# THE CHARTERED INSTITUTE OF TAXATION

## ADVANCED TECHNICAL

## Taxation of Individuals

## May 2023

TIME ALLOWED

3 HOURS 30 MINUTES

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

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

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

- Unless otherwise indicated by the provision of additional information in the question, you may assume that 2022/23 legislation (including rates and allowances) continues to apply for 2023/24 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.

- Additional marks may be awarded for presentation.

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

1. Simone Britton is resident and domiciled in the UK. She is married with three children aged four, six and nine. In 2022/23:

   1) Simone worked for a data security company throughout the tax year. Her annual salary at 6 April 2022 was £174,000 but this was increased to £209,000 on 1 September 2022. Her P60 shows total pay of £194,420 and tax deducted of £77,768.

   2) The P60 total pay figure includes a car allowance of £2,000 per month received throughout the year. Simone did not spend this on a car.

   3) Simone did not make any contributions to her personal pension plan, but her employer made contributions totalling £11,665 on her behalf. She did not have any unused annual allowances brought forward at 6 April 2022.

   4) She made net charitable donations qualifying for gift aid of £12,250.

   5) Simone received child benefit for all three children throughout 2022/23 at a rate of £21.80 per week for the first child and £14.45 per week for each of the second and third children. Her husband's only income for 2022/23 was employment income of £45,000 with tax deducted of £9,000.

   6) On 1 May 2022, Simone received proceeds of £2,000 from the liquidation of Apple Ltd. She subscribed £50,000 for 100 shares on 1 August 2019. The shares qualified for the Enterprise Investment Scheme and Simone claimed the maximum Income Tax relief available in her 2019/20 tax return. When she subscribed for the Apple Ltd shares, she also claimed Capital Gains Tax deferral relief on a capital gain of £50,000 which she had realised on 1 April 2018 from the sale of quoted shares.

   7) On 1 December 2022, Simone sold 20 of her shares in Banana Ltd for £89,000. On 1 November 2019, she had subscribed £20,000 for 40 shares. The shares qualified for the Seed Enterprise Investment Scheme. Simone claimed the maximum Income Tax relief available in her 2019/20 tax return and Reinvestment Relief for a capital gain of £10,000 which she had realised on 1 September 2019.

   8) On 15 January 2023, Simone sold some shares she held in an offshore fund for £126,000. She had inherited the shares from her mother when they were valued at £72,000. The fund did not have reporting status in the UK in 2022/23.

   9) Simone holds 200,000 shares in Cherry Ltd, a Venture Capital Trust. She received dividends of £840 on 30 September 2022 and £1,680 on 31 March 2023, in relation to these shares.

   10) She also received UK bank interest of £150 and UK dividends of £4,750 in 2022/23.

   **Requirement:**

   **Calculate, with explanations, Simone's 2022/23 Income Tax and Capital Gains Tax payable/repayable. Assume that all beneficial reliefs and allowances are claimed.** (20)

2. Sarah, a senior executive at a French finance company, has been asked to relocate to the UK to lead their new London office full-time. She is a French national who has always lived in France. She will start her new full-time role in London on 1 September 2023 and she expects to remain in the UK for the next 10 to 15 years. She has confirmed that she will not be required to work in any locations outside of the UK in her new role.

   She and her wife Juliette have a daughter, Nicole, aged 10. Juliette is a stay at home parent. Nicole's new school agreed that she could start during the summer term to give her time to settle in before the new academic year. Juliette arrived in the UK with Nicole on 1 May 2023 and has rented a family home in London.

   Sarah will stay in France until 31 August 2023 to complete her role in the French office. She visited the UK for three nights in April 2023 to look for accommodation with Juliette and Nicole and this will be the only time she spends in the UK during 2023/24, prior to her arrival.

   Sarah and Juliette jointly own their family home in France, which they will rent out initially on a five year lease whilst in the UK. However, their new tenant requires the property from 1 July 2023 and so Sarah has agreed to move out on that date and stay in a hotel in Paris until 31 August 2023 to secure the deal.

   Sarah has already discussed her plans with her French tax adviser who has confirmed that she will cease to be resident in France for tax purposes on 1 September 2023.

   **Requirement:**

   **Explain the UK tax implications for Sarah of her move to the UK. Calculations are NOT required.** (20)

Extracts from the UK / French DTA:

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, and also includes that State and any political subdivision or local authority of a “Land” or a Contracting State. This term, however, does not include any person who is liable to tax in that Contracting State only if he derives income or capital gains from sources therein or capital situated therein.

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 in accordance with the following rules:

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

   b) if the Contracting 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 Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;

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

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

Article 6: Income from immoveable property

1) Income derived from immovable property (including income from agriculture or forestry) situated in a Contracting State may be taxed in that State.

2) The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, aircraft and railway vehicles shall not be regarded as immovable property.

3) The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

Article 15: Income from Employment

1) Subject to the provisions of Articles 16, 18, 19 and 20, 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 within any period of 12 months; 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, aircraft or railway vehicle operated in international traffic may be taxed in the Contracting State of which the person operating the ship, aircraft or railway vehicle is a resident.

4) For the purposes of this Article the term “employment” includes in particular the exercise of management or executive functions, other than functions covered by Article 16, in a company subject to French corporation tax.

**End of Question**

3. Brothers, Roger and John, jointly own a residential property in Yorkshire, England. They inherited equal shares in the property on their father's death on 1 June 2012, when it was valued at £470,000.

Roger and John both moved into the property on 1 August 2012, following some minor renovation works.

They have both lived in the property continuously, apart from the following periods:

1) On 1 March 2013, John's employer sent him on a 12 month overseas secondment to Australia. He was not provided with accommodation by his employer. Instead, he rented a small apartment on a 12 month tenancy. John moved back into the shared property at the end of the secondment.

2) On 1 April 2014 John was sent on another temporary secondment to Ireland until 31 December 2017. Again, John stayed in rented accommodation as his employer did not provide him with job-related accommodation. During John's secondment, Roger's girlfriend moved into the shared property and has lived there with Roger ever since.

3) John returned to the UK on 1 January 2018, but lived in rented accommodation, leased solely in his partner's name. He did not intend to move back into the shared property but, on 1 September 2020, his relationship broke down and he moved back into the property.

4) Since then, John has been living with Roger and his girlfriend, sharing all communal areas (kitchen, living room, and bathrooms). He has sole use of his bedroom and one of the spare rooms. He has used the spare room exclusively as an office for his part-time sole trade business since 1 February 2021. The office room represents approximately 15% of the entire property.

John has recently met a new partner and plans to move out. He wants to buy a new apartment and plans to sell his share of the inherited property to fund this.

Roger has offered to buy John's share of the property for £385,000 on 31 May 2023. A local estate agent has estimated the current market value of the property at £820,000.

**Requirement:**

**Calculate John's Capital Gains Tax liability on the sale of his share of the property to Roger, assuming all beneficial reliefs are claimed, and explain John's tax reporting obligations.** (15)

4. Megan is UK resident and domiciled and owns various rental properties in the UK and abroad.

Willow Cottage, Yew Cottage and Elm Cottage

These are furnished holiday cottages on the Norfolk coast, which are available for guests to let for periods of no longer than two weeks at a time. The occupancy in the 2022/23 tax year was as follows:

| | |
|---|---|
| Willow Cottage | 170 days |
| Yew Cottage | 55 days |
| Elm Cottage | 150 days |

Megan lives near to these properties so manages the lettings and advertising of the properties herself.

At the start of the 2023/24 tax year, Megan signed a three-year lease with a local firm who will provide Yew Cottage to its senior executives when they come from abroad on business.

Riverside House

This is a townhouse in Norwich, which has been let furnished on a short-term basis for several years. In 2022/23, the property was let for 300 days and for 275 days in 2021/22 and no individual let exceeded 31 days.

The property was fully managed by an agent with all the advertising via a dedicated website. The agent is retiring and rather than find a replacement Megan plans to sell the property in summer 2023. The same pattern of lettings is expected to continue until sale. The gain on sale after costs will be around £150,000.

Cannes apartment

This apartment, on the French Riviera, is available for guests to let for 50 weeks of the year and it achieves an 85% occupancy rate due to its excellent location. Megan uses the apartment herself for two weeks each year in May. Due to a high service charge imposed on leaseholders there Megan suffers an annual rental loss of around £5,000.

Whistler Lodge

This is a ski lodge in Canada which Megan inherited from her father on 1 May 2019. It was valued at CAD $400,000 on that date. She sold the property on 1 May 2023 for CAD $390,000, after costs. The property was always let during her period of ownership, but it was empty from 6 April 2022.

Exchange rates

1 May 2019 £1.00 = CAD $1.7555
1 May 2023 £1.00 = CAD $1.6763

**Requirement:**

1) **Discuss whether Megan's properties can qualify as furnished holiday lets and the tax implications of this.** (10)

2) **Calculate, with explanations the expected Capital Gains Tax implications of the disposals in 2023/24.** (5)

Total (15)

5. Bella Chadwick is a UK-resident and domiciled individual. She is employed by Bronze Panda Ltd, a company which is owned by members of the Edwards family, who are not related to her.

Bronze Panda Ltd is a very profitable and fast-growing business.

Bella will be promoted on 1 July 2023 and as part of her new remuneration package, she will be given a company car. She has chosen a plug-in hybrid car. Her employer has said that she will need to make a small monthly contribution towards the cost of insuring the car. The car will be new when it is provided to Bella on 1 July.

Bronze Panda Ltd have several electric charging points in their staff car park. Bella will be allowed to use these to charge her car for free while she is working but if she charges the car away from work, she will have to meet the electricity costs herself. She will also be required to pay for all the petrol for the car.

Bella is not required to travel as part of her job.

Bronze Panda Ltd has applied to payroll their employees' car benefits since 6 April 2023.

On 1 July 2023, Bella will also be awarded 15 shares in Bronze Panda Ltd for no consideration. These will have an unrestricted market value of £1,250 per share. Until July 2026, Bella will not be permitted to sell the shares unless the entire share capital of Bronze Panda Ltd is being sold at the same time. This restriction reduces the market value to £885 per share.

**Requirement:**

**Discuss the Income Tax and National Insurance implications of the company car and share award for Bella, including how these liabilities will be collected. Calculations are NOT required.** (15)

6. Archie Shaw is a UK-resident and domiciled individual. He is self-employed and runs two businesses; a travel agency and a pottery. In 2022/23, the travel agency made a loss, which Archie will claim to offset against his profits from the pottery business, leaving a net taxable profit of £47,689.

He started the travel agency business on 1 June 1996 when he bought 26 Kendle Drive for £281,000. As well as an office area, it also contained a small residential flat, which took up 25% of the overall area of the building and which was let to a third party. Archie originally let out 1/3 of the office space, whilst using the other 2/3 for his travel agency. On 31 May 2001, the office tenant moved out and Archie started to use the whole office space for the travel agency business.

In 2005, Archie bought a high street property for his travel agency. He sold it in May 2012 and in the same month he used the proceeds to purchase a fixed electric kiln for his pottery business. The kiln cost £1,800 and he made a claim to roll over a gain of this amount from the high street property sale into the kiln.

As the travel agency had not been performing well, Archie decided that he would sell 26 Kendle Drive and buy a smaller property. On 31 May 2022, he sold 26 Kendle Drive for £875,000 and the following month he purchased a new property, Chestnut View, for £327,000.

Chestnut View has office space on the ground floor and a flat on the second floor, each occupying 50% of the floor space. Archie plans to let his daughter occupy the flat.

Due to a growth in pottery sales, in August 2022 Archie bought a small shop at a cost of £214,000. He also intends to buy some fixed production line machinery for packaging finished goods at a cost of £30,000.

In January 2023, Archie purchased 300 shares in his son Elijah's new property investment company for £250 per share.

In February 2023, Archie received a letter informing him that his friend Lucy's company, which he had made loans to, had gone into liquidation and that his loans were unlikely to be repaid. In June 2015, Archie made the first loan to the company of £15,000 and at the time it was tipped to be very successful. In December 2021, Lucy confided in Archie that the business was failing but Archie decided to lend the company another £5,000 at that point anyway. The company used both loans to buy trading stock.

Archie made contributions of £60 per month into a personal pension during 2022/23 and at 5 April 2022, he had capital losses of £2,153 available to carry forward.

**Requirement:**

**Calculate, with explanations, Archie's Capital Gains Tax liability for the year ended 5 April 2023. Assume that all beneficial claims are made.** (15)