Guy Sinclair

Subject

Date

Dear Guy,

Further to our meeting please find my comments below regarding the proposed bonus.

As a starting point, the maximum amount of pension contributions which will qualify for tax relief in a tax year is the higher of £3,600 or relevant earnings which includes employment income.

Also, there is a maximum amount of total (employee and employer and personal) pension contributions that can be made and this has been £40,000 for the last few years. You can also use any unused Annual Allowance from the 3 prior tax years on a FIFO basis. Any excess pension contributions will be subject to an Annual Allowance Charge on the individual taxable at their marginal rate of tax.

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QUESTION NUMBER 1

From 2016/17, the Annual Allowance has been tapered down where an individual is regarded as a "high earner". As you can see from the attached appendix, in 2017/18 the individuals will have an Annual Allowance of £10,975 with a brought forward unused allowance of £17,700.

Taking this into account, if the proposed bonus is paid as pension contribution then there will be an Annual Allowance charge on the excess of £35,075 taxable at the marginal rate of tax.

The additional bonus could be split across various tax years to ensure the employees have a larger annual allowance and to prevent a charge from arising.

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QUESTION NUMBER 1

If you have any further questions please let me know.

Kind regards,
Tax Adviser.

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QUESTION NUMBER

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QUESTION NUMBER 2

Email

From: Tax Adviser

To : Keir Walker

Subject: Redundancy

Date

Dear Keir,

further to our meeting, please find my comments below regarding the potential departure of Bob and Marion from the firm.

As a starting point, generally there is a £30,000 exemption for termination payments. Any amount over this will be taxable at the individual's highest rate of tax, but will not be subject to NIC. Any termination payments which are contractually made, or there is a reasonable expectation from an outside observer that they would receive it, then it will be treated as general earnings and subject to tax and class 1 NIC. Payments of gardening leave or restrictive covenants will also be taxable as general earnings.

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QUESTION NUMBER 2

The statutory redundancy, ex gratia, market value of cars (if non-contractual), and healthcare (if non-contractual) will all be treated as a termination payment and taxable as such. The restrictive covenant payment and payment of salary and use of cars would be regarded as general earnings subject to tax and NIC.

Where the individual has "substantial" foreign service, then the whole termination payment is not taxable, if there is not substantial foreign service, then the portion related to foreign service will be exempted from tax.

The element of the package which is taxable is £134,280 for Marrion and £113,450 for Bob, please see the attached appendix for calculations. If this amount is paid before the issue of their P45, then this should be taxable using their PAYE code, but no NIC should be withheld. If paid after the issue of the P45, then payroll should use a OT code but again ensure that no NIC is withheld.

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QUESTION NUMBER 2

Please be aware that where a termination payment is made is made "in connection with retirement", then this will always be regarded as general earnings and taxable and NICable as such. Due to ~~Bob~~ Marion's age, the risk of HMRC challenging this is low, but given Bob's age and the fact that he may cease to work completely after his departure, special care should be taken as HMRC may insist the payment is in relation to his retirement.

If any part of the payment is made into a pension scheme, then this will be exempt from tax. Assistance with legal fees will also similarly be exempt.

If you have any further questions please let me know.

Kind regards,
Tax Adviser.

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QUESTION NUMBER 2

Appendix	Marian / Bob
Stat Pay	14,370
Ex Gratia	85,630
Restrictive Covenant	Taxed as earnings
Legal fees	Exempt
Salary	Taxed as earnings
Car	51,780 / 30,950
Healthcare	12,500
Stat Exemption	(30,000)
Termination Payment	134,280 / 113,450

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QUESTION NUMBER 3

Email

To: Harry Chrisman

From: Matthew Weston

Date: –

Subject: Business Trips.

Dear Harry,

Thank you for your email, please find my comments below regarding the reporting obligations with respect to the Spanish employees.

As a starting point, an employer in the UK has an obligation to withhold PAYE and NIC from 100% of an employee's earnings if they are either employed by, work for, or paid by a UK entity. Where an individual is performing work duties in the UK which are merely incidental to their overseas role, such as appraisals or training, then these are neither taxable or reportable.

~~Where an individual~~ This can obviously present difficulties where an individual is coming from

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QUESTION NUMBER 3

an overseas entity and not spending much time in the UK. It can be difficult to obtain their pay information for UK payroll, and can be difficult to withhold any required amounts from an overseas payroll.

Also, ~~t~~ most double tax treaties have an employment income article which states that where an individual who is non-resident in the UK, spends less than 183 days in the UK in a rolling 12 month period, are paid by an overseas company, and costs are not recharged to the UK, then their employment income is exempt from income tax, however this claim must be made via a tax return after PAYE has been withheld.

As this is ~~administratively~~ administratively burdensome, HMRC allow a relaxation of the PAYE rules. This is called a Short Term Business Visitors agreement, and must be applied for and accepted before the start of the tax year you wish to use it. Only one application is necessary. A report is sent to HMRC by 31 May after each tax year detailing any

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information necessary where PAYE has been relaxed.

The 2 individuals in phase 1 will spend 50 days in the UK during the project. For the purposes of the STBV report, a day of presence is any day where the individual is present in the UK, as opposed to the midnight rule for tax residency. As these 2 individuals will spend less than 60 days in the UK in 2018/19, then there is no requirement to withhold PAYE and they can be included in the STBV report under the 30-59 day category where no personal details are required.

The third individual will in total be in the UK for 70 days, albeit under 60 days in 2018/19, and 2019/20. As he will be spending over 60 days in the UK in "linked periods" which looks forwards and backwards indefinitely, then he must be included in the STBV report for 2018/19 and 2019/20 under the 1-90 day category.

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Under this category, PAYE can still be relaxed, but the details required are: names, date of birth, UK address, overseas address, country of tax residency, and confirmation that the UK entity does not act as the economic employer.

Where costs are recharged, this will invalidate the STBV claim. One option would be to recharge to the UK only costs relating to accommodation, travel and subsistence in the UK as these would be exempt from income tax either way as the UK would be a temporary workplace for these individuals.

If you would like assistance with making the STBV application, or require further information please let me know.

Kind regards

Matthew Weston, Tax Adviser.

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QUESTION NUMBER 4

Email

~~To~~ from: Tax Advisor

To : Anna

Subject

Date:

Hi Anna,

Please find my comments below regarding Geraldine's assignment to the UK.

Residence and Domicile

For the tax year of arrival, 2016/17, ~~to~~ Geraldine will not meet any of the automatic non-residence tests due to her number of days in the UK. She will also not meet the automatic residence tests as she spent under 183 days in the UK, she retained her home in Belgium and spent over 30 days there, and works less than 75% of her time in the UK. According to the sufficient ties test, she will have the following ties: accommodation - no, as no UK accommodation available for 90 days in 2016/17, work - no, as she had less than 40 UK workdays, 90 days - no, not in UK previously, and family - maybe depending on her husband's circumstances.

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QUESTION NUMBER 4

With one potential tie, Geraldine will be non-resident in 2016/17 as she ~~with~~ spent under 183 days in the UK.
For 2017/18, ~~and~~ 2018/19, and 2019/20 Geraldine will be tax resident as she will spend over 183 days in UK in each year. In 2019/20, she will most likely be able to split the tax year when she departs under case 1, and be non-resident from 31 January 2020 onwards. Geraldine will likely be treaty resident in the UK as her centre of vital interests are in the UK.
As Geraldine is Belgian and only in the UK temporarily, she is unlikely to acquire a UK domicile of choice and will be regarded as UK non-domiciled throughout.

Basis of tax

As a non-resident in 2016/17, Geraldine will be taxable on her UK sourced income only, including her UK workdays. For 2017/18 to her departure Geraldine will be resident and taxable on the arising basis on her worldwide income and gains in the first instance.
As a non-domiciled individual, Geraldine also

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QUESTION NUMBER | 4

has the option of being taxed on the remittance basis whereby only her UK sourced income is taxed (or any foreign income (earned whilst resident) ~~seen~~ which is remitted to the UK. Under this basis, Geraldine forfeits the Personal Allowance unless her unremitted income is under £2,000. However due to her level of earnings the Personal Allowance is lost regardless. As such it is beneficial to use the remittance basis.

As a remittance basis user, Geraldine is also entitled to Overseas Workday Relief (OWR) for the first 3 tax years of residency in the UK. OWR exempts from UK tax the income relating to any overseas workdays. As such, with OWR Geraldine would be able to exempt 30% of her earnings from tax. Geraldine should set up a new offshore bank account every tax year in which only her employment income is paid into for that tax year. This would allow Geraldine to remit funds to the UK using the Special Mixed fund rules which treat all remittances as a single remittance at the end of the tax year.

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Otherwise, the normal mixed fund rules must be used which look at each remittance each time and can cause some remittances to be taxable.

Geraldine would need to ensure that at least 30% of her employment income is received offshore in her overseas bank account to allow her to make full use of OWR. With the special mixed fund rules, UK employment income is deemed to be remitted before anything else, so as long as this is below 70% of her income, then no taxable remittance should arise.

Geraldine's UK accommodation benefit is automatically deemed to have been remitted to the UK, so this will slightly increase the net earnings which must be kept offshore.

The share award will be taxable based on her tax residency in the grant to vest period. On the basis OWR is claimed, only the portion of gain relating to UK workdays will be taxable.

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Similarly with the bonus, only the portion related to UK workdays in the earnings period will be taxable in the UK. As such, the bonus paid in June 2017 related fully to Belgium and as such is not taxable in the UK.

PAYE

As Geraldine's earnings are being reported on a Modified payroll, only 70% is required to be reported as this is done on a best estimate basis and is in line with her workdays. ~~The~~

If you have any further questions please let me know.

Kind regards,

Tax Adviser.

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QUESTION NUMBER 5

Appendix

Option 1: 3 year vesting, = 36 months.

~~Non-resident for 1 year~~

1 Mar 07 - 30 ~~Mar~~ Apr 09 = 26 m, resident

1 May 09 - 1 Mar 10 = 10 m, non-resident.

ie 26/36 taxable, Japan FTC.

1 Mar 07 - 30 Apr 09 = 26 m, NICable

1 May 09 - ~~30~~ 1 ~~Apr~~ Mar 10 = ~~52~~ 10 m ~~week~~, 52 weeks, NICable

~~[illegible]~~ ie 36/36 NICable

Option 2:

1 Mar 10 - 1 Mar 13 = 36 m, non-resident

ie 0/36 taxable.

1 Mar 10 - 30 Apr 10 = 2 m, 52 weeks, NICable

1 May 10 - 1 Mar 13 = 34, not NICable

ie 2/36 NICable.

Option 3:

1 Mar 13 - 30 Jun 14 = 16 m, non-resident

1 Jul 14 - 1 Mar 16 = 20 m, resident, NICable

ie 20/36 taxable and NICable.

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QUESTION NUMBER 5

RSU:

1 feb 15 – 30 Jun 16 = 17m, ~~taxable~~ resident

1 Jul 16 – 1 feb 18 = 19 m, non resident.

Le 17/36 taxable, NICable.

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QUESTION NUMBER 5

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Email

TO: Bridget

from: Tax Adviser

Subject

Date

Dear Bridget,

Please find my comments below regarding Geoff's equity awards.

As you may be aware, there is never any income tax implications at the grant of an option. However, at exercise of an unapproved option, there is an income tax charge of the difference between the market value at vest and the option price paid by the employee. This amount is treated as employment income.

Where an individual works overseas in the grant to vest period, then the gain in this period must be apportioned between periods of residency and non-residency. The non-resident gain is not taxable in the UK, the resident gain is taxable. The NIC treatment is

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different whereby we must look at where the individual was insured for social security purposes.
Please see the appendix where I have calculated the taxable and NIcable portion of each award.
For the first option, Geoff was ~~non~~ resident for 26/36 months and this amount is taxable. As 3 months were in Japan, if this is taxable in Japan then a foreign Tax credit may be claimed on Geoff's tax return. Due to the 52 week rule, Geoff was fully insured to NIC so the whole gain is NIcable.

The second option is not taxable at all as Geoff was non-resident during the whole period. However, 2/36 months will be NIcable due to ~~and~~ the 52 week rule.

Option 3, 20/36 months of the gain will be taxable and NIcable.

For the RSU, I have assumed that Geoff will meet the conditions to become non-resident

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when he departs. As he is moving on a local contract, the 52 week rule will not apply and NIC will not be due after departure. As such 17/36 months is taxable and NICable.

If Geoff is no longer on UK payroll at the point of exercise, then these should be processed via PAYE with a 0T code, otherwise his normal tax code should be used.

If you have any further questions please let me know.

Kind regards,
Tax Adviser.

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QUESTION NUMBER 6

Letter

My Address

Your Address

Date

Dear Jane,

Please find my comments below regarding Burt's employment income for 2017/18.

Residence

We must first determine Burt's tax residency in 2017/18 in order to determine how his employment income will be taxable.

During 2017/18 Burt will have around 133 UK days of presence and 75 UK workdays. Due to the number of days, Burt will not meet any of the automatic non-residence tests.

Burt will also not meet any of the automatic residence tests. This is because he will spends less than 183 days in the UK, there will not be 30 days in the tax year where Burt has a UK home but no overseas home and so fails the

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QUESTION NUMBER 6

home test, and as Burt works less than 35 hours per week, he will not meet the full time work in the UK test.

As such we must consider the sufficient ties test. Burt will not have a family ties as he does not have a spouse or dependent children who are resident. Burt will have a work tie as he will have over 40 UK workdays in 2017/18. Burt will also also have an accomodation ties as he will have available accomodation in the UK for at least 90 continuous days in 2017/18 and will spend at least one night there. Without further information we cannot determine if Burt has a 90 day ties as we need to know if he has spent over 90 days in the UK in either or both of the previous 2 tax years. The country ties does not apply as Burt has not been UK ~~As such with~~ resident in any of the 3 prior tax years.

As such, with 2 or 3 ties, Burt will be

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QUESTION NUMBER 6

considered UK resident if he spends over 120 or 90 days in the UK respectively.

As Burt will spend ~~aaa~~ around 133 days in the UK, he will be regarded as resident for 2017/18 under either scenario.

<u>Split Year</u>

In the first instance, Burt is tax resident for the entire tax year but may be able to split the tax year into a period of residency and non-residency.

Burt cannot split the tax year under cases 4, 5, 6, or 7 as he does not meet any of the conditions. Case 8 requires Burt to start to have a home in the UK during the tax year. which he does from 1 Jan 18 : He must have been non-resident in 2016/17, fully resident in 2018/19. And not meet the sufficient ties test prior to this date.

As such Burt will be considered non-resident from 6 Apr 17 to 31 Dec 17, and resident

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from 1 Jan 18 onwards.

He will be taxable on his worldwide income and gains from this date. If foreign income is taxed overseas, the UK will allow a foreign tax credit to be claimed to reduce his UK tax liability on his foreign income.

If you have any further questions please let me know.

Kind regards,
Tax Adviser.

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