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am Date of Examination

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

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

- | | |
|---------------------------------------------------------------|---------------------------------------------------------|
| <input type="checkbox"/> Taxation of Owner-Managed Businesses | <input type="checkbox"/> Taxation of Individuals |
| <input type="checkbox"/> Domestic Indirect Taxation | <input type="checkbox"/> Cross-Border Indirect Taxation |
| <input type="checkbox"/> Inheritance Tax, Trusts & Estates | <input type="checkbox"/> Taxation of Major Corporates |
| <input checked="" type="checkbox"/> Human Capital Taxes | |

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).

Advanced Technical

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

Instructions

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

- Complete the details on this page and in the booklet using BLACK or BLUE ballpoint pen only.
- Write on both sides of the page.
- Not write in the margin areas indicated.
- Start a new page for each question you answer and indicate the question number in the box provided at the top of each page.
- 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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NOTES FOR ATHOME HCL - NATIONAL MINIMUM WAGE

Every employer is obliged to observe national minimum wage for employees in the UK UNLESS they are;

- Self employed
- Voluntary
- on workers experience
-

National minimum wage is based upon the age of the employee and hours worked.

There is different rate for apprentices. However, doesn't apply here as no one is an apprentice.

When looking at national minimum wage (NMW), you need to work it out based on an employees pay period.

A pay period, is the time between each

payday. This cannot be longer than a month.

I understand that all employees are paid monthly.

The earnings taken into consideration is the gross pay before any deductions and the pay subject to class 1 national insurance. It does not take into account the following

- Benefits in kind
- loans
- tips
- overtime
- rewards
- pension contributions

However, if the individual is provided with accommodation, then this will affect the amount of gross pay.

we must look at each employee and check their pay monthly.

lauren

lauren is 26 and should be paid
£8.21 an hour.

lauren working 264 hours a month
and paid £2,100 is paid on average
£7.95, which is below the nmw
for lauren.

Rose

Rose should be paid £6.15 an hour.
on average she is paid £7.85 which
is above nmw

Jancinta

Jancinta should be paid £8.21 an hour.
Jancinta was paid rough £8.75
an hour, excluding her holiday pay.
Therefore being paid above ~~nmw~~ nmw.

The pay Jancinta received for the

attending the course should of been included in the taxable pay in the months payroll. It is subject to PAYE & class 1 NIC. This is because it is extra pay. There will be a penalty if ~~the company~~ for incorrect PPS based on behaviour of the company.

The course is exempt as work training and didn't need reporting. The cost of training does not count towards pay for NMW.

Marie

Marie should of received £7.70 an hour.

Marie received an approximately £8.15 an hour.

The mileage of £18.90 does not count towards national minimum wage but however should have reported through payroll, subject to PAYE & NIC.

However as company has paid her

up to the published rates (45p per foot 10,000 miles), the £18.90 is not taxable. Marie should claim for a refund from HMRC via self assessment.

Penalties

As Lauren is not being paid NMW, the company should pay a lump sum to Lauren to make up for the loss.

They should also ensure her pay so it doesn't fall below NMW again. If the company doesn't comply they can face financial penalties and also name and shame.

The employee can also go to the tribunal to redeem lost pay.

Should be noted that NMW is revised yearly, so should be checked on a yearly basis and also each pay period.

Report for Raahim Ali - Ballater Ltd

Firstly, Raahim Ali should be concerned about previous years reporting as this could create a substantially high penalties for the company (a senior accounting officer) if anything is wrong.

The penalties will also be accompanied with interest (currently 3%).

Private medical treatment (PIM)

Private medical treatment is a taxable benefit and subject to class 1A national insurance (NIC).

The benefit is the cash equivalent which is the cost to the employer less anything paid by the employee.

Normally (PIM) should be reported on the P11D on a yearly basis, which it was received, reported by 6 July, following the tax year.

However, since 6 April 2015, benefits

can be payrollled to the exclusion of accommodation & taxable cheap loans

The cash equivalent of the PMI should have been divided by the number of paydays in the year.

However, payrollling benefits does not stop class 1A NIC being due. A P11D(b) should have been reported by the 6 July 2019 & class 1A NIC paid by 19 July 2019 (electronic 22 July 2019).

Class 1A NIC is 13.8% of the cash equivalent.

~~At 31st~~ Penalties will now arise for late P11D submission of an initial £300 plus £60 per day for late submission.

It should be noted that to payroll benefits, the employer will first need to register its intent with HMRC. The payroll will need to be for 12 months, but is completely optional for

the employer.

once HMRC has accepted, they will ~~sp~~ issue revised tax codes to the affected employees. This is because the benefit will now not be taxed via their tax codes.

As the employer you should write to the employee, noting what is happening.

0

once you have registered, no need to register again, everything is carried forward.

Rate

When an individual is provided with a car, this should be reported as P46.

The car provided is a taxable benefit and subject to class 1A NIC.

The cash equivalent that should have been reported is the list price by the appropriate percentage relating to the CO₂ emissions. The cash equivalent

is £16,800 ($31,000 \times 22\%$)

The fuel is an additional benefit and subject to class 1A NIC at 13.8%. The cash equivalent is £5,148 ($23,400 \times 22\%$).

~~Both giving a total of £11,968 subject to class 1A NIC of £1,651.~~

Both can be apportioned for non-availability therefore, leaving cash equivalents of £3,410 for the car & £2,574. Giving a total of £5,984 subject to class 1A NIC of £825.

If the cash alternative was given then this would be taxed as extra pay of £10,200 and subject to paye & class 1 NIC at 13.8% for the employer and assuming 2% for rate.

Therefore cheaper alternative providing a car. The reporting is correct.

The workplace car park is an exempt benefit provided it is given to all

employees. The cash equivalent of the cost to the employer does not need to be reported.

Penalties

AS reported incorrect FRS, penalties will arise based on behaviour of the error.

If reasonable & careless then no penalty
If deliberate & ^{not} concealed then 30%.

If deliberate & concealed then 100%.

These can be reduced by promoted behaviour. I would disclose as soon as possible to HMRC.

TO: Elizabeth Advice

From: Anne Advisor

Date: 2 November 2019

Subject: Social Security position of Emmanuel

Hi Elizabeth,

Social Security in the UK is ~~different~~ ^{not aligned} with the UK Pave regime.

Social Security in the UK is determined by an individual's working pattern.

As Emmanuel is also working in other EU countries, we must consider the EU regulation.

The EU regulation supercedes the UK domestic law.

As Emmanuel is working more than 5% of his time in ~~either~~ more than one EU country he will be considered a multi

State worker.

The aim of the EU law,
~~under the EU law, it is~~ is that an individual will be subject to ~~the~~ social security in one place at one time.

Therefore, social security is determined where Emmanuel is habitually abode if he spends more than 25% of his time working there. As he doesn't ~~work~~ work in France it can not be there, but as he has an apartment in the UK and works at least 30% in the UK. He will be subject to social security in the UK. Even if his habitual abode was not the UK then it would be based on where the company is registered and make their decisions. This would also be the UK.

An A1 certificate should be applied for by the company to exempt social security in the other EU countries.

As for the US, as the UK and the US have a bilateral agreement in place

Emmanuel will be subject ^{to social} security in the UK as ordinary resident in the UK.

A certificate of coverage should also be applied for to exempt Emmanuel & the employer from US social security for up to 5 years.

Stock options

Generally, the gain relating to employment related shares is taxable in the UK.

The gain is treated as accruing evenly over the relevant period. This is from date of grant to vest.

This is 3 years for Emmanuel.

We must consider the rules for international mobile employees. The social security position is different to the income tax position and where the gain will be subject to national insurance if the individual is within the UK charge. If not within UK charge then that part of the gain is exempt from UK social security.

We have already discovered that Emmanuel is liable to UK Social Security.

However from January 2020, Emmanuel will be posted to Singapore. As the UK and Singapore do not have a Social Security agreement in place, we must consider the UK domestic rules.

Emmanuel will be subject to UK Social Security for the first 52 weeks of his secondment if:

- he is ordinarily resident in the UK
- he is resident in the UK immediately before secondment
- his employer has a place of business in the UK

It is likely that Emmanuel is currently resident in the UK due to having a home in the UK meeting the sufficient ties test. Therefore UK social security due for the first 52 weeks of secondment.

The gain relating from January 2018
Assuming Emmanuel was granted
upon January 2018, they will be subject
to UK NIC till January 2021.

If granted at different date then no
UK NIC from January 2021 till vest
date.

Also should be noted, as his secondment
to Singapore, he will not be subject to
UK NIC on his earnings from January
2021. However the board meetings
may be taxable in the UK and no income
tax and UK NIC unless they are
incidental.

As Emmanuel is a director, the board
meetings will not be considered incidental
and will be taxable unless each
board meeting does not last for more
than 2 days, then exempt from UK NIC.

If any more than 10 a year then all taxable.

Please let me know if you require any further information

Kind regards
Anne Adams

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TO : Emma Adniser
from : Anne Adniser
DATE : 2 November 2019

Subject: Regent Group - Secondment .

Dear Emma,

The UK tax implications on an individual's secondment is based on their residency status.

Residency status in the UK is determined by the statutory residency test (SRT).

The SRT test comprises of three separate tests. As the seconded will be in the UK from the 6 April 2020 for 3 to 6 years, it is highly likely that they will be UK resident throughout their secondment as spending more than 183 days in the UK.

As UK resident, the general rule is that

They will be subject to UK tax on their worldwide income. This should be reported by the UK company, as subject to payroll and NIC (explained further below).

I will now go into detail for the following individuals,

~~Recall~~ There is relief available depending on the domicile status of an individual.

A domicile status is different to national and citizenship.

A domicile status is primarily based on where an individual permanently resides / intends to live indefinitely.

Everyone has one domicile at one time.

Domicile is based on case law and therefore need to consider each individual's facts separately.

Geoff

Geoff was everyone has a domicile of origin. This is based on ~~where~~ your father's domicile at birth (mother if not married).

It is likely that Geoff's father was a UK domicile, making Geoff a UK domicile.

It is very hard to get rid of your UK domicile and must cut all ties with the UK and permanently reside somewhere else to change ~~to~~ a domicile. You can get a domicile of choice, from the age of 16, however, if you have not cut all ties then it's hard to lose your domicile of choice.

If Geoff has no ties,
~~no domicile~~

As Geoff moved to Australia 15 years ago, and assuming he will return after secondment, he ~~will~~ may be a non UK domicile.

However new rules from 6 April 2017, came in, if an individual who has UK domicile of origin, resumes UK residency

then he will be deemed UK domiciled.
The effect of this is that Geoff will be taxable on worldwide income, PAYE must be applied to 100% of his earnings.

A foreign tax credit can be claimed via self assessment for taxes paid overseas.

Brett

Brett is likely to be non UK domiciled. Brett is therefore open to claim the remittance basis (RB) via his self assessment as he will be UK resident & non dom.

If Brett claims the RB it will exclude any unremitted overseas work income & gains from UK tax unless remitted.

RB will be claimed automatically if unremitted income is under £2,000. If claim RB he will lose his entitlement to a UK personal allowance and capital gains exemption. This will be

lost anyway if income over £183,700.

Brett can claim for overseas workday relief (OWR) as if he is;

- UK resident
- non domicile
- claiming RB
- was non resident for 3 years out of the last 5 years.

OWR can be claimed for first 3 years of secondment. OWR will exclude the income relating to overseas workdays from UK tax.

The company can apply for a S690, and if approved by HMRC, only apply PAYE to his UK income. This can be done through modified payroll.

Angela.

It is likely that Angela never displaced her domicile of origin in Australia.

This is due to being in the UK temporary and keeping her Australian ties however, AS permanently wants to

move to the UK indefinitely. She will be deemed domicile from when she's resident in the UK for 15 out of last 20 years.

From then she will be taxed the same as Geoff.

However, for the secondment period she will be taxed the same as Brett.

modified payroll

As the employees are tax equalised, you should apply for modified appendix 6 and operate modified payroll.

This will make it easier for the payroll team and limit risks to penalties.

modified payroll will allow you to deduct hypothetical report earnings on a quarterly basis and then on an estimate basis. As it is hard to report overseas income on a real time basis.

how it works is that you deduct hypothetical tax from the employee wage.

hypothetical tax, is the amount of tax they would be subject to if they didn't come on secondment.

Then the company pays the remaining liability due in the UK. This should be grossed up as the additional tax paid is treated as a tax benefit for discharging the employee's liability.

The employee will then have to do a tax return by 31 January, following the tax year to reconcile the position.

Any benefits given to the employee will need to be reported on P11D, but this also is due by 31 January, following the tax year.

Flights for immediate family exempt if no more than 2 flights a year. more than taxable

nic

UK & Australia has no agreement

- 52 week exemption in the UK
- pay UK NIC from 53rd week

~~UK~~ other EU countries is up to Australia.

However from 53rd week)

- Use EU law
- EU supercedes UK law.
- AI certificate
- Taxable in the UK

- Apply for appendix 7B for nic.
- Works the same as Appendix b.

Conclusion

- pick Brett or Angela
- Paye/report UK earnings only.

need anymore help, then please ask.

Kind regards

Anne Adams

to:

from:

W. H. B. S. S.

To: George Cooper.

From: Hannah Alex Smith

Date: 2 November 2019.

Subject: Advantage Plus Ltd.

Hannah,

Hi George,

Thank you for your time the other day.
As a follow up please find below the
UK tax implications of the benefits
provided to your staff:

Staff canteen

No liability to income tax arises of
subsidised meals from the canteen if
the following conditions are met;
1) meals provided in the canteen or
on the employers premises.

I believe the central hub meets this
condition as it is on the employers premises.

2) meals are provided on a reasonable scale.

I assume this one is met. But please provide further information if not.

3) The canteen is subsidised for all employees.

I understand that it is subsidised to all your employees, regardless of the different subsidised rates.

4) is not under a Salary Sacrifice Scheme.

I understand that this is not under Salary Sacrifice.

I also understand that the central hub is not open to the public. But if it is, please the part of the central hub needs to be for the employees only.

If all these conditions are met, the subsidised

modals are exempt from income tax and national insurance.

There are no reporting requirements.

Lunch

If the lunch relates to work, ~~is provided~~ ^{is provided} exclusively for the purpose of ~~the trade~~ ^{employment} then the £13 is exempt.

However, I don't think this would meet the wholly and exclusively rule. Therefore the £13 per head is taxable.

However, to avoid the employees being subject to tax you could enter into a payee settlement agreement (PSA). This allows the company to pick up the tax for the employee.
• This is for minor, irregular benefits.

As it is treated as discharging the employees liability, the company will need to gross up the payment at the individual's marginal rate of tax. £21 for the higher rate individuals

and £16 for the basic rate taxpayer.

These amounts will be subject to class 1B NIC and payable by 19 of October following the end of the tax year.

The agreement should be ^{entered} made in to before the 16 July and before any ~~the~~ liability arises. Therefore, this can only be done going forward.

~~The~~ From April 2016 to now, the benefit should have been taxed via P11D (if employer paid directly), subject to class 1A NIC. Penalties will arise for late payment of tax and P11D.

- Tax less than £1500 monthly can pay quarterly
- Tea, coffee, benefits
- Inval benefit
- Under £50
- Unlimited for the year
- Not related to employment
- For all employees.

TO: Leslie Senton

From: Gill Robertson

Date: 30 October 2019

Subject: Re employee locations

Dear Leslie,

Please find below the following tax implications of each employee.

Isia Stewart

~~Isia is~~ Under the statutory residency test (SRT), it is likely that Isia will remain UK resident by spending more than 183 days in the UK.

The days in the US, ~~understand that~~ 35, will not impact the 183 day test.

Therefore Isia is subject to UK tax on her worldwide income & paye should be

The general rule is that an individual is taxable in the UK on their UK workdays, and if resident their worldwide income

Paye should be applied on 100% of her earnings.

If Isla is non UK domiciled, she will be eligible to claim the remittance basis (RB).

This will exempt her overseas income & gains from UK tax if unremitted.

However if paid from the UK into UK bank account this will be treated as remitted and taxed. If claim RB will lose her personal allowance and capital gains allowance if overseas income is more than 2000. May not be beneficial to claim as only 10 overseas workdays which may be lower than the personal allowance.

Isla should submit a tax return and claim a credit for US taxes paid as stated in Article 2 of the US and UK double tax treaty (DTT). This will limit double taxation on the same income.

The tax return will need to be submitted by 31 January, following the tax year.

The reimbursement of business travel costs would normally be taxable unless, it meets the following conditions

- 1° The travel is ^{wholly & exclusively} for the purpose of performing duties of employment
- 2° ISIA is performing the duties can only be performed outside the UK.
- 3° A return journey is followed.

I understand that ISIA is travelling to the US to check the performance of that US subsidiary. Therefore these journeys are exempt from IT paye and NIC.

If she stops working, or flies for not business purposes then the cost of the flights are taxable and subject to class 1A NIC.

If paying for partner too then this will be a taxable benefit on ISIA.

ISIA will remain subject to UK social security for 5 years as she is ordinarily

resident in the UK.

The company should apply for a certificate of coverage to exempt her from US tax Social Security

Lewis Fraser

Lewis is likely to remain UK resident ^{under the sufficient test,} if he spends more than 90 days in the UK. This is ~~under the test~~ because he will have three ties to the UK. They are:

- Accommodation tie - Lewis will stay in his accommodation when in the UK, which he has available to him for 91 consecutive days
- Work tie - Lewis will have more than 40 work days in the UK. This is based on him working 3 days a week in the UK. A work day is working more than 3 hours a day.
- 90 day tie - Lewis will be spending more than 90 days in the UK if he returns to work three days a week. A day is where the individual is located at midnight

AS UK resident he will be taxable on
world wide income

AS resident in France too, we need to
consider the DTT to ~~who~~ where he is
treaty resident

Lewis is ~~treaty resident~~

Under Article 4, Lewis is treaty
resident where he has his permanent
home. If AS Lewis has a home in
both countries, we need to look at
^{where} his vital interests are.

If Lewis's family move to France then
I would suggest his ^{personal} ~~economic~~ ties
are closer to France. However, his
work remains in the UK and also has
a UK home.

We must then look at where he has
a habitual abode. As in both
countries, we must consider where
Lewis is a national.

Assuming Lewis is a UK national
he will be resident in the UK

Therefore ~~is~~ taxable on worldwide income.

AS
~~AS~~ most likely taxable in France on his ^{French} ~~workdays~~ as stated by Article 15(1), he will be subject to double taxation. Therefore need to look at Article 15(2).

Exempt Exempt from UK tax if doesn't spend more than 183 days in France.

Assuming he does, he will be taxable on worldwide income and a credit should be given on his tax return for UK tax paid.

Rate should be applied to 100% of earnings.

This is even if Lewis does meet Article 15(2), the treaty claim should be made on his tax return and a 86% can be applied for.

A 86% will apply on his pay and pay due on UK element only.

Tax return need to reconcile.

• need to look at EU regulation regarding A UK social security (NIC).

• EU regulation supercedes UK domestic law.

• multi state worker as works more than 5% in each country.

• NIC due where habitually abode and 25% duties.

• or where registered company

• UK NIC due

• A1 certificate.

Trans

• relocation exempt up to £8000

• no income tax or NIC.

• need to change perm residence

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