Institution **CIOT - ATT-CTA**
Course **CTA Adv Tech Taxation of Individual**

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**722**	**3090**	**3826**
Section 2	**511**	**2539**	**3442**
Section 3	**674**	**3021**	**3707**
Section 4	**663**	**2977**	**3645**
Section 5	**559**	**2707**	**4088**
Section 6	**639**	**2851**	**3592**
Total	**3768**	**17185**	**22300**

Answer-to-Question-_1_

As Jason was intending to start his new role from 6 April 2022, he would have been resident for the entire 2021/22 tax year and potentially non-resident from 2022/23 (assuming overseas test 3 is met). Now that his start date has changed to December 2021, the year 2021/22 could now end up being a split year as he is leaving the UK part way through a tax year.

To qualify for split year treatment, Jason would need to be UK resident for the 2021/22 year. He will be UK resident as he will have been present in the UK for more than 183 days of the year even though he was out of the UK for 3 weeks during this time.

He may qualify under Case 1 of starting full time work overseas. To qualify for this, he would need to be UK resident in 21/22 (met), UK resident in 20/21 (met), be non-resident for 22/23 and meet the overseas work criteria for the remainder of the tax year. (i.e. 35 hours per week, no more than 30 UK workdays or 90 UK days and no significant breaks). The 90 and 30 day timescales for UK days/workdays would be scaled down to 30 and 10 for the period 1/12/21 to 5/4/22. If Jason were to breach these limits, the split year would not apply and he could then be UK resident for the full year and therefore pay UK tax on his Australian income.

Provided he qualifies for split year, he would be UK resident from 6 April 2021 to 30 November 2021 and non-UK resident from 1 December 2021 to 5 April 2022. As a result, he will be taxed on his worldwide income and gains on an arising basis during the resident period and his UK income only in the non-resident period.

He is retaining a home in the UK (29 Brooke Street) therefore he needs to be aware of the second automatic UK test for 22/23

onwards. He would need to ensure that he is in his overseas home for at least 30 days in the tax year. If he does not do this, he could then be UK resident again and subject to UK tax on his Australian income. Assuming he continues to work abroad, he'll likely meet the third overseas test.

For 31 Brooke Street, Jason will continue to be subject to UK tax on his rental income. He will be required to register as a non-resident landlord from the year 22/23 (not for 21/22 as has been in the UK more than 6 months of the year) and his tenant(s) will be required to withhold 20% tax on rental payments and pay this across to HMRC each quarter. Jason would then complete a UK tax return declaring the income and include the tax withheld. He will remain entitled to a UK personal allowance on the assumption he is a British citizen based on his UK domicile. Jason can make an application to receive the income gross. HMRC will agree this but only if Jason would continue to complete a UK tax return (which he likely already does given he receives rental income) and pay tax through Self-Assessment (if any further due). They will review previous years' to check compliance for return filing and payment.

When he sells the property, it will come under the NRCGT rules and Jason would be required to pay UK Capital Gains Tax (CGT) on the disposal of the property. He would therefore need to file an NRCGT return to HMRC within 30 days of the disposal of the property. To calculate his gain, he can either: deduct the rebased value of the property as April 2015; deduct the original cost and then time-apportion the gain for the period post 5 April 2015; or he can do a normal proceeds less cost calculation. He would be able to claim PPR relief as it was his home but if he does this, he could potentially only claim the post 5 April 2015 element. The temporary non-residence rules would then come in to play as he has disposed of an asset acquired while UK resident but disposed of while non-resident. If Jason returns to the UK

within 5 years of leaving the UK, he will have further tax to pay on the disposal.

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

---------DO-NOT-EDIT-THIS-DIVIDER----------

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

Answer-to-Question-_2_

	NSI (£)	SI (£)	DIV (£)
Oldcorne Ltd P60	200,000		
UK Bank interest		14,000	
Farland dividends (W1)			1,700
Total income	200,000	14,000	1,700
Less personal allowance (W2)	(0)		
Taxable income	200,000	14,000	1,700
Tax due:			
Non-savings: 41,250 @ 20% (W3)	8,250		
112,500 @ 40% (W3)	45,000		

	46,250 @ 45%	20,813
Savings:	14,000 @ 45%	6,300
Dividends:	1,700 @ 0%	0
Total income tax due on income		80,363
Pension savings tax charge (W4)		27,082
Underpaid tax from earlier year		1,000
High income ChB charge (W5)		1,095
Total tax due		109,540
Less PAYE deducted		(78,000)
Tax payable:		31,540

W1: Farland dividends

Deduction relief claimed on the dividends as no double tax relief can be claimed as amount of gross dividends are within the dividend allowance for UK, i.e. no UK tax due.

This is restricted to 15% and therefore only £300 can be deducted from the £2,000 dividends received. Polly would need to consult with the tax authorities in Farland regarding the remaining £100 as the UK cannot give relief for this.

Deduction relief will reduce the pension savings tax charge slightly.

W2: Basic rate band extension

Net donation is £3,000, therefore gross donation is 3,000 x 100/80 = 3,750.

Basic rate threshold is therefore increased from 37,500 to 41,250

Higher rate threshold is increased from 150,000 to 153,750.

W3: Personal allowance

With the charitable donations, adjusted net income is £215,700 less £3,750 donation = 211,950. Therefore no personal allowance due.

W4: Pension savings tax charge

Polly is part of a defined benefit scheme for her pension. The amount treated as paid into the pension for the year is not based on her contributions nor her employers'. It is based on the increase in the rights to the pension. This is calculated as follows:

Value of rights at end of year (14/60 x 205,000 x 16)	765,333
Less: value of rights at start of year (13/60 x 195,000 x 16)	(676,000)

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 Pension input for 20/21                        89,333
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Polly will be subject to an annual allowance charge as her threshold income exceeds £200,000 (total income is £215,700).

Her income will also exceed the adjusted income threshold as when we add the £50,000 employer contribution, her adjusted income is £265,700. The limit is £240,000.

Polly will therefore have her £40,000 2020/21 annual allowance tapered by the excess above £240,000 as follows:

Adjusted income	265,700
Less:	(240,000)
Excess	25,700

Restriction is therefore 25,700/2 = 12,850

Annual allowance	40,000
Less restriction	(12,850)
Tapered allowance	27,150

She does have £2,000 carried forward therefore the amount of the charge will be:

Pension input	89,333
Less 20/21 AA	(27,150)
Less c/f AA	(2,000)
	60,183 @ 45% = £27,082

W5: High income child benefit charge

Even though Ben received the income and his income is over the £50,000 threshold, he will not be liable to the charge. This is despite the fact that the child is not Polly's. It is the highest earner in the household where child benefit is claimed who is responsible for the charge. Therefore Polly will be required to pay back the Child benefit received for the year.

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

---------DO-NOT-EDIT-THIS-DIVIDER----------

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

Answer-to-Question-_3_

2021/22

As Panos is non-UK resident for the 2021/22 tax year, from a UK perspective, he will be taxed based on his UK earnings only as he receives them. He will not be taxed on any overseas earnings earned in the year.

Due to the fact, that Cool Albania Ltd appears to have a presence in the UK by way of a UK branch, any tax due will be collected through PAYE. This only needs to be applied to his UK earnings due to the fact that he is non-resident. The foreign earnings will not suffer UK PAYE.

For NI purposes, it does not follow the statutory residence test and is based on whether Panos is resident, present or ordinarily

resident in the UK. As an employee, you would generally pay Class 1 NI (Primary contributions by employee and secondary contributions by employer). Given that Panos does not normally live in the UK and is only temprorarily seconded, he will likely be non-resident for NI purposes for the year.

As Albania is not within the EEA and there is no reciprocal social security agreement with the UK, there will normally be a 52 week NICs holiday for Class 1 NI. This is because Panos would meet the 'not ordinarily resident/employed in UK test' and he is temporarily seconded. This would mean that after this period, Class 1 would be due from both the employee and the employer.

While Panos is non-resident, he does acquire a UK property. While he is non-resident, there will be no tax or NI implications as a result of this purchase. The Albanian accounts will all contain clean capital upon assuming residency in 2022/23.

2022/23

Panos will now be UK resident for tax purposes, as a result, by default without any claim, he would be taxed on his worldwide income and gains including the earnings from Albania. He would usually receive a tax credit if tax has also been deducted in Albania.

As a non-domiciled individual, Panos can make a claim for the remittance basis of taxation whereby he is only taxed on foreign income and gains to the extent that he remits them to the UK.

He can also make a claim for Overseas Workday Relief (OWR). Despite the fact he has been resident in the UK in the past (2016/17 and 2017/18), he has been non-UK resident for at least 3 consecutive years (2018/19 to 2021/22, 4 years) and can therefore claim OWR for the first 3 years of UK residence (2022/23 to

2024/25). OWR will apportion his earnings based on the number of UK workdays and overseas workdays he has had in the tax year.

For NI purposes, he will now pay NI through PAYE for 2022/23 based on his UK earnings only. Ordinarily, PAYE would be due in the UK also on his foreign earnings however as Albania are withholding tax at source there, no PAYE is required to be withheld on these amounts. Cool Albania Ltd will also now be required to pay Class 1 secondary contributions to HMRC.

A special mixed fund will be assumed during this year assuming that his foreign earnings are paid in an account abroad. Panos should nominate one of his Albanian accounts if he wishes to do this. If he has all of his income (including UK) paid into an overseas account, he would be able to remit the UK element tax free. The ordering rules would therefore allow this to be remitted free of further tax.

In the absence of a nomination, the normal mixed fund rules could apply and Panos should be wary of this if any other income is paid into the overseas accounts.

However, as Panos has used an Albanian loan offsetted against his Albanian property and then used this to acquire a property in the UK, he will be treated as making a remittance if he uses foreign income or gains to repay capital or interest on the loan. This would need to be disclosed on his tax return as and when this occurs.

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

---------DO-NOT-EDIT-THIS-DIVIDER----------

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

Answer-to-Question-_4_

CGT consquences of jewellery

As a non-domiciled individual and taxed on the remittance basis, Suzie is only taxable on foreign income and gains if they are remitted to the UK in some way. While none of the gain itself from Pine Ltd has actually been brought to the UK, some of the proceeds have been used to acaquire an asset which has then been brought to the UK. As a default, jewellery would normally be exempt property provided that it is for Suzie's personal use. Based on this, initially there will be no remittance and therefore no CGT payable on the purchase of the jewellery.

When Suzie decides to gift this to her daughter, it will cease to become exempt property initially as it no longer meets the criteria for personal use. While Danielle is Suzie's daughter, she is not a minor child (over 18) and therefore she is not a relevant person. A remittance will therefore only occur for Suzie if she can benefit in some way from the jewellery brought to the UK by gifting it to Danielle. This would clearly not be possible unless Danielle were to loan it back to Suzie. It would therefore appear that no remittance has therefore occurred and the £10,000 would not be treated as a remittance in either circumstance.

Pine Ltd

I have briefly answered about Pine Ltd however given the information in the question, I have also talked about Oak Ltd as

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we are not advised of the income in Pine Ltd in any way. I'm not sure if this is a mistake in the question and it's meant to be Oak Ltd that is discussed in Part 2 as there is mention of a non-UK resident trust.

The transfer of assets abroad provisions may come into Pine Ltd as Suzie was a UK resident individual at the time that she subscribed for the shares and Pine Ltd is a non-UK company. If the purpose of the investment was for tax avoidance, it would likely fall within these rules. This would therefore mean that if any income was received from Pine Ltd, it may be taxed on Suzie based on the amount received by the individual abroad.

For Oak Ltd, this could fall within the rules as Suzie has set up a non-UK resident trust and has then subscribed for shares in Oak Ltd, a non-UK company through the trust of which she is a director. As Suzie and her spouse/minor family cannot benefit from this trust, this income arising will not be subject to a s.720 charge despite the fact that Suzie is a director of the company in question. If Suzie is able to benefit from any distribution made by the income arising to the non-resident person, it would come within these rules.

A s.731 charge may apply if a distribution is made to someone who is UK resident. This rule normally would apply if Suzie nor her immediate family cannot benefit from the trust. The income of the non-resident person (i.e the trust) would be matched with any benefits received or the relevant income of the trust based on a pool each year. Unless there was a genuine bona fide commercial reason to invest in Oak Ltd, which is likely difficult to prove given that Suzie is a director of the company, tax avoidance is likely one of the motives behind the investment.

Based on this, it is likely that the rules of the legislation are met. The income will not be taxed on the individual as the trust

receives it, it will be matched with any distributions made from the trust. The individual would then declare this as trust income on their own tax return.

If the beneficiaries are non-UK resident, then this charge will not come into play. If they are UK resident but non-UK domiciled (like Suzie), it is relevant foreign income and is only taxed if remitted to the UK (assuming remittance basis claim made).

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

---------DO-NOT-EDIT-THIS-DIVIDER----------

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

Answer-to-Question-_5_

Daffodil Ltd

Daffodil Ltd is Steve's own personal company given that he is the sole shareholder. He has therefore owned more than 5% of the share capital for more than 2 years prior to the disposal and the company is a trading company. The disposal of this will therefore qualify for Business Asset Disposal Relief (BADR).

Part of this disposal includes an earn-out element. While this has been estimated, the element is unascertinable at the moment as the year where profits are to be used has not yet finished. As a result of this, Steve is deemed to acquire a right to a future sum (based on Marren v Ingles), in this case 15% of £3,575,000 estimated profits = £536,250. This will be included with the proceeds of £1,500,000 that he will receive in June

2020. If he subsequently receives more than this in December 2021, he will be taxed further when the right is disposed of. This right will not qualify for BADR. He will pay BADR on the original disposal. If he receives less than £536,250 and therefore incurs a loss, he is able to carry back the loss against this original disposal and therefore receive a repayment of CGT. For 2020/21, based on the current information, the gain will be as follows:

Proceeds - June 2020	1,500,000
Earn out right	536,250
Total proceeds	2,036,250
Less cost	(1,000)
Gain	2,035,250

As the gain is more than £1m, and Steve has not made a claim for BADR in the past, he will be subject to £1m of this gain at 10% and the remainder at 20%.

Poppy Ltd

As Steve subscribed for these shares (assumed to be new), were purchased after March 2016, have been held for three years and he has never been a director or an employee of Poppy Ltd, this disposal will qualify for Investors' relief (IR). This is seperate to BADR and has a lifetime limit of £10m. The gain on this can therefore be taxed at 10%. The gain will therefore be:

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Proceeds - August 2020 (1,000 x £1,782)		1,782,000
Less cost (1,000 x £550)		(550,000)
Gain		1,232,000

Ivy Cottage

The gain on the disposal of this property will be as follows:

Proceeds - Sep 2020		135,000
Less fees		(2,700)
Net proceeds		132,300
Less cost	98,000	
Less enhancement expenditure	6,825	
		(104,825)
Gain		27,475

The costs for the demolition will be allowable as it is representative of the fact that a new building was constructed in its' place and was present at sale. Therefore £6,500 cost of building + £325 demolition is allowable giving £6,825.

Probate value is used as cost of the property.

CGT comp

			BADR/IR Gains	Non BADR /IR gains	Property gains
Daffodil Ltd			1,000,000	1,035,250	
Poppy Ltd			1,232,000		
Ivy Cottage					27,475
Total gains			2,232,000	1,035,250	27,475
Less annual exemption					(12,300)
Taxable gains			2,232,000	1,035,250	15,175
CGT due:					
2,232,000 @ 10%		223,200			
1,035,250 @ 20%		207,050			
15,175 @ 28%		4,249			
Total CGT due		434,499			

Steve would have had spare basic rate band from his income however any gains qualifying for BADR and IR are deemed to use up any remaining basic rate band. For completeness, there would have been the following remaining:

Salary	42,000
Less PA	(12,500)
Taxable income	29,500

Basic rate band would have been increased by £1,500 (£1,200/0.8) to £39,000. This would have left £9,500 of basic rate band remaining.

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

---------DO-NOT-EDIT-THIS-DIVIDER----------

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

Answer-to-Question-_6_

As Rupert has received cash and loan notes on the takeover by Large Co Ltd of Medium Co Ltd, part of the gain would be immediately chargeable to CGT. The advice he has received is correct in that if he received a QCB as part of the takeover, the gain is frozen until the QCB are disposed of. For a non-QCB, it is treated as if a share has been acquired, it is not necessarily that a gain has been deferred. There are however anti-avoidance rules that prevent a company turning a QCB into a non-QCB. If this is done, it is treated as being disposed of market value at the time of conversion and the gain is deferred until the eventual disposal of the non-QCB.

At takeover, the following occurred:

Cash	1,000,000

Loan notes	500,000
Total consideration	1,500,000

The cash would be chargeable to CGT as follows:

Proceeds	1,000,000
Less cost (300,000 x 1m/1.5m)	(200,000)
Gain	800,000

On original transaction, a QCB was received. A QCB would not be charged to tax but would be frozen and charged when they are eventually disposed of. The actual QCB itself is not charged to tax, it's the fact that a takeover has happened.

By the fact that the QCB has been converted, a disposal is deemed to have taken place as follows:

Proceeds (MV of loan notes)	500,000
Less remaining cost	(100,000)
Gain	400,000

This gain would be deferred until the disposal of the non-QCB itself.

When Large Co is liquidated, this gain would then become chargeable for Rupert. He would not be able to claim BADR on this disposal as Large Co now no longer exists and therefore does not meet the trading requirement. This presents an issue as

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Rupert may not have cash to pay this.

For a non-QCB, gains are allowable and losses are also allowable. Due to the fact that the loan note is now a non-QCB, Rupert could theoretically claim a loss of £500,000 as that is his 'cost' of the non-QCB. Had this been a QCB, the loss would not be claimable and the gain would be charged as normal. He could therefore be left with an overall loss of £100,000 by using the normal rules of offsetting current year losses against current year gains (i.e. against the £400,000 deferred gain)

It could therefore be claimed that this is an abusive arrangement and that the purpose of Rupert converting the QCB into a non-QCB was to then claim the subsequent negligible value of the disposal if it occurred and utilise the loss against any other gains he has incurred in the year. It could be argued that this is a clear motive to gain a tax advantage as the loss would otherwise not be able to be claimed and he would have had a gain of £400,000 at the time the loan notes lapsed. The fact as well as there is a specific anti-avoidance rule regarding the conversion of QCB's to non-QCB's or vice versa would infer even more that GAAR will apply in this situation.

As a result of this, if the GAAR panel agree that it should be applied, HMRC can make a counteraction adjustment to the tax advantage obtained by Rupert. This could be by way of not allowing the loss or alternatively, subjecting the non-QCB to tax immediately rather than deferring it. By the fact that Rupert has also not sought advance clearance, this would not go in his favour also.

He has a duty to submit his tax return based on the fact he believes it is correct and complete. If he has not made adequate disclosure in his 2017/18 or his 2020/21 tax return, he is open to penalties of up to 60% of the adjustment made as he would be

deemed to not have made reasonable care.