

Chief Examiner's Comments

General Comments

This session I will focus my general comments on time and effort being wasted by candidates on writing material which earns no credit. Freeing up this time could quite easily make a material difference to their performance in the exams.

- 1) If the requirement specifically refers to particular taxes, there will not be marks available for comments on other taxes, no matter how relevant or interesting they may be. Thus, if the requirement is for "the Income Tax consequences", marks will not be available for the VAT consequences. In contrast, a requirement to comment on "the tax consequences" is broad and requires a consideration of all relevant taxes. In such a case, candidates should mentally run through the various taxes to consider whether they may be relevant.
- 2) Similarly, if a requirement is to comment on the tax consequences of a particular transaction, marks will not generally be available for commenting on some other transaction. For example, if the question says that the purchase will take place by way of a share purchase, there will not be marks available for discussing a purchase of assets: the wording of the question has in effect excluded that as an option.
- 3) Marks are not available for repeating material in the question. A number of examiners comment that some candidates are wasting significant amounts of time repeating material from the question for which they get no credit.

Awareness VAT Module

We identified some while ago that direct tax candidates were focussing on the direct tax modules with far less focus on the study of VAT. In order to limit this, we introduced a requirement for a minimum score on each module. Following this we did see an improvement in marks on the VAT module, but this session shows an unfortunate reversal with many candidates omitting questions. The syllabus for Stamp Taxes is limited so it is disappointing that so many candidates clearly omit Stamp Taxes entirely from their studies and hence deprive themselves of 16.7% of the marks on the module before VAT is considered. If they are weak on VAT, these marks foregone could well be the difference between a pass and a fail.

VAT on UK Domestic Transactions, IPT & SDLT

The results on this paper were by some margin the worst we have ever seen for the UK VAT paper. Indeed, they were the worst we have ever seen on any paper.

We undertook extensive analysis and checking of the results to ensure fairness to candidates and from that work it is clear that the paper was not unduly difficult or the marking unfair. It was however clear that candidates were grossly unprepared for this paper (and would have fared no better on any previous diet). It wasn't just that answers lacked depth or failed to give advice, they also contained comments that were so inaccurate as to be worrying. For example:

1. Lettings (rather than sales) of new commercial property being automatically standard rated
2. Needing to inform HMRC of the details of a share sale due to change of ownership
3. Opting to tax residential property
4. VAT grouping non corporate bodies (and individuals)
5. Not understanding the difference between non-business income and exempt income
6. Suggesting the use of a ferry which made trips on a lake should be extended to include journeys outside the UK in order to achieve zero rating.

7. Charging SDLT on share disposals.

As the results were so unprecedented, the CIOT produced a webinar [<https://www.tax.org.uk/students-and-qualifications/examinations>] which discusses the issues in more detail. Candidates who sat this paper and failed and those planning to sit the paper in 2018 are strongly recommended to watch this.

Finally, in relation to preparedness for this paper, it is worth highlighting that the only candidates who passed this paper had attended tutorial body training.

AWARENESS

Module A (VAT including Stamp Taxes)

General Comments

Performance on this module was disappointing, with scripts rarely consistently good throughout. The impression given was that candidates prepare the least for this module, and omit certain topics entirely from their studies, hoping that other modules will provide sufficient marks for a pass. With a minimum score now required on each module, this can be a risky strategy.

Question 1

Most candidates who answered this question (on penalty for late VAT registration) performed well enough but usually made one or two mistakes. Some who clearly understood registration requirements did not use the numbers provided to calculate the potential lost revenue and so the penalty. A surprising number of candidates omitted the question.

Question 2

This question regarding purchases from the EU was anticipated to be one of the more difficult questions. In fact most candidates managed to score some or all marks for part 1, although some confused the company dispatching and the company acquiring. Part 2 proved more problematic with many candidates not recognising the relevance of the distance selling rules.

Question 3

Most candidates made an attempt at this question on default surcharges and often had a vague idea of the surcharges involved, but could not apply the rules accurately. This should have been a high-scoring question for most candidates. Some candidates had clearly rote-learned the facts but could not apply them and merely gave a list of increasing surcharge percentages. Even at the Awareness level, candidates should be thinking "if a client had asked this question, would they be any wiser after reading the answer?".

Question 4

This question involved a building transferred as a going concern and the implications for the capital goods scheme. There were marks available even for those candidates who did not understand the latter but who knew the basics of VAT on land and buildings. However, there was a common misconception that having bought a new building on which standard-rated VAT was charged, the

owner then had to charge VAT on the rentals. Some candidates wrote about the option to tax although neither company had opted. Marks were low and the question was frequently omitted.

Question 5

This question asking for the output VAT of group should have been approachable for all candidates, even if they did not know the treatment of each item: the items were effectively stand-alone. Those candidates who attempted it frequently scored highly but it was surprising that some omitted it entirely.

Question 8

It was disappointing that while many candidates had some knowledge of the annual accounting scheme (the number of payments, amounts due), they lost marks needlessly by not explaining *when* payments and the return were due.

Question 9

This question involving a charity was frequently omitted. Those who did answer did not generally score highly, often because they focussed on either the capital purchases, or the income and activities of the charity, when the two aspects were linked.

Question 10

This question was on a very specific area of the syllabus (a particular retail scheme) and not surprisingly it was omitted by some who had not studied this area. It was pleasing that many candidates who attempted it, understood the broad principles despite making an error or two.

Question 11

The Stamp Duty implications where consideration is not in the form of cash, were not well known, and calculations were also frequently incorrect, especially in terms of rounding and minimum charges.

Question 12

If candidates omitted the question on Stamp Duty, they were also tended to omit this question on Stamp Duty Land Tax. Those who answered frequently achieved 2 or 3 marks (and sometimes 4): they understood the need for increased rates (by 3%) due to the number of residential properties owned, but many did not apply this to the 0% band, or to the first property (despite being told that the individual involved already owned other such properties). Not enough candidates realised that the SDLT should be calculated on the total consideration paid, and most did not understand the claim for multiple dwellings relief. Only a few words were required to state this alternative treatment – candidates were deliberately asked not to perform further calculations. Many did and given their understanding was usually wrong, this just wasted time for subsequent modules.

Module B (Inheritance Tax)

General Comments

Overall, the paper seems to have been well received and well attempted by most candidates and accordingly only a few questions require further comment.

Question 5

Whilst the majority of candidates recognised the related party issue, a number used the wrong terminology (connected or associated persons being the most common alternatives) and a surprising number were unable to then calculate the value of the shares correctly. The second part of the question was rarely answered correctly, with most candidates instead referring the relief being available for an apparent loss on the sale

Question 6

Whilst generally answered very well, it should be noted that the requirement is for the farm to be 'owned' for seven years when tenanted, as opposed to being let out for seven years, which many seemed to think was the case.

Question 10

Very few candidates recognised the importance of the dates of the disposals and correctly allocated them across two tax years. Even where candidates recognised that there were disposals in 2015/16 and 2016/17, very few then applied the correct (different) rates of tax. The relief for expenses was rarely, if ever, given.

Module C (Corporation Tax)

General Comments

Overall, there was a less than satisfactory performance with very few candidates performing well. A particular problem was the inability to answer the question set, including performing calculations instead of giving explanations and vice versa.

Question 1

Most candidates performed well on this question, however common problems were unclear or insufficient explanations of the treatment of the various items and part or all of the cost of the staff Christmas party being disallowed because it was over £150 per head.

Question 2

This capital allowances question was generally well done, although some candidates forgot to time apportion either the AIA or the WDA or both. Despite the question explicitly stating that the period was ten months long, some candidates apportioned for a nine month period.

Question 3

This was one of the best answered questions on the paper, although some candidates wrote about payment of corporation tax by instalments, despite the question stating that the company was not a large company for this purpose.

Question 4

This question was generally poorly answered, with a number of candidates clearly knowing very little about this area of the syllabus. The most common error was to include the RDEC as a separate item of income in the calculation of TTP rather than to appreciate that the relevant adjustments had already been made to the trading loss, as was stated in the question. There was also a certain amount of confusion with the SME scheme despite the question clearly stating that the company was large.

Question 5

Although most candidates made a reasonable attempt at this question, the most common errors were failure to apply the accruals basis to the loan arrangement fee and deduction of the costs relating to the rental property against property income.

Question 6

Lack of clarity of explanation was the main problem with the first part of this question. For the second part, a number of candidates were under the impression that the staff car park was not a qualifying asset as it was not used in the trade and that office equipment was a qualifying asset despite the fact that it was extremely unlikely that it would be 'fixed'. Credit was given to candidates who stated their assumptions in this regard.

Question 7

This was one of the worst answered questions on the paper, which was surprising as losses are regularly examined. Despite the question stating that candidates should 'clearly show your treatment of the losses' most candidates did not do this: they did not demonstrate clearly that brought forward trading losses can only be offset against future trading profits. Some candidates did not know how and where any of the losses were offset, with the property loss being carried forward against future property income and the capital loss being offset against total income in the same period and then carried forward against total income of future periods.

Question 8

This question was generally quite well answered. The main problems were too much explanation given in the first part (where calculation was required) and lack of clarity of explanation in the second part. Additionally, there was confusion with group relief, with many candidates thinking that the rules applied to Eagle Ltd's ability to use Rook Ltd's trading loss in the future.

Question 10

Most candidates made a reasonable attempt at this question, although few managed to score full marks. Common errors included putting the overseas income into a single column rather than separating it out into individual columns which made the allocation of the QCDs unclear, and failure to calculate DTR on a source by source basis.

Question 11

This question was generally quite well done, with most candidates being aware of the loan recycling rules, although the majority used the rate of 32.5% rather than 25% in calculating the s455 tax.

Question 12

Although most candidates made a reasonable attempt at this question, most calculated the rollover relief as though the 'normal' rules applied (i.e. calculated the amount chargeable as equal to the proceeds not reinvested). Some candidates calculated the amortisation of the IFA on the reducing balance basis. In answering the requirement to state under which heading the taxable profit would be included in the corporation tax computation, lack of clarity was again a problem, with several candidates simply stating that it would be an 'income gain'.

Module D (Individuals)

General comments

Overall, candidates displayed a good knowledge of the areas tested. Areas of weakness are identified below. Candidates are advised to pay close attention to the requirements of the question; valuable time will be wasted where unnecessary explanation is provided (see comments regarding question 8) or where an answer strays beyond the requirements (see comment on question 4).

Question 1

Almost all candidates performed well in this question, showing that they understood the mechanics of an Income Tax calculation. Some candidates overlooked the fact that taxable income exceeded £150,000 and so failed to apply the additional rate of tax.

Question 3

Performance was mixed in this question. A good number of candidates were comfortable with the calculations, and so were able to complete them accurately and quickly. However, a significant minority did not seem to be familiar with the calculations and as result omitted to apply an interest rate or to time apportion the result under the average method.

Question 4

Few candidates scored high marks in this question. However, most candidates were aware of at least one of the conditions for relief, and that the relief is given at the rate of 30%. Although the question asked for the conditions applying for Douglass to be an eligible investor, some candidates discussed the conditions applying to the charity, thereby wasting time.

Question 5

This proved to be a challenging question as a significant number of candidates did not appear to be familiar with the split year rules. Candidates also lost marks where they did not provide adequate explanations; for example, why the split years rules applied. Although the question asked for comments on the individual's residence status for 2016/17, some candidates discussed future tax years, again wasting valuable time.

Question 7

Most candidates were able to pick up marks in this question. Common areas where marks were lost were: incorrectly calculating the income element of the premium; failing to deduct the repairs and failing to correctly time apportion the rent/insurance.

Question 8

Most candidates were familiar with the rules for SIPs although many struggled with the calculation of employment income. Although only limited explanation was required, quite a few candidates provided detailed explanations of their answers, yet again wasting time.

Question 9

A significant number of candidates were unable to correctly apply the rules for chattels. Surprisingly, a number of candidates were unaware that a transfer between spouses is deemed to take place on a no-gain-no-loss basis.

Question 12

Performance was disappointing with a significant number of candidates seeming to be unaware of the circumstances in which payments on account are not required, and many struggled with the calculation of the tax due.

Module E (Taxation of Unincorporated Businesses)

General comments

Candidates generally performed well on this module. Calculations were usually performed with a good degree of accuracy. Written style questions were generally slightly less well received.

Question 1

Many candidates performed well on this question by stating factors relevant to the scenario. Those that performed less well had usually just stated the tests without relating them to Lynette.

Question 2

Candidates struggled a little with this question. In relation to the car many struggled to combine the two restrictions. Leases continue to be a difficult element for many. A significant number of candidates stated the allowable amounts rather than the 'necessary adjustments' as per the question.

Question 6

Many candidates did not consider current year and carry back relief. A significant number stated that terminal loss relief is against net income.

Question 7

Candidates were more varied in the quality of answer to the small part disposal. Those that performed well, knew how to calculate the gain for each part but were generally less sure about the base costs under the two methods.

Question 8

The answers to the question showed that many candidates had some knowledge of the topics involved but with insufficient accuracy. Clear and precise word choices are required such as 'the gain is deferred' and 'the base cost is reduced'. When entrepreneurs' relief was mentioned it was usually in relation to a general 10% rate with very few candidates mentioning goodwill.

Question 10

Candidates generally struggled to give two options for each of the cost types. Very few candidates mentioned capital allowances. A significant number mentioned that flat rates were available for the two cost types but then did not state the amounts of what the flat rates.

Question 11

Marks were usually lost on this question by not giving the full detail of the penalty, for example mentioning £10 for 90 days but not stating that it applies when the return is more than 3 months late.

Question 12

Candidates regularly lost easy marks by only dealing with 2016/17. When candidates did consider both tax years a significant number still stated that class 2 contributions are due in 2015/16.

Module F (ETEDSD)

General Comments

Generally the performance in this paper was fairly disappointing. Many of those that sat this module and failed Awareness shouldn't be surprised, for the simple reason that they did not attempt a number of the questions, and so scored no marks on a chunk of the module. Questions 11 and 12 in particular were often omitted.

Candidates often failed to read the question properly and so provided answers to questions that had not been set. Often the answers to these questions could be found in the legislation, but there was little evidence of candidates using it.

Question 1

Candidates were asked specifically what constituted "commercial exploitation" which is defined at s19(3) FA 2001, rather than "exploitation" at s19(1). The question had already stated that the material was exploited.

Question 4

The question was specifically in respect of forms of transport. Many candidates did not read this properly and gave other examples.

Question 7

The question was "State, with brief explanations". A number of candidates failed to provide any explanation. In such cases it is difficult to tell whether candidates know the liability or are just guessing. Either way they are not meeting the requirements of the question. There are no half marks available in this paper.

Question 9

The question stated "calculate", which a number of candidates did not do.

Question 12

It was unfortunate that many candidates did not answer this question as it was one of the easier questions, if it could be found in the legislation. Most that did attempt it scored full marks. Some candidates explained what an excise warehouse was, rather than what types of operations could be carried on there, and so gained no marks.

Module G (Accounting)

General comments

Candidates generally performed well on this module, and were much more comfortable answering double entry questions than written style questions.

Question 1

Many candidates failed to show each item separately on the accounting equation, for example they would show capital profit and drawings but not state assets and liabilities as two separate items.

Question 4

The most common error in this question was to calculate the mark up based on a 'cost of £475 i.e. after the discount received.

Question 5

Some candidates did not answer this question at all. A significant number either stated that a provision was required in part 2 or failed to mention that disclosure was required.

Question 8

The answers to the question showed that many candidates had some knowledge of the topics involved but didn't have sufficient detailed knowledge. Many mentioned that the finance lease should be treated as an asset of the business but failed to mention the creditor. Some just stated what an operating lease and finance lease are without considering the accounting treatment.

Question 10

A significant number of candidates scored full marks on this question. The most common mistake was posting the £250 received to the debtors account.

Question 11

Candidates did better at the written explanation than the double entry required by part 1. Some candidates stated facts about sole trader compared to company without identifying why there were advantages.

Question 12

Many candidates struggled with this question with a significant number either producing an adjustment of profit or omitting the question.

OMB ADVISORY

General Comments

Overall, performance on this paper was satisfactory. More detailed comments are provided for individual questions.

Question 1

The average mark for the question was good but explanations were often too vague/non-specific. The anti-avoidance rules were well attempted but some lost marks by simply quoting legislation without applying it to the scenario.

The income tax computation presented an opportunity for candidates to collect a lot of easy marks. This was generally well done, although some candidates treated the profit share (less payments on account) as being the amount due to HMRC. National insurance was often omitted from the calculation of the payment to HMRC.

In respect of the corporation tax return, a substantial number of candidates calculated the pro-rata split, based on the amount calculated in part one of the question. However, only two candidates properly explained why such pro-rating was required.

Common errors included: claiming AIA where not available as mixed partnership; profit allocation not taking account of interest on capital; corporation tax adjusted profit calculations being undertaken but then ignoring these in allocating profits; having total profits allocated significantly more or less than the profit for the partnership as a whole; noting that the van was not subject to a lease restriction, but still adjusting for running costs/depreciation; making high emission adjustments for owned vehicles; and introducing capital gains, based on the accounting profit on sale.

Question 2

Again, the average mark for the question was good, although there were a lot of easy marks available in this question, which were not always obtained. Although brief explanations were asked for, brevity is not a substitute for accuracy and many candidates lost a significant amount of marks for technical inaccuracy in their comments. Whilst candidates often appeared to have a reasonable grasp of “what” they were doing, they did not appear to understand “why”.

Specific errors worth highlighting were: significant numbers failed to deal with the preliminary expenses correctly, and were ignored by the majority who simply wrote them off as revenue expenses; many thought capital allowances were available on buildings and their fundamental parts; solar panels were treated as integral features or given FYA; and cars were not pooled.

The assembly line was poorly dealt with in terms of when capital allowances might be due. However, many picked up on (and correctly dealt with) the grant.

Question 3

The candidates’ performance on this question was mixed. The main problem was failure to split the AP into two 6 month periods for an investment company and then a trading company with investment business. Some candidates seemed to realise their mistake in starting out as a 12 month computation and deleted their first attempt or finished their answer as a hybrid by adjusting the profit for the 12 months and then splitting between the two CAPs, with other variations along those lines.

Only a very few candidates brought in the balancing charge of £25,000 on cessation of the investment qualifying activity and a majority of candidates wrongly added back the 'personal guarantee' element of the overdraft arrangement fees. The directors' remuneration was also dealt with very variably.

Question 4

The general standard of answers to this question was reasonable. Most candidates had a good understanding of the qualifying criteria for entrepreneurs' relief.

A number of candidates thought that the effect of the gift hold over under s.165 would be to reduce Maria's base cost to zero rather than for her to take on her father's original base cost. Also only two candidates, when considering the associated disposal point, noted that there was a period of property ownership prior to Maria acquiring a material interest in the property which would have further restricted the entrepreneurs' relief.

The question stated that no calculations were required but a number of answers included detailed calculations that gained little or no credit.

Question 5

Candidates were well prepared for this question, in particular the application of the "badges of trade" principles to the facts provided.

The circumstances for a valid discovery assessment were also well documented. However the majority of candidates did not identify the correct date/time limit for raising a SA enquiry.

Question 6

Answers to this question were mixed. Often, candidates did not gain 'easier' marks by not stating basic points, such as the meaning of a share option and relating its exercise to a given event or criteria. A number of candidates failed to note that the client did not wish to give share capital to employees immediately, and so discussed an immediate gift or sale of shares to management. Similarly, a considerable proportion of candidates discussed Share Incentive Plans despite these broadly needing to be offered to all employees, rather than selected employees, as required by the scenario. Of those who identified EMI and CSOP as the relevant tax-advantaged schemes, their qualifying conditions and salient attributes were often confused.

It was noted that a number of candidates referred to 'tax' being charged on the happening of certain events. It is strongly recommended that candidates are specific as to which tax may be in point at a given time, particularly where a scenario involves a number of different potential tax charges.

Taxation of Individuals Advisory

General comments

Candidates coped well with this paper although it is clear that the overseas elements cause the most issues for candidates. With tax legislation focussing more and more on anti-avoidance in respect of mobile individuals, it is crucial that candidates give these topics equal weight in their studies.

Question 1

The answers to this question were generally good although there were common mistakes.

Many candidates did not identify that Amanda was not caught due to her previous residence position. Others correctly identified that she was not temporarily non-resident and then calculated gains for her. The non-resident CGT rules were not well covered with some confusion over how the charge applied although for those who understood it the marks were good. The fact that the ER claim was out of date as it is linked to the original gain and not the charge when Ben became resident again was missed by all but a small handful of candidates.

Question 2

The ATED part of the question was very disappointing as most candidates only had a very basic knowledge of the charge.

The second part was better answered although the explanations were not always clear in relation to the new relief. Most candidates covered the wear and tear points well. The calculations were on the whole done correctly and marks were generally high for this part of the question.

Many candidates veered into advice about the new mortgage restrictions which was unfortunate since it was not required.

Question 3

Many candidates wasted a lot of time padding out the answer to this question unnecessarily.

Candidates appeared confused by the penalties which will apply and many stated that late payment penalties would already have been incurred on the additional tax.

The fact that payments on account were also affected was generally overlooked, as was the possibility that penalties could be suspended for a careless mistake.

Question 4

This question relied on candidates being able to refer to the legislation and was answered well by most candidates.

A number of candidates confused the General Anti-Abuse Rule with the General Anti-Avoidance Rule that applies in Scotland or spent a significant amount of time explaining various Targeted Anti-Avoidance legislation.

Most candidates were able to demonstrate the difference between standard tax planning and abusive arrangements.

Question 5

On the whole most candidates answered this question reasonably well.

The round sum allowance balance of £50 was often excluded on the grounds that it would be a trivial benefit, which, as a cash payment, could clearly not be the case. Very few calculated the benefit for the photographic equipment correctly. Some candidates are also still clearly confused between childcare vouchers and the HICBC

The main issues were with the pension contributions. Many candidates grossed up the employer contributions and/or added this to the basic rate band extension. Several candidates restricted contributions to £10,000 because adjusted income exceeded £150,000 without looking at tapering. Some ignored the pension contributions altogether.

A worrying number of candidates overlooked the additional rate of tax completely (even allowing for the excessive BRB caused by including employer pension contributions), taxing everything at 20% and 40% (including dividends in some cases).

Question 6

This was a very poorly answered question. Although this is an area that candidates may not deal with on a regular basis the fundamental rules should be better understood.

A number of candidates wasted a significant amount of time explaining how a person's domicile is determined which was clearly not a requirement of the question.

Very few candidates understood that the transfer of funds between offshore accounts is treated as a proportion of each source in the account at the date of transfer. A number of candidates suggested the remittance into the UK was simply UK employment income as the remittance was less than the total employment income received during the tax year.

It was pleasing that candidates in general realised the employment income was taxed on the arising basis and that the balance of remittances of income were taxed as non-savings income. Few candidates explained the difference between the amounts remitted and the gross amount taxable in respect of the dividend.

Many candidates had an awareness of the potential foreign capital losses election but very few were able to explain the implications and apply it to the scenario in the question.

Human Capital Taxes

General Comments

Overall, the standard of answers improved compared to May 2017.

Candidates should note that where a tax treaty extract is included, it will be because they are expected to refer to it and that marks for this will be available.

Question 1

The question sought to test candidates' understanding of the annual allowance changes that were introduced in April 2016. In most cases the answer showed a familiarity with the tapering provisions required for high earners; however, the terms associated with the annual allowance restriction for high earners were not well understood and most candidates showed a misunderstanding of the difference between adjusted and threshold income. More explanation of the terms used was also required.

With respect to the tapering provision, the majority of candidates did not correctly include the bonus payment (either as a cash allowance or additional pension contribution) when calculating their adjusted income and therefore reached an incorrect answer. In addition, approximately half of the

candidates, although they recognised the tapering provisions also applied to the 2016/17 tax year, assumed that tapering wouldn't apply. A few candidates, although they recognised that tapering applied, didn't understand that this only applied from 2016/17 and applied the rules for the earlier years as well.

Candidates should also bear in mind that the questions are being asked by the employer and therefore the employer would like to be aware of the company's position also. Although this was briefly mentioned by the majority of the candidates, the deductibility for corporation tax was not considered in the remainder of their answer when discussing other options.

The majority of candidates discussed other remuneration planning or how the bonus could be paid more efficiently. Credit was given for reference to payment to an EFRB.

Question 2

Candidates showed a good understanding of the order in which termination payments are taxed and the different provisions in the legislation. All candidates picked up that Bob's redundancy payment may be linked to his retirement and so be taxable as a result. Only a few candidates suggested the possibility of making a pension payment into an approved pension on behalf of Bob as an alternative suggestion.

Candidates showed a good understanding of the reporting requirements for termination payments in the year of termination. For continuing payments, only a few recognised that s401 ITEPA 2003 would continue to apply. In most cases, how continuing benefits were to be reported by the employer following termination was not correctly answered although candidates did correctly recognise that these payments would be taxable. The National Insurance position on these benefits was often not considered.

A couple of candidates showed a good understanding of the legal issues to be aware of and suggested that Bob and Marion should take further legal advice.

All candidates recognised that statutory redundancy payments were not taxable; however, approximately half of the candidates associated this with s401 ITEPA 2003 rather than the payments being exempt in their own right.

The other common misconception that candidates showed was in applying a fuel benefit to an electric car.

Question 3

Candidates recognised this was a question about Short Term Business Visitors and generally answered it quite well. The most common mistake was that candidates were confused over how to count days for treaty purposes (vs SRT). Many missed combining Phase 2 a) and b) or if they did they had counted midnights and not presence and still failed to get >60 days.

Several candidates listed all the categories for Appendix 4 even though it was clear there were no individuals in the 90+ categories. It would have wasted a lot of time and they did not receive any marks for it.

A good number of candidates omitted to cover NIC.

Question 4

This was a question with two main parts, firstly to provide a technical analysis of how Geraldine's remuneration is taxed in the UK and secondly to provide recommendations to the client on how to ensure that the position is optimised. Candidates were generally strong in the first part but the higher skills in providing advice to the client in terms of what to do were lacking in many cases.

Many candidates laboured the analysis of SRT although almost all arrived at the correct conclusion despite many taking an incorrect position over Geraldine's ties to the UK in 2016/17.

Having assessed the domestic residence position, less than half of candidates considered the treaty position (despite an extract from the treaty being provided) and many missed out on marks for not explaining what being non-resident in the UK actually meant for the assignee's tax liability.

While almost all candidates correctly identified and described the opportunity for Overseas Workday Relief, a disappointing proportion failed to even make reference to a qualifying account and even more candidates did not appreciate the date the advice was being given, i.e. 9 months into the assignment, instead discussing the assignment as if it had not yet happened. This meant that some of the candidates' recommendations regarding bank accounts were invalid.

A tricky aspect of the question required candidates to spot that the remittance ordering rules meant that, with regards to the bonus and share award, income which could be remitted to the UK without any further tax consequences was 'trapped' behind income which would have attracted a tax charge on remittance. Advice on how to avoid this was only given by a handful of candidates. With limited exceptions, candidates did not appreciate how UK-provided benefits should be considered in aggregate with other general earnings where a qualifying account is concerned, and so needn't be wholly taxed in the UK provided remittances of the remaining income are managed properly.

Many candidates advised that the client should apply to HMRC for a s690 directive and while credit was given for this, it was not actually necessary given that an Appendix 6 modified payroll was in place.

No credit was given for discussing the social security position as this was not part of the question requirement.

Question 5

This question sought to test the candidate's understanding of the UK tax and social security rules as applicable to share awards. In order to advise the client, these rules needed to be applied to an individual with a complex assignment history.

Nearly all candidates demonstrated a good understanding of the tax rules on share options and applied these correctly to the scenario. Although some clumsy arithmetical errors were made in counting months (or even years), some tolerance was allowed where the candidate otherwise expressed a clear understanding of how the rules should be applied or described how the calculation should be done.

It was, however, disappointing that only one candidate correctly applied the UK-China treaty to the taxation of Option 1 in order to exclude the element relating to the Japanese assignment from UK tax.

Some candidates lost marks through being ambiguous (e.g. comments such as 'the UK portion is taxable in the UK'), failing to state simple points such as defining the spread and/or earnings period of the option gain, or even failing to point out that there was an employer NIC liability.

In general, the rules on NIC were less understood, particularly involving the back-to-back assignment and the RSU. The RSU was often confused as restricted stock.

Question 6

This question was designed to test the candidate's understanding of the mechanics of the statutory residence test and the split year provisions. The position was complicated by the individual's ongoing rental lease in Ruritania and the purchase of a UK home.

Candidates should ensure that they read the questions thoroughly in an exam and highlight the relevant information given. In most cases, candidates did not pick up when the home in Ruritania ceased to be available or the actual date from which the UK home became available. As a result of missing the key details in the question, candidates then incorrectly applied the Statutory Residence Test to the individuals' situation.

There was a common misconception with the second Automatic UK test and applying the 30 day rule with respect to having no overseas home. This led to the candidates concluding the individual was resident although his overseas property was available until 31 March.

This error then flowed through to the analysis of Case 4 of the split year provisions which led to candidates again incorrectly reaching the wrong conclusion. The majority of candidates also did not consider how the split year cases should be applied in priority when considering from what date the individual became resident.

The other key issue with respect to this question was that candidates skimmed over the terms of the statutory residence test so that they summarised their understanding of the position without showing how they reached their conclusions. This meant that they missed marks defining some of the terms correctly and showing correct application of the test.

Inheritance Tax, Trusts and Estates

General Comments

Overall, candidates were well prepared for this paper and it showed in the high pass rate.

Question 1

This question, which tested the basics of BPR and APR, was reasonably well answered by most candidates.

A significant number of candidates overlooked the availability of BPR on the excess over the agricultural value of the farm land and were also confused over the farm machinery which some thought this was eligible for APR rather than BPR. Candidates tended to launch straight into an analysis of whether each asset was entitled to APR or BPR without explanation of what these reliefs are and what assets qualify. Most candidates were able to explain the mechanics of Woodlands Relief. Many candidates wasted valuable time by performing full CGT calculations despite the question stating that calculations were not required but only a handful of candidates provided any advice as to how the situation could be improved by the timing of the gift to James.

Question 2

This question was very well answered by most candidates with a minority achieving full marks.

A small number of candidates did not appreciate that Treasury Stock is exempt from CGT. Some candidates lost valuable marks by not performing an exit charge calculation on the basis that the original property that went into trust qualified for BPR whereas this does not affect the calculation of the IHT rate, merely what property is charged to IHT at that rate. Too many candidates quoted the old IHT payment dates rather than six months from the end of the month of charge.

Question 3

This question produced a mixed response of very good or very poor answers.

Weaker candidates who had nothing to say about Deeds of Variation wasted time and effort by writing a full explanation of the Income tax, CGT and IHT taxation of a discretionary trust, which was not required.

Most candidates could quote s62 TCGA 1992 and s142 IHTA 1984 but clearly did not understand the provisions and failed to list the requirements for their treatment to apply in the context of the question. Other candidates simply did not mention these provisions at all but answered the question as if the reliefs would apply automatically losing valuable marks.

Many candidates thought that capital gains from a settlor interested trust would be taxable on the settlor when they are in fact taxed on the trustees and similarly some candidates failed to appreciate that income in a settlor interested trust is ultimately taxed on the settlor.

Question 4

This question, which was primarily IHT focussed, was answered reasonably well with most candidates achieving at least half marks.

The IHT position on Albert's death and Betty's death were generally dealt with better than the IHT treatment of the family trust. Most candidates correctly included the value of the settled property in the death estate calculation but failed to apportion the IHT between the Trustees and the Executors. In the main the availability of 100% BPR on the Moonshine Ltd shareholding was identified and almost all candidates recognised the unpaid CGT as an estate liability. Marks were wasted for failure to identify the correct nil-rate band at date of death.

Candidates struggled with the calculation of the exit charge on the September 2013 distribution and failed to identify the impact of s.80 IHTA. Most overlooked that as the distribution was made within the first ten years, the availability of BPR was ignored in calculating the exit charge. Marks were awarded for clear logical steps in calculating the rate of IHT, even if the values were wrong and the whilst the date of the event meant the 'old' payment date rules were in point marks, were given for the due date under current rules. The ten year charge calculation fared a little better but there was some confusion over the event date which again stemmed from a misunderstanding of s80 and a failure to identify both the impact of the earlier September 2013 distribution and lifetime transfer made by Betty. Again, marks were awarded for clear logical steps in calculating the rate of IHT, even if the values were wrong. Most candidates recognised that there was no exit charge due for the distribution made within the first quarter post the ten year charge.

Question 5

This question, which concerned an offshore trust, was answered no more than adequately, with less than half of the candidates achieving 50% or more.

Most candidates correctly recognised that the emigration of the OCT Trustees caused the trust to become non-resident but too many failed to realise that this triggered a deemed disposal for CGT purposes leading to a loss of relatively easy marks for the CGT calculation. Those that did identify the CGT event did not always reduce the annual exemption in recognition of the existence of another trust settled by the same settlor. Marks were awarded for candidates who used the annual exempt amount for 2015/16 as 2014/15 information was not provided in the tax tables. Most candidates were able to pick up some marks explaining anti-avoidance legislation but very few were able to quantify the impact on Max following the capital distribution in October 2017. This was partly due to the failure to identify the deemed disposal on emigration which had knock on effect to the attributed gain, the supplementary charge and the excess capital payment carried forward. On the plus side, most candidates correctly taxed the undistributed trust income at 45%.

Recognition of the tax treatment of the second UK resident trust was dealt with only marginally better than for the offshore trust. Most candidates recognised that a distribution of a property to a beneficiary was a chargeable event for CGT purposes but even though this triggered a loss some suggested that a joint claim for hold-over relief could be made so that Max could acquire the property at a higher market value. Some candidates wasted valuable time calculating IHT exit charges on distributions from both trusts but this was not a requirement of the question.

Question 6

This question, which concerned IHT liability on death and needed to be approached chronologically, was answered well with 90% of the candidates achieving 50% or more of the marks available and a handful scored 100% of the available marks.

Most candidates correctly identified the combined transferrable nil-rate band from both pre-deceased spouses but some lost marks by using the unused *numerical* value instead of a *percentage* value. Marks were also lost through incorrect allocation of the annual exemptions between the February 2010 PET and the September 2010 CLT whilst the taper relief due on the additional tax on the CLT was either calculated at the wrong rate or missed entirely. With no nil-rate band remaining and a tax-free legacy of £286,000 out of a net estate of £617,750, the reduced rate of 36% for the death estate calculation should have been obvious (even with a grossed up legacy) but this, together with the calculation of the quick succession relief following James' death, is where the lower scoring candidates lost the most amount of marks. Marks were still awarded for summarising the distribution of the estate, even if the numbers were wrong but valuable marks were lost for failing to identify the persons liable for and the due date for payment of the tax.

Advanced Corporation Tax

General Comments

Overall this paper was generally well answered and the highest scoring candidates applied their knowledge to the scenarios. Weaker candidates wasted time writing out copious amounts of irrelevant information. That time would have been better spent consulting the legislation when they found gaps in their knowledge. Candidates also need to read the requirements carefully and take note of all the information provided.

Question 1

This question focused on loan relationships. Those who performed poorly failed to recognise this and failed to consult the legislation that should have been available.

Very few candidates recognised that a loan relationship would be considered a connected party loan relationship where the creditor was indirectly related through a series of loan relationships. Also, many candidates discussed specific or general bad debt provisions without realising that the unpaid invoice would be brought into account as a loan relationship.

Question 2

This question considered chargeable gains relating to a take-over. The majority of candidates scored well on this question showing an understanding of the Substantial Shareholdings Exemption, the share-for-share rules and in most cases the principles arising from *Marren v Ingles*.

Very few candidates realised that a discussion on value shifting would be appropriate as well as a discussion on depreciatory transactions. A large number of candidates erroneously believed a degrouping charge had arisen; those who did failed to spot that the asset remained in the capital gains group as it was the seller, not the purchaser, who had left the group. Many candidates did not realise that one capital gains part disposal calculation would be performed for the sale of the shares, and instead treated each part of the consideration as a separate disposal. Some candidates failed to note that, due to the level of taxable profits arising purely due to the capital gain, the company would be paying tax in quarterly instalments.

Question 3

The question tested withholding tax but a number of candidates failed to realise this. They therefore used a 'scatter-gun' approach, detailing any international tax areas they thought might be relevant.

Only a small number of candidates seemed aware that under the OECD model treaty, there is no withholding tax on dividends and that the withholding tax on interest is at a rate of 10%.

A number of candidates misunderstood the difference between a withholding tax on dividends or interest and an underlying tax rate for a subsidiary and some thought that royalties were taxed under the loan relationship rules.

Only a few candidates recognised that there was an increased risk of a transfer pricing enquiry due to the lower tax rate in the subsidiary's country of residence.

Question 4

This question required a set of tax computations to be drawn up for a group of companies with some group relief and consortium relief elements. Overall candidates did well. Most prepared adequate computations for both the trading company and the property investment company, disallowing appropriate items, etc.

Some candidates did not read the question carefully and thus wasted time calculating the tax payable by each company, which was not required.

Many candidates did not restrict the losses surrenderable by Circle Ltd for the non-trading loan relationship deficit brought forward. Some candidates failed to identify that one of the companies was a consortium company and so could only surrender a portion of its losses.

Question 5

This was a question about the DOTAS legislation and the penalties chargeable for failure to notify chargeability to HMRC.

Candidates who showed knowledge of the legislation and then applied it to the scenario scored well. Unfortunately some candidates wasted time reproducing the DOTAS legislation and listing out hallmarks that were not relevant to the scenario, rather than applying the legislation to the scenario. Other candidates wasted time discussing other legislation, which was not within the scope of this question.

Many candidates assumed that any plan or scheme involving tax avoidance is reportable under DOTAS. While this may frequently be the case, the correct approach is to apply the legislation to the scenario in question by identifying if there is a relevant hallmark.

The second part of the question concerning penalties for failure to notify was generally answered well. A few candidates seemed unaware of the penalty regime that applies when there is a failure to notify. Again some candidates wasted time by providing lots of detail on matters that were not directly relevant to the scenario.

Question 6

This was a question on capital allowances and was generally answered well.

The first part required candidate to consider whether or not certain items of capital expenditure in relation to building works qualified for plant and machinery allowances and if so what kind (main rate or special rate). Unfortunately some candidates wasted time giving introductory information about plant and machinery allowances when the question specifically stated that the client had some knowledge of these allowances already.

The second part required candidates to identify that since the expenditure occurred in the year to 30 September 2015, the client was out of time to make a claim for that year, and explain what steps, if any, the client could take. This section was reasonably well answered and some candidates explained that a claim could be made in subsequent years albeit Annual Investment Allowance would not be available.

The final part of the question required candidates to consider how plant and machinery allowances could be claimed on fixtures following the acquisition of a building. Candidates demonstrated good knowledge of both the fixed value requirement and the pooling requirement. They also showed an awareness of the section 198 CAA 2001 election although could have provided more details on the contents of the election. Many candidates were uncertain as to how plant and machinery allowances would be computed for the moveable plant and seemed unaware of the requirement for a just and reasonable apportionment of the acquisition cost of the building.

Taxation of Major Corporates

General Comments

Overall the paper was adequately answered but at times it appeared that the tax knowledge of candidates was superficial and incomplete. This led to some candidates filling the gap by making irrelevant points, which do not score marks. Candidates need to read the questions and requirements

carefully and spend time fully considering the scenario in order to identify issues that might not be signposted in an obvious way.

Question 1

This was a straightforward question tax computation question, which was generally very well answered.

The first requirement asked candidates to draft a tax computation. The majority of candidates scored well on the capital allowances element although there were some arithmetical errors; some failed to allocate the AIA to the special pool; and some did not note the unallowable suspended ceiling. Most candidates found the pension spreading tricky. With the RDEC, many candidates missed either the allowable external staff (100% not 65%) or the disallowable allocated costs.

The second requirement was about an overseas permanent establishment and most candidates showed basic understanding but missed the application to all branches. Some candidates made irrelevant comments to do with transfer pricing and BEPs.

Question 2

This question required candidates to draft a section of a due diligence report, identifying various CT risks associated with an acquisition, some of which were less obvious than others.

Most candidates identified the most obvious risks but few candidates identified the more subtle risks. For instance, few picked up on the UK tax residency risk, the possible restriction of brought forward losses, and the CFC apportionment point. Most candidates also failed to spot the compliance issues (interest/penalties) for CDE Ltd, perhaps because the question mentioned the subsidiary companies were compliant.

Candidates therefore missed out on a number of available marks although bonus marks were awarded for appropriate discussions on wider transfer pricing issues and WWDC restriction.

Question 3

This question concerned the scope and application of GAAR and could have been better answered. Most candidates mentioned the 'reasonable' test but not always the 'double reasonable' test. Some candidates suggested there was a GAAR clearance rather than transaction specific clearances.

Some candidates did not realise that the advice was for the potential acquirer rather than the target and it was the target who has the potential GAAR issue. This led to inappropriate suggestions/advice. Also few candidates suggested potential due diligence that the potential acquirer could undertake such as indemnities and warranties.

Candidates made irrelevant points about DPT and transfer pricing, which were not within the scope of this question.

Question 4

This was a chargeable gains question that was well answered but the structure of the answer was not always appropriate.

Candidates dealt well with the chose-in-action and the use of capital losses, addressing the issue of pre-entry losses.

Few candidates calculated the gain correctly: errors included SDLT, which is an allowable deduction; the planning consultant (no indexation); and the indexation allowance calculation. Some candidates discussed a gain arising on the sale of the plant and machinery when the question made it clear there is no gain. Candidates generally discussed either rollover relief or holdover relief in relation to the fixed plant and machinery but not both.

Credit was given to candidates who raised the possibility of the Transactions in Land regime being applied to the contingent consideration but no credit was given for discussions around VAT and SDLT because although these issues do arise on the sale of a building, the question specifically asked for 'Corporation Tax' consequences.

Question 5

This question was about a proposed financing transaction but included consideration of the tax status of a LLC, which could have caused some candidates to panic although most of the marks available were for a plain vanilla company/permanent establishment.

Generally, candidates did reasonably well on the share-for-share aspects, the SSE and s135, but sometimes conclusions were lacking.

However, other aspects were not well dealt with. Many candidates discussed no gain no loss intra-group transfers while missing the subtlety of non-UK resident companies. There was too much discussion of CFCs, PEs and general rules for relieving losses, none of which were called for in the question.

Question 6

This question was about the utilisation of losses.

Candidates wasted time with discussions about what constitutes a group and how group relief and losses are relievable generally. Many also sought to compute the group relief/loss relief position of the group. None of this was asked for by the question.

The cross-border element of the question was generally well answered, and was the part of the question where candidates scored most.

Terminal losses and the loss refresher rules were less well understood.

VAT on UK Domestic Transactions, IPT & SDLT

General Comments

This was not a particularly challenging paper, but performance on this paper was extremely disappointing with the most candidates failing. Candidates who failed and those who have not yet sat this paper are strongly advised to watch the webinar produced by the CIOT [<https://www.tax.org.uk/students-and-qualifications/examinations>] which gives a more detailed discussion of the performance on this paper.

Most candidates were ill-prepared to sit this paper with insufficient breadth and depth of knowledge and poor exam technique. Candidates forfeited easy marks by not reading the questions carefully and failed to appreciate that an appropriate number of key points were required to earn the marks allocated to each question. Many answers were too short or superficial. Insufficient thought appeared to have been given to analysing the transactions (namely, who was providing what to whom, and for what consideration). Few candidates drew a diagram as part of their “rough working” or answer and, had they done so, this might have helped their analysis. Examination time was wasted by regurgitating the facts from the question rather than getting straight to the point.

A high number of candidates appeared to focus on one item within the question writing volumes of generic information that was not relevant to the requirement. Many candidates outlined that it was possible for more than one VAT treatment of a supply and requested further information rather than forming a conclusion and providing a narrative as to how and why they had reached that conclusion.

The standard of presentation of many of the answers was lower than previous years and marks were lost by not providing structured answers with headings to guide the reader to the answer.

Question 1

Candidates were required to discuss the scope of the reduced rate relief in respect of Energy Saving Materials and apply it to a scenario. Marks were awarded consistently for clearly outlining the legislation provision and identifying that only some of the proposed supplies would be subject to the reduced rate. Stronger candidates were able to make a clear distinction between the provisions in Group 2 and Group 3 of Schedule 7A, VATA 1994, that the supply of electric storage heaters was not covered by Group 2 but would be eligible under Group 3.

There was little analysis of the requirements regarding grant funding and many candidates stated that a grant freely given would not be treated as consideration, and therefore no VAT needed to be accounted for on the supplies. Only the stronger candidates identified that the grant would be treated as consideration and supporting this with case law.

Regarding the contract with Russet, many candidates failed to realise that installation and supply of materials in the course of construction of a new dwelling would qualify for zero-rating.

Question 2

This question was answered poorly by most candidates as most dismissed the courses and building rental as non-business income. Few candidates raised any degree of discussion or analysis concerning these activities, merely stating the VAT liability, and those that did regurgitated Business Brief 02/05 containing the business tests. Where *Longridge on the Thames* [2016] STC 2362 was referred to, many candidates dismissed the significance of it with reference to the link between a service provided and receipt of a payment.

This resulted in candidates deciding that Gala Conservation carried out entirely non-business activities, or at least that this was less than 95% without any equivocal evidence to support this and therefore the construction of the new building would qualify for zero rating. Candidates therefore did not explore whether or not the building could be treated as a village hall, nor explore the implications of opting to tax. Many incorrectly suggested that parts of the building could be zero-rated.

Question 3

The VAT part of this question was directed at principal/agent issues and the tension between contractual terms and economic reality. It was pleasing to see some candidates referring to cases such as *A1 Lofts*. However, very few went on to apply the principles to the facts, reach a reasoned conclusion and give clear advice to the client on the risks and how the proposed structure could be made effective. Many demonstrated how the VAT threshold would be exceeded without providing (as the question required) an illustration of the liability and accounting effect of the rival VAT analyses. In this question (and in Question 4) candidates showed a good understanding of HMRC's powers to make directions to counter business-splitting. However, this was only of peripheral importance; the most obvious risk being a challenge by HMRC to the contractual structure and direction of supply.

As regards IPT, many candidates identified the issues but most failed to appreciate that Redroof was the insurer (not a re-insurer) providing a block policy; and, more importantly, that Primoglass was offering the extended warranty as a party to the supply of conservatories. Accordingly, this was liable to VAT but not IPT. Some candidates were confused about when the higher rate of IPT was triggered. A more careful reading of the question would have shown that Monty, Primoglass and Redroof were not connected persons.

Question 4

Candidates were required to provide advice to Bill on the implications of forming a new VAT-registered partnership with Andy. Key issues, therefore, were: registration in the name of the partnership; TOGC of Bill's existing business; treatment of capital contributions; partnership shares; and use of partnership assets. Disappointingly, most candidates thought these bona fide proposals were a business-splitting device and, as a result, missed the key points. Nearly all candidates failed to appreciate that, as the new partnership would not incur any VAT when the boat became a partnership asset, the occasional use of it by Andy would fall outside the deemed supply rule. It was pleasing to see some candidates advising (correctly) that this use could restrict VAT deduction on repair costs, and recommending that a market rate should be charged. A few candidates scored a bonus by also spotting that repair costs could be a CGS item.

In relation to Andy and the restaurant business, some candidates either misread the question or, more worryingly, confused an employer/employee relationship with the addition of a new partner to an existing partnership. And some candidates advised that the parties could form a VAT group.

Question 5

All four of the new income streams outlined in the question were made up of more than one component and only the better candidates identified this was a question relating to single and multiple supplies. Disappointingly, discussion of the income streams contained insufficient analysis and minimal reference to case law. The income streams covered mixed supplies which could be apportioned, supplies where a 'carve out' from zero-rate legislation exists, a single supply where a small component is ancillary and a free-standing single supply.

The question requirement was to explain the VAT treatment of the proposed new activities, one of which was the supply of cruises with a barbecue and entertainment. Most candidates focused on the purchase of that business rather than the nature of the supplies it would make. With little information in the question regarding the means of purchase candidates wasted time outlining the difference between a share purchase and an asset purchase via means of a TOGC without even considering the liability of the cruises themselves.

Question 6

Most candidates identified the availability of group relief for SDLT. However, many failed to understand that all the companies could claim relief if, at the effective date of the chargeable transfer, they were controlled directly or *indirectly* by Alde plc. Thus, Colne Ltd and Pant Ltd were in the group, just as Ver Ltd and Pant Ltd were in the group.

As the client's future plans could involve a transfer of the properties outside the group within 3 years, most candidates identified (and warned the client) of the risk of clawback. It was pleasing to see that many candidates included an illustrative computation of the potential SDLT cost. Some candidates discussed stamp duty on share disposals, but this was not required.

VAT on Cross Border Transactions & Customs Duties

General

The overall standard compared well with the past 2 equivalent papers and there appeared to be a greater number of candidates clustering around the median, with fewer exceptionally strong or weak candidates. There was a noticeable contrast between this and the UK VAT paper.

It was good to see more candidates scoring full marks for presentation and higher skills and those who started with a format usually remembered to finish it appropriately.

There was a tendency to recapitulate the question, often over a number of pages without linking this to any new information or an answer; which does not score marks. Many candidates wasted valuable time writing about aspects that were not relevant or clearly excluded by the question requirements.

Question 1

The question was generally well answered with candidates recognising the key points on registration and VAT recovery. Widespread reference to the fact that the Schmelz case gave no registration threshold was more prominent in many answers than the client needed and diverted attention from mark scoring in areas such as whether Tromso should remain UK VAT registered and whether indemnities should be sought. Many candidates failed to recognise that a Norwegian established business would need to use the Non-EU scheme for which different claim periods and submission dates exist compared to the equivalent for EU businesses.

Question 2

This proved a technically challenging question in which those who explored the features which identify to whom supplies are made scored the highest marks. Few candidates clearly answered the client's request whether they should provide HMRC with hotel invoices and a minority suggested the client oppose such a request or offered no advice. All aspects of the question required some technical analysis followed by simple practical advice: most had the former but some lacked the latter in sufficient detail or ways that would be useful to the client.

Question 3

The majority of candidates produced a comprehensive draft to the tax partner on the place of supply and input tax requirements. Some did not recognise the context and wrote lengthy detail on fairly peripheral points regarding the meaning of establishments and lost the opportunity for marks accordingly. The Almond and Hazelnut Ltd aspects scored heavily. On Brazil Ltd, well prepared candidates recognised the place and not the liability of insurance intermediary services being required as well as there being no restriction on input tax recovery. A minority of candidates attempted an unnecessary (and impossible) partial exemption calculation. Few candidates explored the features which would suggest a contractual penalty could be liable to VAT or (reverse charge) and preferred a “no supply answer”. Many candidates were aware of recent changes to use and enjoyment of insurance repair services.

Question 4

This was a challenging question as the findings in the first part required revision dependent on the findings in the “supply and installation” second part. Candidates generally scored well on the distance selling aspects and calculations, although slightly fewer were aware of the potential simplification for supply and install and how that might be dealt with retrospectively. The temporary import register requirement for goods coming to the UK for process was not widely referred to.

Question 5

Generally candidates did not score well.

As was the case in May, candidates appeared to have learnt some of the rules or key phrases but failed to apply them. Many knew that the case of Dohler was relevant to IP. Most who did quote it had failed to spot the key issue that even if the IP returns were submitted late that would not automatically reduce or remove the C18s: most candidates who quoted Dohler said it would. Too many simply said something like, “Dohler confirms that a debt applies in your case”. The letter clearly called for an explanation of why. Many candidates talked about the C18 demands as if they were penalties, even though penalties were excluded from the question. The C18 is a demand for unpaid duty and Import VAT, and penalties would have been issued separately. This confusion meant that they were unable to deal with how to reduce or remove the C18s.

No candidates realised that the business had paid duty twice and could reduce the C18s. Most candidates identified that IP authorisations can be issued retrospectively but far fewer could identify that as it was a renewal the period of backdating allowed meant that, if retrospection was granted, that there would be no break in the period that the business was authorised for. Few talked about the need to demonstrate that the business had kept appropriate records to gain retrospection. A significant portion of candidates did not know the deadlines and many were confused over when a Right To Be Heard letter is issued and that that is issued before the appealable decision. Very few seemed to know that an out of time request for a review could be submitted.

Question 6

Candidates tended to score well on this question, in part because around half the marks were available for the calculations and presentation. That said, a surprising number of candidates could not calculate the Customs Duty, ADD, CVD and Import VAT correctly. Some believed that only the highest of the three duties was payable; others that the ADD percentage was applied to the Customs Duty not the Customs Value; some that where there was ADD and CVD no Customs Duty would be payable, and others that the Import VAT was not calculated on the ADD or CVD. Although calculation marks tend to be awarded for the answer, rather than how the working is set out, it is impossible to

award “follow through” marks where the first part of a calculation is wrong but the later part is right in principle if only answers are shown. Most candidates could describe ADD reasonably well but none gave a good explanation of why CVD is levied – to counter subsidies in the country of export or manufacture.

The CAP calculation tended to be answered well, except for a few candidates who forgot to convert the Euro amount into sterling. Few candidates could answer the export licence part of the question well, most saying that the country of import must have imposed this.

APPLICATION & INTERACTION

Question 1 – Taxation of Individuals, Trusts & Estates

This question required candidates to produce a report to the trustees of four settlements created by the same individual relating to the transfer of capital and income to beneficiaries, the payment of fees by a beneficiary on behalf of the trust and the planning opportunities available to reduce the upcoming principal charges for the trusts.

Most candidates produced an answer in the appropriate report format and most were able to explain that the 2001 Trust was a pre-2006 interest in possession trust and that the Briar Trust was a discretionary settlement together with the basic inheritance tax (IHT) and capital gains tax (CGT) implications of a transfer of unquoted shares from each of these trusts.

However, nearly all candidates were confused by the fact that the deed for the 2001 Trust did not contain a power of advancement or power to vary the terms of the trust and most were completely unaware of the statutory advancement provisions of the Trustee Act 1925 allowing up to half of the assets to be advanced. Even fewer were aware that the 2001 Trust could be wound up by the joint agreement of the beneficiaries of the trust so unfortunately, this meant that a lot of candidates either chose to ignore the issue completely or even worse, incorrectly assumed that a transfer from the 2001 Trust was not possible and did not consider this any further, missing out on most of the available marks for the question.

A passable understanding of the availability of Entrepreneurs' Relief and holdover relief was shown by those who went on to explain the CGT reliefs available to the trustees and some were aware that holdover relief could not be claimed in relation to a transfer to Evie, as she was non-resident. Some of these candidates made the appropriate suggestion delaying in the transfer to Evie until she became UK resident, but it was very disappointing to see many stating this would be on 10 March 2019 when she arrived back in the UK, with no consideration being given to the statutory residence test under which Evie would only regain UK residence again on 6 April 2019.

The payment of the Briar Trust legal fees was another area of candidate confusion with many only discussing the availability of income tax or CGT relief for the expenditure rather than addressing the key fact that a beneficiary settling the trustees' liability would make the trust settlor-interested and failing to explain the related tax implications.

In comparison, the income distribution to Ellie was well dealt with and many candidates were able to explain the concept of the tax pool, the requirement for R185's and the basis for Ellie's tax repayment claim. Only a few candidates calculated the tax pool deficit that would be created in the No.1 trust, even though the brought forward figures were provided in the question, but most were able to conclude that the Briar Trust was the best option for an income distribution in the current tax year.

The most able candidates were aware that undistributed income from the prior five years is included as capital for the purposes of calculating the principal charge which is pleasing to see and most of these correctly suggested distributing this income as a way of reducing the IHT charge. However, very few candidates noticed that the No.1 and No.2 Trusts had additions made to them on the same day or were able to explain the impact of this on the principal charge. Even more disappointingly, virtually no candidates were aware that the higher rates of Stamp Duty Land Tax (SDLT) are payable on the purchase of residential property by trustees, so most failed to correctly calculate the SDLT payable by the No.2 Trust on the house in Westville.

Part 2 asked for notes to be prepared for a meeting to explain procedures for the appointment of a new trustee, such as a review of the powers of appointment included in the deeds of each trust, transfer of legal ownership of shares and property and the requirement for a deed of appointment. However, most candidates did not concentrate on anything more than the issue of new engagement letters and checking client ID and many chose to explain client due diligence procedures or trustee duties instead of answering the question requirement.

Question 2 - Taxation of Larger Companies and Groups

This question was about a group rationalisation, including the impact of a company migrating, the structuring of a disposal, by way of shares or assets, and issues relating to employment taxes and share schemes.

Almost all candidates adopted a suitable report structure (i.e. properly headed, including an introduction and appropriate executive summary, clear sections with headings and appendices) with a logical flow and scored good presentation and higher skills marks. In addition most focused on relevant issues although on occasion, certain irrelevant points were made.

Requirement 1 required candidates to explain the rules for tax residency and the impact of migration. Most candidates showed a reasonable understanding of the factors determining residency and identified that an exit charge would arise on migration. Many candidates failed to apply the rule that indexation cannot result in a loss but otherwise the calculations were generally of a good standard. In addition, most candidates identified the opportunity to defer the payment of the tax on migration and explained the impact of a future sale on this deferral.

Requirement 2 considered the differences between a share sale and an asset sale of a UK property business. Whilst most identified that the Substantial Shareholdings Exemption would not apply, many spent significant time on unnecessary detailed discussions of the rules, which was a waste of time. Whilst most candidates identified the potential degrouping charge on the assets that had been transferred from group companies and calculated this for one of the transfers, very few candidates appreciated the impact of properties having been constructed by a group company and then transferred intra-group. This impacted both the calculation of the degrouping charge and the gain on a direct disposal of the assets. No candidates discussed the capital allowances position on the disposal of investment properties. After doing the calculations, few candidates followed through to consider the extraction of the profits and the net proceeds thus available to the group for the alternative disposal scenarios.

The final requirement was for candidates to explain the distinction between employed and self-employed individuals in the context of the treatment of current staff members. Whilst the discussions were of a reasonable quality, very few identified that significant changes in working arrangements would be necessary for current employees to be treated as self-employed in the future.

There was good discussion of the various share options schemes available, but a number of candidates produced a large amount of detail on share schemes that were unlikely to be relevant given the stated desire to motivate key employees. The best candidates focused discussion on CSOP and EMI but noted the other possibilities available and that details could be provided if required.

Question 3 – Taxation of Owner Managed Businesses

The question dealt with the first steps towards the retirement of the founder shareholders and the passing down of their two businesses to the next generation, their two adult children Nicola and

Robert. The two distinct businesses were a partnership in which their daughter was employed and a company in which their son was employed.

There were three separate but related parts to the question dealing with the gifting of an interest in each business, the daughters plans for expansion and if now was the right time to merge the two businesses into one company.

As is common in this type of practical scenario the issues do to some extent interrelate regarding structures and timing which could potentially lead to confusion by candidates. What was good to see however was that a majority of candidates did show good exam technique in the format of their answers and dealt with each of the three aspects in a structured manner. This enabled them to at least show their understanding and knowledge on the three individual aspects. Those who did so generally passed the paper reasonably well

Part 1 - Gifting of interest in businesses

The majority of the candidates showed a good understanding of the basic rules dealing with Capital Gains Tax issues and hold-over (gift) relief and Entrepreneurs reliefs. Similarly a good understanding of Business Property Relief was shown and Potentially Exempt Transfer rules for Inheritance Tax. Whilst only at the awareness level for this paper, few recognised the different IHT rules on a transfer to a trust nor in fact the basic Income Tax rules for trusts.

Despite being told otherwise many candidates wasted time giving income tax implications for Nicola Whilst most mentioned having a partnership agreement few thought about having a shareholders agreement

Many candidates inappropriately used statutory tax references in their answers

A large number of candidates failed to deal with partnership CGT using terms of reference from SP D12

Few mentioned associated disposals

Part 2 – Potential purchase of property

The majority of candidates recognised that the best option was simply to purchase the property and not the company but a large number still referred to buying shares as being the 'cheaper' option without looking at the various implications of double tax on the property etc and liabilities. They were however well versed in the warranty and indemnity SPA issues. It was good to see also that many referred to property purchase capital allowance elections etc. The various methods of purchase and financing were reasonable well covered as well.

The point regarding expansion and exceeding the VAT threshold with additional cost for customers was only commented on by the minority of candidates.

Many candidates dealt with Directors Loan release as if it was an overdrawn loan account and not the release of a credit balance. Only a couple of candidates recognised the corporation tax implications suggesting few understood the point.

Part 3 - Merger of Businesses

Again a good knowledge of incorporation relief and hold-over relief, as above, was shown and conditions relating to each. Unfortunately a minority referred to disincorporation of the company which was specifically not required. A large number failed to mention SDLT on a possible property transfer although it was good to see that at least a minority of candidates understood the partnership rules.

Few mentioned was the implications of having the two businesses of different values in one entity and the fact that the daughter had nothing to do with the restaurant/bakery and son had nothing to do with gift shop. This was a key non tax issue that would need to be addressed.

The issue of the property and 50% BPR was mentioned by too few candidates.

Question 4 - Human Capital Taxes

Requirement 1 was for candidates to draft a report covering the income tax and NIC issues surrounding a director spending significant amounts of time in France and a large scale event involving the provision of entertaining to both UK and overseas staff in a newly formed corporate group.

Almost all candidates presented their answers in the correct formats with clear headings, introductions and summaries of the key points and advice.

The majority of candidates identified that there had been a PAYE failure in respect of the round sum allowances paid to date. However, many candidates failed to distinguish clearly between the employer withholding obligations and the final tax position after any relevant claims had been made on the individuals' self-assessment tax return. A number of candidates also failed to give clear guidance to their client on what actions they need to take and how much they should expect it to cost them to resolve the issue including potential penalties.

All candidates correctly assessed the residence status of the individual travelling. The best answers dealt with this swiftly, keeping focussed on the salient points relevant to the individual under discussion. A number of candidates spent multiple pages describing the statutory residence tests and in some cases rules for domicile and the taxation of non UK domiciled individuals. While in most cases the points were technically accurate they did not score any additional marks as they were not relevant to the case in point.

Points on the application of the Double Taxation Agreement were generally well handled and the majority of candidates scored full marks on the section on social security.

Candidates were generally able to identify the taxable items present in the package being proposed for the future travel of the relevant individual. However, a number lost marks for a lack of clarity in their explanation of the treatment of an item. For example the explanation of the beneficial loan benefit was often poor. Many answers indicated that the whole amount loaned would be the benefit rather than the deemed interest.

In a similar manner, when discussing the options for the provision of the accommodation in France, candidates who built up their answers covering all the simpler points (such as stating that it would be taxable) as well as advising on which would be the recommended option scored higher than those that leaped straight to making a recommendation without fully backing it up.

The majority of candidates dealt well with the tax implications of the French staff visiting the UK. Credit was given for a discussion of whether time spent the event would qualify as incidental whether or not the candidate reached the same conclusion as the model answer. Candidates should remember when they are addressing the employer in their answer that in addition to highlighting whether something is taxable or not, they should go on to explain whether or not their client, the employer, has a reporting obligation. This step was missed by a number of candidates.

Most candidates mentioned that it might be desirable to enter into an Appendix 4 Short Term Business Visitor's agreement. Some candidates took this as an opportunity to demonstrate everything they knew about these agreements. As with residency above, while in most cases the points were technically accurate they did not score any additional marks as they were not relevant to the situation.

A number of candidates struggled with identifying the correct exemption for the sandwiches being provided at the event. However, almost all identified that the party would be taxable and suggested a PAYE Settlement Agreement would be a sensible solution. The amount of marks gained by candidates for this section varied widely depending on the clarity of their explanation of what the default position would be, what a PSA was and how it would operate in this scenario.

Requirement 2 required candidates to draft an e-mail to their manager highlighting any other relevant tax or ethical matters. Overall this was less well answered than requirement 1. Many candidates identified some or all of the corporate tax issues in point in this case. However very few commented at all on the relevant VAT matters.

Question 5 - VAT and Other Indirect Taxes

This question tested the tax consequences of the importation of goods and services into the UK by an overseas entity in a UK construction group of companies. Most candidates produced a creditable answer, with some very good scripts.

Most candidates recognised the important elements of importation, EORI, deferment etc. Some candidates spent a good deal of time detailing the various valuation methods including those which clearly could not apply in these circumstances. Candidates should bear in mind that the paper deals with application and candidates should tailor their advice to the particular circumstances of the question.

Many candidates produced a good analysis of the group registration position, properly applying recent case law developments. Some candidates recommended single registrations. Where this conclusion was supported by a reasoned argument, credit marks were awarded.

The issue around the development undertaken by C&K Commercial Ltd was the decision whether to opt to tax to recover costs in an area likely to be occupied by exempt tenants. Most candidates recommended that an option be made over the Office Park but not the Financial District. Some candidates scored poorly because they simply listed (in some detail) the advantages and disadvantages of the option to tax without providing any advice and considering the commercial aspects.

Disappointingly, few candidates set out the correct treatment of the section 106 agreement; that is no supply of goods or services to the local authority but recovery of costs as a business overhead. A number considered that supplies were being made to the Council when this was not the case. Some very basic mistakes were made such:

- as giving the supplier of the building materials a certificate to zero rate the supply of materials;
- suggesting that the Office Park is opted to tax and let to a connected company which lets it to the tenants on an exempt basis (even though there is specific legislation to prevent this); and
- seeking to include an unconnected company in a VAT group

A number of candidates wasted time by re-writing great chunks of the question (3 or 4 pages) as “background information” to the letter. A simple reference to the material relied upon would have been sufficient.

A couple of candidates made comments such as “it is important that you comply with the terms of the Development Agreement in order to avoid falling foul of the penalty clauses within it”. Such truisms will not be regarded as commercial advice.

C&K Residential Ltd required an analysis of the possible structures on relation to a joint venture developing houses for sale. The model answer suggested separate entities trading with each other. Many candidates recommended a limited company of partnership/LLP which was another option but few candidates addressed the potential capital gains and SDLT implications of the transfer of the land held in the third party company, AB Land Holdings Ltd.

Similarly few candidates addressed the commercial ownership aspects of the new entity.