

Institution **CIOT - CTA**
Course **Adv Tech Human Capital Taxes**

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Exam ID

Count (s)	Word (s)	Char (s)	Char (s) (WS)
Section 1	1322	5925	7203
Section 2	815	3812	4603
Section 3	980	4468	5407
Section 4	621	2815	3417
Section 5	700	3140	3782
Section 6	677	3498	4133
Total	5115	23658	28545

Answer-to-Question- _1_

RCA, PAYE req, emp contract, OWR, no tWR, NIC

there should be registering of the scheme with HMRC by 6 July following the end of the tax year and annual returns submitted by 6 July following tax year where a reportable event. Nil returns if no reportable event and penalties if not compliant

NICs

As he is working in multiple covered countries and overseas for more than 5% of his time. According to the protocol for social security coordination 2021 social security should only be due in 1 country. This will be the country where habitually resident so long as more than 25% of worktime is spent in this location. There is not enough information to determine if this is true but even if habitually resident in the Netherlands less than 25% of working time spent overseas. Therefore social security due where employer has a registered office which is the UK. Should obtain certificate of continuing liability in the UK to remain on UK social security

There will be a PAYE requirement once Max joins Ground Ltd as his employer has a tax presence in the UK. There is a requirement to withhold PAYE from all earnings.

As a non resident only tax on UK sourced income but as a resident in the first instance tax on worldwide income on an arising basis.

However, an election can be made for the remittance basis as Max is non domiciled to exclude unremitted overseas income and gains from UK income tax. However this will result in the loss of the personal allowance and annual exempt amount. However, where overseas unremitted income and gains are less than 2,000 this applies automatically and

no loss of allowances.

Additionally OWR is available for Max in the first 3 years of tax residence to exclude overseas workdays from scope of UK taxation. To be claimed via self assessment. However, income relating to these workdays must not be remitted into the UK.

1)

The bonus will be subject to UK income tax and class 1 NICs at the point actually receiving the bonus and therefore on 5 April 2025. This is when the conditions of the payment are fulfilled. It is likely the units will have a performance period of the time when granted to when the share price reaches the certain price. Therefore will need to look at the residency during the period to ascertain the portion. Therefore 100% of the bonus will need to be reported via payroll and subject to class 1 NICs.

The portion of the bonus relating to non residence does not enter the scope of UK taxation this will account for 33/39. This will not be subject to UK taxation. The remaining 6 months will be apportioned to exclude the overseas portion as a result of the availability of OWR such that $33/39 + 6/39 \times 20\% \text{ excluded} = 88\%$.

However via self assessment a portion of the bonus can be excluded from taxation so long as bonus paid into an overseas bank account and not remitted to the UK. Therefore there will be an income generated through self assessment. Still class 1 NICs on the full amount and no refund.

2)

The shares are employment related as awarded thorough employment

The shares were subject to a forfeiture of less than 5 years and therefore no tax charge on the award of the shares and rightfully no tax was paid.

However there will be a tax charge when the restriction is lifted equal to the unrestricted market value once the restriction is lifted multiplied by a relevant percentage. The relevant percentage is the proportion of the initial unrestricted market value neither taxed nor paid for.

As 100% of the initial award neither taxed nor paid for there will be a full income tax charge equal to $3 \times 50,000 \times 100\% = 150,000$

There will be PAYE tax and class 1 due on the restrictions being lifted as a result of the shares being RCA because the company is a listed company.

The shares however,are in an overseas company and therefore so long as the income/ shares are not remitted into the UK full OWR will apply to the shares and via self assessment a refund will be generated as PAYE must apply on all earnings.

NICs apply to 100% of the shares as not an option but a share scheme.

This does however generate a dry tax charge and therefore according to the sell to cover a certain portion of the shares are sold on the forfeiture restrictions lifting to equal the tax due. This will generate CGT and tax payable at 10% to the extent basic rate band not fully utilised and 20% on the excess. 3,000 annual exempt amount available. However as filing on the remittance basis and overseas shares the sale of the shares can be exempt

from UK tax so long as income relating to the sale kept overseas and not remitted into the UK.

As the shares are readily convertible assets Tax and NICs are withheld at source. If the net pay is not sufficient to cover the tax due employer will pay to HMRC. Should look to recover from the employee within 90 days from the end of the tax year the amount otherwise will need to be reported on the P11D and class 1 NICs due on this amount. Referred to as s.222 charge. However as sell to cover this should not be an issue.

3)

The option is subject to a forfeiture restriction and therefore there will be no tax charge on the award. But tax charge on the restriction lifting as explained above. therefore $2 \times 60,000 \times 100\%$ is subject to tax 120,000. As shares RCA the PAYE tax and NICs are due. However as the shares are not exercisable may not be possible to sell the shares. Therefore potential s.222 charge. Employer will pay the amount of tax left to pay to HMRC and seek to recover from the employee within 90 days of end of tax year otherwise will need to be reported on P11D and class 1 NICs due on the amount outstanding

The share option we look at the grant to vest period of the options. The amount which is foreign securities income should be ascertained between the grant to vest period of 6 January 2022 - 5 January 2025

NR and outside scop of UK tax	6 January 2022 - 5 October 2024	33 months	
R but OWR potion		3 months x 20%	
R but no OWR		3 months x 80%	

Therefore the unchargeable foreign securities income is the non resident portion plus the OWR portion of residency as shares in overseas company = 93% should be excluded from taxation. Even if remitted OWR portion of the FSI becomes chargeable but the NR portion is exempted

Again 100% of tax should be applied to earnings and a refund through self assessment only:

market value at exercise	3.5 x 60,000		
Price paid	0		
Income already subjected to income tax at the forfeiture restriction lifting			
Subject to income tax	210000		
UK taxable =	210000 x 93% = 10=95300		

For the NICs we must look between the grant to vest about where UK NICs apply. UK NICs will not be due for the non resident portion but due on the whole resident portion so only 2/36 of the option should be subject to class 1 NICs as RCA = 60,000 x 2/36=3333.

Would suggest opening a new qualifying overseas account such that income remitted treated as remitted in one amount at the end of the tax year rather than needing to analyse each remittance through mixed fund rules.

As PAYE must be applied to all earnings would suggest employer apply for s.690 to exclude income relating to overseas workdays from UK taxation. Helps from a cash flow

perspective as will not have to wait to obtain refund via self assessment.

-----ANSWER-1-ABOVE-----

-----ANSWER-2-BELOW-----

Answer-to-Question- 2

PAYE Req, TWR, OWTR, App 5?

Move on to perm contract UK NICs, no TWR, OWR, no app 4

On secondment

As a UK resident in the first instance will be subject to tax on worldwide income on an arising basis.

However, can claim to file on the remittance basis as nondomiciled via self assessment to exclude overseas unremitted income and gains from the scope of UK taxation there will be a loss of the personal allowance and AEA however where overseas unremitted income and gains are less than £2,000 the remittance basis applies automatically and no loss of PA and AEA.

Availability of OWR as non domiciled to exclude income relating to overseas workdays from UK taxation on election via self assessment. OWR can apply for the first 3 years of UK tax residence

There is a PAYE requirement by the UK subsidiary to operate PAYE on all earnings. There will be a requirement where employer has a UK tax presence and if no UK tax presence then PAYE will need to be applied by the UK subsidiary or parent company where there is supervision direction or control. There will likely be this on the secondment and therefore PAYE requirement.

Will be resident in the UK and the US throughout secondment and therefore should refer to the double tax treaty to ascertain where treaty residence lies. Will be treaty residence where permanent home available. Initially no permanent home in the UK as in short term apartments and therefore at the start of secondment treaty resident in the US and non resident in the UK. As a non resident in the UK only UK sourced income enters the scope of UK taxation. As a treaty resident between 6 April 2024 - 31 December 2024 only taxable on UK workdays but there will be PAYE required to be applied on all earnings.

Not able to exempt UK workdays under the treaty although treaty non resident for 6 April 2024 - 31 December 2024 as more costs are recharged. During this period he will have been present for more than 60 days and therefore the recharge to the UK entity does not

allow appendix 4 to be in place. If less than 60 days and remaining employed overseas possible to exempt the days.

Appendix 8 not available as more than 60 substantive workdays

Would suggest an application is made for the s.690 to limit taxation to UK workdays rather than having to claim via self assessment.

If tax equalised potential for appendix 6 to relax the reporting requirements in the UK but this is not mentioned that he will be equalised. In this way monthly calculations on estimates and RTI submissions with a year end reconciliation if amounts have changed and a tax return to reconcile the position.

potential if appendix 6 in operation to include in appendix 7A to simplify for NIC purposes

temporary workplace relief potentially available up until 31 December 2024 if secondment not expected to last more than 24 months to exempt accommodation and subsistence from UK tax and NICs. However, as soon as intention to stay longer than 24 months no TWR as working more than 40% of time in the UK

SOCIAL SECURITY

Under the social security agreement as individual covered under US social security previously and sent by the employer to work in the UK they shall remain on US social security if the period of work is not expected to last more than 5 years. Therefore US social security remains for the period 6 April 2024 - 31 December 2024

Should obtain certificate of continuing liability in the US to remain on US social security

Permanent contract

Once overseas home is given up will be treaty resident. This may not be under permanent home if continuing to have short term apartments but centre of vital interests likely moved to the UK as family moved to the UK on 1 January and moved to permanent contract therefore personal and economic ties closer to the UK.

From this date subject to tax on worldwide income in the first instance on arising basis but as discussed OWR available to be elected.

There will therefore be a refund via self assessment but to improve from a cash flow

perspective would recommend the s.690 i applied to limit PAYE to UK workdays.

However, Income is deposited into a UK bank account and therefore no OWR can be claimed as income is automatically remitted to the UK

Instead suggest that appendix 5 in place if withholding continues in the US. to provide a credit on the UK PAYE for the overseas withholding.

Would recommend a qualifying overseas bank account is opened

SOCIAL SECURITY

As on permanent contract in the UK will be liable to UK social security in accordance with article 4(1).

Should obtain certificate of continuing liability in the UK to remain on UK social security

-----ANSWER-2-ABOVE-----

-----ANSWER-3-BELOW-----

Answer-to-Question- 3

Company Car

The company car will enter into the optional remuneration arrangement as offered additional cash or a company car. The benefit amount will therefore be the greater of the remuneration offered and the cash equivalent of the company car.

APRIL - JUNE

Remuneration = $600 \times 3 = 1200$

or

$(95-75)/5+20 = 24\%$

$24\% \times 26,000 = 6240$

apportioned as only part of the year = $6240 \times 3/12 = 1560$

As the cash equivalent is greater than the remuneration offered he will be taxed on the cash equivalent of 6240 for the full year and 1560 for 3 months.

July - MARCH

The optional remuneration rules do not however, apply to company cars with emissions of less than 75g/km. Therefore the benefit of the electric car is only calculated using the cash equivalent rules = $2\% \times 28,000 = 560$ for the year and apportioned for the period of use in the tax year $560 \times 9/12 = 420$

Therefore the amount to be payrolled in the year is $1560 + 420 = 1980$

The amount which will have been payrolled so far for April - June is 1560 with 520 being processed through payroll for the first 3 months. Leaving 420 left to be payrolled for the remainder of the year and therefore $420/9 = 47$ to be payrolled each month for the final remaining 9 months.

The exemption under s.237A to exempt vehicle charging is only for the provision at or nearby the employee's workplace of facilities for charging.

Therefore there will be a charge if the car is not fully used for business use. Where used only for business use the charging will be exempt however where a mixture there will be a taxable benefit of $27,800 \times 2\% = 556$ and 417 when apportioned for the tax year

As voluntary payrolled no need to report on the P11D. P11D(b) still required and class 1A NICs still due.

Accommodation

Accommodation and beneficial loans cannot be voluntary payrolled.

The house is leased and therefore the benefit will be the higher of the annual value of the property and the rents paid by the employer.

Annual value = 2,000

Rents paid = $90,000 \times \frac{1}{8} + 400 \times 12 = 16,050$

16,050 is greater, This is divided by 3 to find John's portion 4013

The contributions by each employee will reduce the taxable benefit 4013 - $400 \times 12 = -717$

As this is a negative number there will be no taxable benefit and nothing to be reported on the P11D as no benefit provided.

the bathroom being installed is not a taxable benefit and likely just reflected in the annual value. The furniture however use will give rise to a taxable benefit of the value when first used by him so presumed $3000 \times 20\% \times \frac{1}{3} = 200$ which should be subject to tax and class 1A NICs. the furniture use can be voluntary payrolled with 17 being processed monthly.

the accommodation benefit will need to be reported on the P11D with a submission deadline of 6 July following the tax year along with P11D(b) and class 1A NICs due on 22nd July following tax year if payment electronically and the 19th otherwise

loan

Beneficial loans cannot be voluntary payrolled and will need to be reported on the P11D with a submission deadline of 6 July following the tax year along with P11D(b) and class 1A NICs due on 22nd July following tax year if payment electronically and the 19th otherwise.

However, a beneficial loan tax and class 1A due however as the loan at no point in the tax year greater than 10,000 there will be no beneficial loan

there will however be tax and class 1 NICs initially as covering a pecuniary liability of the employee however as the company is reimbursed there will be no tax or NICs due

2)

The company car is voluntarily payrolled and therefore will not need to be reported on P11D. However even though payrolled class 1A NICs not accounted for via payroll and will still have class 1A NICs to pay on 22nd July if payment electronic and the 19th otherwise.

The accommodation will need to be put on the P11D and class 1A NICs are due. The loan it is covering a pecuniary liability paid to employer so typically reporting on the P11D however as repaid no benefit and no reporting requirements.

Stated earlier deadlines of P11D and P11D(b) and payment deadlines.

The national minimum wage obligations of the company must be adhered to. Monthly payment and therefore we must consider if met monthly. We do not consider the pension contributions as a deduction for the national minimum wage calculation.

Any overtime paid is to be considered but any enhancements to the pay as a result is not to be considered. Additional 10 hours worked should be considered

$$24,000 / (2040 + 10) = 11.7$$

the national minimum wage for a worker less than 21 is 8.60 and therefore Cactus Ltd would have met the NLW requirements as the calculation is greater than 8.60.

However from March 2025 will be due at least 11.44 which is the national minimum wage if 21 and over.

He is not over this amount and therefore Cactus Ltd should make payments in arrears back to March 2025. NMW/NMW payments should be made at the current rates and will be subject to tax and class 1 NICs as per usual.

Additional FPS submission required for the 2024/25 tax year for the March payment and the employee should be written to to confirm the amounts and the withholding amounts.

Penalties potentially due of 200% of the amount or £100 if greater and up to 20,000 per individual.

Additional naming and shaming of the employer.

A penalty notice may be issued by HMRC and payment of arrears and penalties required within 28 days. If payment made within 14 days the penalties can be reduced to 50%.

-----ANSWER-3-ABOVE-----

-----ANSWER-4-BELOW-----

Answer-to-Question- _4_

Requirement to register with HMRC for a UK payroll to be applied to pay the NICs.

Auto enrolment.

SOCIAL SECURITY

As he is present in the UK and has a contract there will likely be UK NICs due.

As individual is working more than 5% of time in Spain we should refer to the protocol of social security coordination 2021 to establish where social security is due.

Social security should only be due in 1 country. It will be due in the country where habitually resident so long as more than 25% of time is spent in this location. If not it will be the country where employer has a registered office.

habitually resident in the UK because spends free time on weekends in the U and majority of time in the UK, has always lived in the UK. However as no entity in the UK Vasquez SA should register with HMRC for a UK payroll to be applied to pay the NICs to HMRC. A certificate of coverage should be obtained by the employer to ensure remaining on UK NICs.

No secondary NICs payable by the employer as not resident in the UK and does not have a permanent establishment in the UK.

RESIDENCE

We use the statutory residence tests to determine residency in the UK. He will fail the automatic overseas tests as more than 90 days of presence in the UK.

He will be resident in the UK under the first automatic UK test as more than 183 days spent in the UK. He will be resident in the UK on worldwide earnings on an arising basis as a UK tax resident UK domiciled individual.

Will not be able to exempt the Spanish days from UK taxation as according to the treaty although less than 183 days spent in Spain on aggregate in the year he is employed by the Spanish company with remuneration being borne in Spain and therefore the overseas workdays will remain taxable in Spain.

Should consult spanish tax advisor on the tax and NIC implications in the Spain

Voluntary payroll

There is no PAYE requirement as the employer does not have a UK tax presence in the UK and there is no UK subsidiary or parent company. No UK permanent establishment.

Therefore there is no requirement to operate PAYE on Albert's earnings.

However a voluntary payroll can be operated in the UK with the following implications:

1. as a payroll for NIC purposes will already be in operation can oluntarily apply to withhold tax via PAYE. However, would not recommend as this will open Vasquez SA to PAYE and compliance regulations with potentially large penalties for failing to comply. For examplly monthly RTI submissions, correct amounts being processed through PAYE. No relaxation of rules if voluntary the same rules as if required
2. if voluntary payroll is implemented would suggest the operation of appendix 5 agreement. PAYE will need to be applied on all earnings and to save from a cash flow perspective obtaining FTC through self assessment after the tax year where there is withholding in Spain can offset this withholding to reduce the PAYE due in the UK. Tax return prepared to reconcile the position.

An FTC is likely allowable in the UK. This amount will be the lower of the tax due in Spain on the doubly taxed income and the tax due in te UK on the same income. The tax due in the UK is calculated by calculating difference between the tax including the doubly taxed income and excluding the income.

As UK employee Vasquez will be required to automatically enrol Vasques into a registered pension scheme in the UK. Should he earn sufficient amount of 10,000 per year

-----ANSWER-4-ABOVE-----

-----ANSWER-5-BELOW-----

Answer-to-Question- _5_

UK PAYE req, FTC.

RESIDENCE

As a resident in both the UK and in Genovia we will need to ascertain treaty residence.

She will be resident in the country where a permanent home is available. She has a permanent home in both the UK and in Genovia and therefore we must look at the following test.

Where economic and and personal relations are closer via the centre of vital interests test.
As remaining employed in the UK and spends weekends in the UK where her family is.
As personal time spent in the UK likely centre of vital interests are in the UK and therefore treaty resident in the UK and treaty non resident in Genovia.

As a UK tax resident will be taxable on worldwide income on an arising basis as UK domiciled.

Genovia will not have the rights to tax UK workdays in accordance with article 15 (1) or equivalent as non resident in Genovia under the treaty.

We must now review whether the UK will tax Genovia workdays or if they will be exempt. Under Article 15(2) or equivalent the employment exercised in Genovia as a UK tax resident will only be taxed in the UK if the individual is present in Genovia for less than 183 days, the remuneration is paid by or on behalf of an employer not resident in Genovia and not borne by a permanent establishment in Genovia.

As more than 183 days spent in Genovia in the tax year the Genovia workdays will not be subject to UK taxation.

There will be a PAYE requirement in the UK as employer has a UK tax presence.
Therefore PAYE will be applied on all earnings.

As this is not efficient from a cash flow perspective to claim FTC on Genovia workdays following the tax year we would recommend the implementation of an appendix 5 agreement. The appendix 5 agreement will allow a credit to be taken in the UK for the overseas taxes actually withheld.

The FTC will be calculated in the UK as the lower of the tax due in Genovia on the doubly taxed income and the tax due in the UK on the same income.
The tax due in the UK on the Genovia workdays is calculated the difference between the tax due including the doubly taxed income and the tax due excluding the doubly taxed income.

Tax due in the UK based on taxing all workdays:

Salary	80,000		
PMI	5,000		
Bonus	24,000		
Accommodation	3000 x 12		
total	145,000		
37,700@20%	7540		
87440@40%	34976		
19860@45%	8937		
tax due	51453		

Tax due in the UK based on taxing only UK workdays (20%). Before assignment fully taxable in the UK:

Salary	80,000 x 3/12 +80,000 x 9/12 x 20%=32000		
PMI	5,000 x 3/12 +5,000 x 9/12 x 20%=2,000		
Bonus 2025 calendar year and therefore different sourcing	24,000 x 6/12 +24,000 x 6/12 x 20%=14,400		
Accommodation	3,000 x3 +3,000 x 9 x 20%=14400		
Total	62800		
Less PA	(12570)		
taxable income	50230		

37,700@20%	7540		
12530@40%	5012		
tax due in the UK	12552		

Difference between the UK tax including and excluding Overseas workdays = 38901

tax due in Genovia on the Genovia workdays = $((80,000 + 5000) \times 9/12 + 24,000 \times 6/12 + 3,000 \times 9) \times 80\% = 82,200$ is the income relating to the Genovia workdays in the tax year.

Therefore $82,200 \times 43\% = 35346$ of tax due in Genovia on the Genovia workdays.

This is less than the tax due in the UK on the Genovia workdays and therefore the FTC is 35346 in the UK.

There will be temporary workplace relief where the assignment is expected to last a period of less than 24 months. This however is not referred to in the question and assumed the assignment is longer and therefore no temporary workplace relief is available and therefore the accommodation is subject to tax and class 1A NICs in full

Overseas medical treatment is exempt from tax and NICs where the employer is providing an employee with medical treatment outside the UK and where the need for it arises while the employee is outside the UK for the purpose of performing duties of employment.

Separate tax advice should be sought for Genovia tax assistance

 -----ANSWER-5-ABOVE-----

-----ANSWER-6-BELOW-----

Propman is a contractor and a subcontractor.

SUBCONTRACTOR

Propman are party to a contract relating to the construction operations and is a subcontractor if the company is under the duty to carry out the operations, or to furnish their own or the labour of others carrying out the operations

As Propman Ltd is a subcontractor for Landlord plc it would typically need to register with HMRC as a subcontractor. It would then be able to register potentially for gross payment or otherwise the payment to Propman Ltd will be subject to a 20% withholding. 30% if not registered.

However, as the Landlor plc is the actual deemed contractor of all of the services and will be using the end product for their own use the payment is outside the scope of CIS. Therefore Propman Ltd should not be required to register and payment should not be made with delay whilst Landlord plc review verification and instead should not be required and payment made gross.

CONTRACTOR

Where Propman is the contractor as defined as a person carrying on a business and in the period of one year ending at that time the expendituer on construction operations exceeds 3,000,000. As can be seen below it is confirmed construction operations exceed 3m in a 12 month period

subcontractor	Payment	date	analysis of construction operations explanations seen at bottom of question
A LLP	15,000	1 October 2025	Not CIS as explained below
B Ltd	40,000	1 November 2025	construction operations
C Ltd	5m		construction operations

D Ltd	300,000		300,000 are construction operations and 100,000 are not
	>300,000		

Construction operations are defined as: construction operations are carried out in the UK or the territorial seas of the UK

Where the subcontractor is deemed to be an employee or within the agency rules the CIS deduction rules are not applicable.

Propman Ltd will be required to register with HMRC as a contractor

it must verify the subcontractors registration with HMRC's online verification service. Where the subcontractor is registered for gross payment payment can be made to the subcontractor gross.

Where the subcontractor is registered but not for gross payment a 20% deduction must be taken from the payment for the work(excluding materials and VAT).

Where the subcontractor is not registered with HMRC a 30% deduction must be withheld from Propman. these deductions are then used as a payment on account by the subcontractors.

Where the online verification service has been used Propman will not need to reverify the status of the subcontractor if payment has been made within 2 years as HMRC should update the contractor of the position if changes. If more than 2 years should reverify.

However, the following are not considered construction operations: drilling for or extraction of oil or natural gas
extraction of minerals and tunnelling or construction of underground workds for this purpose, the manufacture of building or engineering components oor equipment, materials, plant or machinery or delivery of any of these items to site.

Additionally, the professional work of architects or surveyors is exempted from CIS and therefore as the work conducted by A LLP is not considered construction operations the payment can be made gross without deduction.

The scaffolding business is within the scope of CIS as construction operations under s.74 2f

the work conducted by C Ltd is construction operations as the construction, alteration or demolition of any form.

Finally the work by D Ltd is partly not construction opeerations as the installation.

For example the work wirng and installing the power supply is within construction operations under s.74 2c however under s.74 3i the installation of security systems is not construction operations.

Periodic returns should be completed by Propman Ltd. Returns should be submitted monthly by the 14th following the tax month and should confirm that none of the subcontractors are employees.

Monthly remittances to HMRC of the withholdings. this should be paid to HMRC by the 22nd following tax month of pay if electronic and the 19th otherwise.

at least 1 statement per month should be provided to subcontractors confirming payments and withholdings.

Answer-to-Question- _6_