

MAY 2017 EXAMINERS' REPORTS

Chief Examiner's Comments

Human Capital Paper

In contrast to past launches of new papers where the first session has comprised a small number of individuals who were very well prepared, the results for both the Human Capital Advisory and Application & Interaction papers were very disappointing, particularly as the papers were not unduly challenging. There was a lack of technical knowledge, a failure to provide advice and an inability to write a relevant and appropriate answer. In short, candidates were insufficiently prepared in every respect and this was sadly reflected in the low pass rates on these papers. Of those that did pass, none achieved a strong pass.

Indirect Tax

In respect of both the May and November 2016 examinations, I commented on the significantly weaker performance of candidates on the indirect tax papers as compared to the direct tax papers. Sadly this has continued to be a significant problem with far too many indirect tax candidates simply not sufficiently prepared to be sitting these papers. The advisory skills which should be gained in the workplace and which are vital to a CTA, were not demonstrated. This suggests that some candidates are sitting the exams too early in their careers and/or not being exposed to a sufficiently wide range of types of clients for which they must provide written advice. It was also noticeable that indirect tax candidates performed poorly on the Environmental Taxes, Excise Duties and Stamp Duties awareness module.

Other Papers

Whilst the above papers were worthy of individual comment, a recurring theme in the examiners' comments was that candidates need to focus on providing advice to their clients rather than presenting them with a series of facts, which whilst technically correct, do not constitute advice. Too many candidates appeared to have learnt rules without really understanding them and as a result struggled to apply them.

If all that a tax adviser does is to provide his client with factual information that the client could find in a book, what value is being added as far as the client is concerned? He wants the facts to be applied to his specific circumstances, to have risks identified and where appropriate quantified and he wants some sort of recommendation as to what to do. Part of the process of providing advice is also to consider whether material is relevant to the client. An interesting tax fact which has no bearing on the client's position is of no value to the client.

Both for the purposes of these exams and their future careers it is vital that candidates work on the skill of providing advice. Ideally this should come from practical guided experience in the workplace. However, candidates can also work on this for themselves when they are doing practice questions. After writing their answer, they should step back and put themselves in the position of the client and ask themselves:

- 1) Would I know what I should do if I received this letter/email/report?
- 2) Where there are alternative courses of action, can I understand the risks and potential costs of each of them?
- 3) Can I understand any explanations?
- 4) Would I pay for what I have received?

AWARENESS

Module A (VAT including Stamp Taxes)

General comments

This module takes many candidates out of their comfort zone, however many made a good attempt. At times the language used in candidates' answers was not sufficiently precise, resulting in lost marks. Of those performing less well many scored very few marks on Stamp Taxes. This is an area of the syllabus that should not be ignored. It will always feature.

Question 1

This question was not particularly well answered. Many candidates failed to pick up simple marks for bad debt relief conditions due to lack of precision. For example many stated that the bad debt relief could be claimed after six months, but did not state the start point of the six month period or used an incorrect start date such as invoice date.

Question 2

Candidates performed reasonably well on this question. Common errors included stating that a company must be 'UK resident' in order to be in the group and that inter group transfers are 'exempt'.

Question 3

There were mixed responses to this question. Common errors included, recovering the staff element of VAT for the meal with the potential client, and recovering all input tax in relation to the annual dinner.

Question 6

Candidates were generally unable to give a good answer to this question. Many answers were based on a recovery of input tax each year (ie £8,000 having been recovered each year.) Very few made reference to two types of adjustment in the year of sale. Of those who did correctly adjust for the 95% use in the final year, many then incorrectly amended the sale adjustment (ie the £32,000) for 95% use.

Question 8

This question was poorly answered by most candidates. Many failed to make reference to the reverse charge. Of those who did a significant proportion did not explain how a reverse charge works. Very few identified the US as the place in which the second service took place. Of those who did, many then stated that the supply was zero rated.

Question 10

Most candidates were unsure how to apply the second hand goods scheme to the numbers in the question. However a significant number of candidates did know at least one difference between the second hand goods scheme and global accounting.

Question 11

Many candidates did not know the correct definition of a group for Stamp Duty purposes, with many stating 50%. For part two the answers were either very good (scoring full marks) or very poor (scoring 0 or 1 mark).

Question 12

Many candidates incorrectly calculated a liability in relation to the lease back element of the transaction in part one. The vast majority of candidates scored at least 2 marks on part two with many scoring 4 marks.

Module B (IHT, Trusts and Estates)

General Comments

Most candidates performed well on this module. Those who did not tended to omit the trust questions.

Question 1

Candidates gave answers which were generally good, but it was surprising that performance was not better. They were required to calculate the death tax on a lifetime gift – a basic task. The question stated the lifetime tax that had been paid, which should have enabled a swift calculation of the gross chargeable transfer and, from there, the inheritance tax due. However, many candidates revealed that they did not really understand the various stages of the calculation, and had to start from scratch (usually making errors) to calculate the lifetime tax themselves before continuing.

Question 2

Many candidates did understand that the marriage of the couple would affect both transfers between them, and the value of their (related) property, although some struggled with the related property calculation perhaps because this did not involve shares. A number of candidates did not address the command word of the requirement which was to 'calculate' and instead wrote at length on planning ideas or gave long-winded, imprecise explanations, and so did not score well.

Question 3

Most candidates performed well on this question concerning trusts and income tax, with many perfect answers for the balance on the tax pool.

Question 4

Many candidates gave decent answers concerning the information needed to determine the availability and amount of agricultural property relief, although a small number failed to give reasons, as the requirement demanded.

Question 5

Well-prepared candidates scored well with a mark most often lost for not grossing up correctly. In addition, some candidates worked through earlier calculations such as the principal charge, when not required, before they could tackle the specific object of the question.

Question 8

This question on the IHT treatment of specific trusts such as those for bereaved minors, was the most frequently omitted question. Those who attempted the question usually achieved a few marks but there were few very good answers.

Question 9

Many candidates had a good understanding of the gift with reservation of benefit rules. They frequently dropped a couple of marks for either not answering both elements of the question (explaining the tax implications) or for merely repeating parts of the question in terms of the frequency of use of an asset, without specific analysis eg that babysitting/visits for domestic reasons which should not affect the validity of a gift.

Question 10

This question on post-mortem relief was omitted by a small number of candidates. Otherwise candidates achieved decent marks but rarely provided perfect answers. They usually either included one or two incorrect transactions, or could not correctly adjust for further purchases of land. Some did very well but then did not actually answer the question, merely stating a loss rather than the value of land in the death estate as requested. Some candidates increased the value of the death estate by applying their relief, which should have caused them to question their answer.

Question 11

Many candidates achieved decent marks as they were able to explain the conditions for entrepreneurs' relief for an individual but without always understanding why/how these apply to a trust's holding when met by the life tenant.

Question 12

This question also involved capital gains for trusts, but the calculations were simple, and candidates often achieved four marks. The mark lost was usually for failing to spot the potential for gift relief.

Module C (Corporation Tax)

General comments

Most candidates displayed a good knowledge of the areas tested in this paper. However, some candidates struggled with key concepts, for example, identifying a group for the purposes of group relief.

Question 1

A few candidates failed to apply the 4-month rule. Also, the 'trade-in' aspect of the question caused problems with some candidates failing to deduct the proceeds from the pool.

Question 2

A number of candidates incorrectly concluded that Jesmond Ltd could surrender its losses to Heaton Ltd. Where group relief was claimed from Gosforth Ltd, a common error was to fail to restrict the claim by reference to the common period.

Question 3

Most candidates showed a good understanding of the rules in this area, correctly identifying the group and making use of the available reliefs. A common error was to fail to restrict rollover relief by reference to the proceeds reinvested.

Question 4

Most candidates scored well in this question. A small number struggled to recall the correct percentage for the enhanced deduction and/or the rate of the payable credit.

Question 5

Many candidates chose not to add back the pension accrual on the mistaken basis that the contributions were paid within 9 months of the year-end. Most candidates dealt well with the DTR and CFC aspects of the question; a common error was to bring in all of the CFC's profits rather than 90%.

Question 6

A small number of candidates failed to split the long period of account into two accounting periods.

Question 7

Overall, candidates performed well in the question although some missed out on marks by failing to fully explain their answer.

Question 8

A significant number of candidates failed to correctly calculate the terminal loss. Only a small number of candidates were able to fully explain how relief would be given.

Question 9

The gain on the intangible fixed asset caused most problems in this question with only a small number calculating the correct figure. Many candidates treated the gain as a capital gain.

Question 10

Almost all candidates were able to correctly calculate the gross deemed payment. However, only a few scored full marks by then deducting this from the accounting profit to arrive at the trading profit.

Question 11

Most candidates recognised that a tax advantage arose and explained how this advantage would be counteracted. However, only a small number of candidates explained why the relationship between the companies brought the transaction within the transfer pricing rules. A common misconception was that the rules automatically applied because the companies were large.

Question 12

Most candidates performed well in the question, showing a very good understanding of the rules in this area.

Module D (Taxation of Individuals)

General Comments

Overall, a satisfactory performance with a few candidates performing particularly well. The areas that the weaker candidates tended to struggle with were EIS relief and CGT takeovers.

Question 1

Most candidates performed well on this question, however common errors included savings income being grossed up, the personal savings allowance being deducted in arriving at taxable income and the savings nil rate band being omitted.

Question 2

The most common error in the first part of the question was the repetition of the information given in the question with regard to the 210/105 day requirement which of course obtained no marks. In the second part, the annual exemption was often deducted despite it not being available.

Question 3

Answers to the first part were often too vague. Many went straight for the additional rules for directors and omitted the basic rule of earlier of date paid/date of entitlement.

Question 4

This was generally well done, although a surprising number of candidates failed to calculate the car/fuel percentage correctly. As for the contributions made by Matilda, there was often confusion as to if and where they were deductible. Several candidates forgot to time apportion the benefits.

Question 5

Most candidates seemed to struggle with this question, especially with the accommodation benefit. Several candidates added together the cash remuneration and the benefit in order to calculate the NIC and some failed to recognise that the individual was aged under 21 and therefore no Class 1 Secondary NIC was due.

Question 6

Not many candidates scored full marks on this question. In many cases there was too much explanation and not enough calculation. Most remembered the £30,000 exemption, but there was confusion as to where to deduct it. The foreign service exemption was generally badly done.

Question 7

This was the most omitted question on the paper. Part (a) was generally done well, although some candidates stated that the gain was not eligible for deferral as it did not arise on the disposal of a qualifying asset. The withdrawal of income tax relief was not tackled well, with many candidates ignoring it altogether and some stating that the relief was £45,000, despite the figure of £36,000 being given in the question.

Question 8

The majority of candidates did not mention tax relief at source, but just went straight for the extension of the tax bands. Several discussed the tapering of the annual allowance and even the lifetime allowance, which were clearly not relevant in the scenario (and therefore earned no marks).

Question 9

Most candidates managed to score well on this question. Many candidates discussed 'domicile of birth' rather than domicile of origin and of those who discussed domicile of dependency, many thought that it applied to Ameer while in the UK as he was dependent on his aunt.

Question 10

After question 7, this was the most omitted question on the paper, and of those candidates who attempted it, it was done either really well or really badly. Of those who performed badly, most calculated the gain on takeover as £45,000, some stated that QCBs were exempt and then used £25,000 as proceeds while others had no idea what to do and just played around with the figures.

Question 11

Some candidates stated that the gain on the sculpture was exempt as covered by the chattels exemption/wasting chattel, despite the figure for 'chargeable gain' being given. The annual exemption was frequently omitted and when calculating the CGT on the apartment, many calculated the tax at 20%. The double tax relief was often omitted, with many candidates stating that no relief was available as there was no double taxation treaty in place.

Question 12

The majority of candidates did not know the date by which notification of a new source of taxable income must be made, with the most popular choice being within 3 months of the source arising. Most candidates also did full 'before and after' income tax computations to arrive at the amount of additional tax due rather than working at the margin, and some simply calculated the total income tax liability for the year. As for the due date for payment, rather than being specific to the question and simply stating a due date, several candidates discussed the rules with regard to payments on account and balancing payments which did not earn any marks.

Module E (Taxation of Unincorporated Businesses)

General Comments

Generally the module was well attempted by most candidates. There was no evidence of any major difficulties with time being available to attempt the whole module, although the final two questions on the module were possibly the most challenging and so a number of candidates did not attempt these.

Question 3

Whilst the majority of candidates were able to identify the option to take the losses back three years, there were a reasonable number who thought this meant the earliest year to consider was 2014/15 rather than 2013/14. Candidates need to take more care. Often, having identified this option, the normal choice of current and carry back claims were ignored.

Question 8

This should have been a simple question well in the reach of most candidates. Any loss of marks was generally where the answer simply stated "allowable" or "disallowable" even though the question asked for brief explanations. The other area of confusion was the treatment of the replacement ovens - a reasonable number of candidates (incorrectly) thought this would be allowable as replacement property, confusing the trading position with the treatment for furnishing a let property.

Question 11

This question was either answered very well, scoring full marks, or very badly. There were a number of answers referencing active partners and seeming to conclude that Caroline was not "active" as she did not work full time.

Question 12

Again this question was either answered very well or very badly. A reasonable number of candidates referred to the inheritance tax payment by instalments rules in error.

Module F (Environmental Taxes, Excise Duties and Stamp Duties)

General Comments

Some candidates scored very well, but a few performed very poorly in part because they didn't attempt a number of questions. The questions omitted were spread across the paper indicating poor preparation rather than time pressure. One common theme in the calculation questions was that candidates ignored the instruction to "briefly explain", or "provide brief reasoning" for their calculations which limited the marks available.

Question 2

Most candidates understood the basic rules relating to weighbridges though a number struggled with the second part in relation to water content discounts.

Question 4

A number of candidates failed to provide brief reasoning for their calculations and many were unable to calculate decimal points correctly.

Question 6

Those candidates that found the correct Schedule in the legislation found this an easy question. Others guessed at the answer and a couple set out examples from the wrong part of the Schedule.

Question 7

The results on this question were quite mixed, which is worrying given that it was a basic question on taxpoints. Again, some candidates simply gave a date, which appeared to be little more than guessing. No credit was given in such cases.

Question 8

This again was an easy question on record keeping and candidates generally performed well on it. There were a number of candidates that struggled with Part 2 in relation to penalties, and merely set out the VAT position.

Question 9

Again many candidates failed to use their calculator properly and there were some strange calculations provided.

Question 11

Again many candidates ignored the brief explanations point which was required even where there was a liability (eg explain that it exceeded de minimis limits). Few candidates set out the rounding of the liability to the nearest £5, and a generous approach was taken when marking this.

Question 12

This was the worst answered question on the paper; and whilst it was one of the more difficult questions, many candidates demonstrated a worrying ignorance of excise procedures.

Module G (Accounting)

General Comments

As usual with this module, there were some good scripts but also evidence that some candidates had not grasped the concepts of bookkeeping and accounting.

Question 1

Most candidates were able to use the accounting equation to calculate profit using the numbers given, but then revealed their lack of understanding when considering specific transactions. For example, many failed to realise that the action of a customer settling an outstanding balance does not affect net assets/profits, merely cash/bank increases and debtors decrease. Candidates who appeared to work this through without panicking gave concise, clear answers.

Question 3

Most candidates understood how to treat a discount given. However, a small number struggled to determine margins, particular the mark up.

Question 5

This question divided candidates. There were some good answers but some candidates failed to understand how to calculate the profit and loss charge, and even how to address the payments made. This was a fairly basic accruals/prepayments question which should have been familiar to candidates who had studied, and understood the concepts involved.

Question 6

As with question 5, there were some good answers but some candidates struggled with the idea of a part exchange.

Question 7

There were many perfect answers to this question on stock valuation. The main errors involved mis-reading the question (or misunderstanding the weighted average cost method) and instead performing an average cost calculation.

Question 9

This was a question on government grants which required specific knowledge of FRS 102. It was therefore pleasing that many candidates knew how to apply the performance model (part 2 of the question). The double entries for the accrual model caused more problems for some candidates. Without having studied this, it would be difficult to guess a sensible answer.

Question 10

Candidates could either handle this question on bad debt expenses and provisions, with the odd error, or struggled to score any marks. Those who were not well-prepared often showed too many T accounts, with unintelligible titles, and entries which were not labelled. Candidates who show numbers in a T account without labels and hope the examiner assumes they know what the entries mean, are likely to score very few marks.

Question 11

Many candidates could correctly apportion profit between the partners. Many of these then also understood the double entries, although this was often an area of errors. A few candidates did not even attempt the question.

Question 12

Many candidates understood how to account for VAT with and without the flat rate scheme, with some errors in the trickier elements, although again some candidates omitted the question entirely.

ADVISORY PAPERS

Taxation of Owner-Managed Businesses

General comments

Whilst there were some challenges in this paper, candidates should have been comfortable with some of the basic elements such as adjustment to profit and terminal loss relief. Candidates should bear in mind that at this level, we are looking for 'directed advice' rather than for candidates to just write what they know about a subject. The needs and questions of the client are paramount and candidates should not be afraid to limit their answers to the points in hand where additional material would not be relevant or appropriate. No marks are available for such material, which may confuse the potential client.

Question 1

The general quality of answers to this question was reasonable. Most candidates had a good understanding of the qualifying criteria for R&D relief.

The questions stated that the expenditure had already been claimed and hence only the adjustment for the R&D enhancement would be required. Many candidates failed to note this and claimed the full expense and enhancement and hence generated an incorrect loss, resulting in wasted time outlining R&D tax repayment claims. Most candidates only stated the claim deadline for the principal R&D relief despite the fact that this part of the question carried 3 marks.

Question 2

Most candidate had a reasonable understanding of the basic employment/self-employment tests but a number simply listed a series of word such as "mutuality of obligation" and "control" without any explanation.

The answers indicate a substantial deference to HMRC powers in determining employment status without acknowledging that this is dependent on legislation, case law and precedent; it is not on the determination of HMRC or on-line check lists.

A significant number of candidates wasted time outlining the provisions of IR35 which was only incidentally relevant in the context of establishing the status of the individual contractors who were all stated to be individuals.

Question 3

The responses to this question were disappointing. Few candidates managed to calculate even the gain on disposal of the hotel business correctly not realising that fixtures are legally part of the building and therefore the cost/proceeds should have been included in calculating the gain irrespective of the capital allowances position. Many candidates also included furniture and equipment in the calculation of the gain.

Only a minority of candidates took account of the effect of non-trade use of the property on the availability of rollover relief and more worryingly, only a few candidates correctly

distinguished between a 'material disposal' and an 'associated disposal' for the purposes of entrepreneurs' relief. These are of course fundamental issues.

Question 4

Candidates generally did well in this question, but in some cases marks were lost because the candidate started out with a gross salary of £40k which therefore did not answer the question which required net income of £40k.

Most candidates correctly calculated the tax/NIC on the sole trader model and most recommended the company route and taking a small salary and topping up with dividends. There were no marks to award for the various suggestions of other benefits which might be provided by the company as the question specifically stated that benefits in kind were not to be considered.

Obviously there are many distinctions which could be made between operating as a company or as sole trader including commercial issues such as limited liability. Many candidates engaged in detailed descriptions of these issues and should be aware that credit will only be given if comments assist in answering the question.

Question 5

This was a very poorly answered question. Although most candidates identified that a terminal loss relief claim was appropriate very few came close to calculating and demonstrating the use of these losses correctly, particularly that the elements of the loss arising in the final 12 months would be dealt with separately.

Many candidates correctly identified the "disincorporation relief" would not be appropriate but a significant proportion spent valuable time explaining the provisions in detail for which there were no marks available.

Only a few candidates made even a passing reference to the TAAR aimed at "phoenixing" arrangements despite this being an very topical new piece of legislation.

One point of note was that there were a large number of comments that had no relevance to the question such as s.165 gift relief claims, negligible value claims. Candidates are reminded that relevance is key to an advisory exam.

Question 6

This question was generally well answered and there were many elements which a properly prepared candidate should have been able to score marks on and indeed most candidates achieved better than 50%.

One fundamental problem was that many candidates considered the allowability of items in the question by reference to employees' expenses, sometimes referring to sections of ITEPA and even considering benefits in kind. For example, many considered the journey from Alan's home to his studio as 'ordinary commuting' and considered the rent of the holiday apartment in terms of whether the assignment was a 'temporary workplace'. No candidate mentioned the Dr Samadian decision with regard to the travel from home to studio and only one candidate mentioned the Tim Healy decision in the context of the holiday apartment.

Taxation of Individuals

General comments

It was good to see that most candidates attempted all questions on the paper. However, one thing that was often missing was any advice to clients. Candidates were also sometimes reluctant to use the numbers given to prepare basic calculations to support their answers and preferred to give a pro-forma calculation with no numbers in it to show how the calculation should be prepared.

Question 1

Given the importance of calculating an individual's Income Tax liability, it was disappointing how many candidates failed to calculate adjusted net income. It was also surprising how few candidates managed to calculate the foreign tax credit relief correctly as this is an issue regularly faced by advisers when completing tax returns.

Candidates were clearly unsure on the correct treatment of both life insurance policies and non-reporting offshore funds. However, most candidates identified the available savings and dividend allowances and correctly excluded the ISA interest from the calculation although many put this down to it being below the £100 parental settlement limit rather than because it was from an ISA.

Question 2

It is clear from the answers to this question that candidates had a very limited understanding of share schemes and many appeared to have answered the question they would have liked to have been asked. Although there were some similarities to approved schemes, candidates should have been able to identify that both schemes were unapproved. Many candidates also failed to state the basic information, such as the correct calculation of the base cost and application of share matching rules.

Question 3

Many well-prepared candidates were able to score a good mark in this question. However, there were few common errors. Many candidates stated that Debbie would have acquired her shares from Brian at his base cost and did not uplift to probate value and a significant number of candidates failed to mention the purchase of own share legislation and the possibility of income treatment and treated each disposal as a capital gain.

The calculation of Charles' dividend and capital loss was also frequently incorrect.

Question 4

This question was not particularly well answered.

Many candidates appeared to be confused by the deemed occupation rules and gave PPR relief for an additional 3 years due to "absence for any reason", even though this would not be available as Paul and Frances had another property which was their main residence at this time.

Some candidates added an extra 18 months on to the PPR relief calculations even though Paul and Frances had been living in the property during these months, in effect double counting the last 18 months.

Very few candidates realised that Frances would not take on Paul's PPR position as the home was not their main residence when he gave her a half share.

Deductions were commonly made for the conservatory which had been demolished and candidates wasted time explaining reliefs which were not available (e.g. lettings relief).

Question 5

This question was well answered, although a number of candidates didn't give particularly coherent answers, which meant that they missed out on some easy marks.

Question 6

This question was not well answered with many candidates failing to recognise the disregarded income calculation or to explain what it was when they did recognise it. Whilst most candidates recognised that the Non-Resident Landlord Scheme and the implications, there was often a lack of basic explanation and fairly generic descriptions of its operation.

Inheritance Tax, Trusts and Estates

General Comments

Candidates scored well across four of the six questions with the lowest marks on questions three and four. The highest marks were for questions five and six which covered the more familiar IHT territories of the concept of domicile and the availability of business property relief and agricultural property relief on death for assets gifted in lifetime.

Question 1

Candidates fared better than in the past on an estate question which examined both income and capital gains taxes (CGT) but overall there was still a sense of confusion and lack of understanding.

A handful of candidates provided textbook answers to part one of the question although some tried to apply 2016/17 Income and CGT rates to all years and most candidates failed to identify the payment on account requirement for 2016/17. Only a few managed good marks on the second part requiring the R185 entries for Vicky and Tom. Many candidates failed to appreciate that the value of the capital distribution to Vicky needed to be matched to her share of the estate income up to the tax year of distribution. Some candidates prepared forms R185 for 2017/18 (year after admin. cessation) some for all years and some failed to notice that the split was 75:25 in Vicky's favour.

The CGT treatment of The Gables was very patchy with some candidates concluding that private residence relief was only available on Vicky's share of the estate. Others, whilst deciding that the relief applied, ignored the matter of estate ownership and considered the position as far back as 1995. The question clearly pointed towards 100% relief applying given the circumstances described and did not require lengthy calculations to be performed. No-one stated that a claim needed to be made by the executors for the relief to apply.

Question 2

This question looked at the calculation of the additional IHT on lifetime gifts (both potentially exempt transfers (PETs) and chargeable lifetime transfer) and heritage property.

The first part of the question was answered well by many candidates. Those that scored poorly tried to shortcut the use of annual exemptions against the trust in priority to earlier PETs, didn't appreciate that there was a transferable nil rate band available, tried to award the normal expenditure out of income exemption to a number of the PETs when the facts stated in the question clearly did not lead to this conclusion, failed to name the persons liable for the IHT and the due dates of payment of the same. Taper relief was generally calculated correctly. A few candidates mentioned the accountancy fees paid for the trust were eligible for the normal expenditure out of income exemption.

The second part of the question split candidates into two clear camps – those that knew something about the conditional exemption rules and those that clearly knew very little apart from the bare facts which gained them a mark at most. Candidates were expected to discuss the exemption in the round before applying this directly to Stan's situation and those candidates that did this gained better marks for showing the breadth of their knowledge.

Question 3

Candidates generally fared poorly on this question which tested knowledge of GWR and POAT. Too many candidates failed to mention POAT at all whilst others who did so incorrectly considered it possible to elect into POAT and avoid the GWR treatment. The CGT consequences of the GWR were only mentioned by those candidates who generally scored well on the question as a whole. Many candidates lost marks for not considering the particular circumstances of Mandy and Karen and whether this would afford some relief from the POAT charge. Calculation of the potential POAT charge was very poorly done with only a handful of candidates getting this right; the majority tried to base the apportionment on the contribution by Rebecca to the purchase price of the properties rather than the time spent at the same by Rebecca. Some double counted the apportionment using both methods at the same time.

Better candidates made the assumption that the original PETs were due to expire, that the cottage fell within Rebecca's death estate and calculated the potential charge to IHT on that basis. They also clearly identified Matthew's apportioned IHT liability as donee. Those that took the view that the PETs to Mandy and Karen had not yet expired and provided calculations showing taper relief being applied were not penalised for this assumption. The residence nil rate band was ignored by a number of candidates.

Question 4

This was a trust question and was in general poorly answered, with only a handful of candidates gaining over half marks. It was designed to test a relatively unfamiliar but key piece of legislation, and its application to a specific situation. The legislation is quite discrete, and any candidate who was unsure of which provisions were relevant should have been able to find it from a quick glance at the contents of IHTA 1984.

The better candidates kept the letter very specific to the question, with comments on the situation of each individual, and on the IHT regime of each trust proposed. The weaker candidates wrote pages of irrelevant information (gifts on marriage, for example), including everything they knew about trusts and planning for IHT, ignoring the details of the question. These candidates not only gained very few marks, they also wasted valuable time that might have been better spent elsewhere.

Several candidates mentioned 18-25 trusts which were not relevant for a settlement if both parents of the child are alive. A number of candidates appeared more familiar with the income tax and CGT implications of a trust with a vulnerable beneficiary rather than the IHT treatment of trusts for disabled persons. Bonus marks were awarded for directly relevant information not included in the model answer, such as powers of attorney.

Question 5

This question, on the more familiar territory of domicile, was generally well answered.

The majority of candidates were relatively comfortable with the basics of the situation but a few struggled to define domicile of origin. Many candidates struggled with the revival of a domicile of origin where a domicile of choice is lost. A number of candidates confused the residence of trusts with the excluded property status of trusts.

Question 6

This was a relatively straightforward lifetime gift and death calculation but with a business relief theme.

The basics were well done and a large number of candidates gained more than 50% of the marks. The most common errors were not allocating the annual allowances correctly, not recognising that business relief is preserved if a recipient predeceases the donor still holding the asset even if the asset is then sold, and not calculating quick succession relief correctly. It was good to see a distinct increase in the number of candidates who recognised that a transfer at undervalue by a close company was a chargeable lifetime transfer.

Human Capital Taxes

General Comments

Overall performance on this paper was poor with the majority of candidates failing to score enough marks to pass. Many candidates regurgitated SRT and RTI in a number of answers, even where not appropriate, and therefore wasted significant amounts of time. Worse still, many of the comments on SRT were incorrect.

Overall, very little advice was given and it actually appeared that candidates simply didn't understand the issues and therefore listed some technical points they did know in the hope that they may hit on the right thing.

Question 1

Most candidates showed a good understanding of how to read the statutory residence test and provided a good analysis of the tax treaty sample. However, too much time was spent in re-iterating what the tax treaty article said and, although all candidates correctly identified which country would be the treaty resident country, the way in which double taxation relief would be given was confused.

Candidates also spent too much time analysing the residence position in the earlier tax years even though the questions specifically referred to the fact that he was non-resident in the UK for these years.

The majority picked up that the remittance basis would be an option and overseas workday relief would be available; however, only a handful of candidates referred to setting up a bank account using the special mixed fund rules and gave examples of what a remittance would be. None of the candidates highlighted that Jim may already have mixed fund issues that should be considered further.

Question 2

Candidates performed better on this question. All candidates correctly identified that the "golden hello" payment would be subject to Income Tax and National Insurance contributions but only a couple highlighted that "golden hellos" could be classed as compensation and analysed Julian's position in this regard.

In addition, although some of the candidates offered possible alternatives for Jeremy (the potential employer) to consider, they did not specifically consider if these were relevant to the scenario in the question.

Generally all candidates picked up that an alternative treatment would either be by way of employment-related loan or a relocation package.

Question 3

The answers to this question demonstrated quite a range in quality. Not many candidates demonstrated the ability to provide a discussion on Astrid's residence position that was succinct yet highlighted the key points; some candidates laboured the point while others avoided it altogether. A not insignificant number arrived at an incorrect conclusion on

residence which was concerning, given that the position was relatively straightforward. Where a full assessment of the Statutory Residence Test is required (i.e. the position is decided by Sufficient Ties Test), candidates should isolate the key points which enable them to discount or conclude on a particular part of the test, and always state the relevant threshold which is either exceeded or not met. In other words, what is the quickest logical route to the answer?

A number of candidates strayed from the scope of the question in discussing social security and reporting obligations for the employer, which wasted time.

The question of whether or not Astrid had a temporary workplace in the UK was not conclusive, so credit was given where candidates correctly identified the relevant tests and took a position. However, no candidate highlighted the possibility of Astrid's working time in the UK falling either side of the 40% threshold, and hence the scope to potentially manage this to achieve a tax saving. Similarly, no candidate highlighted the fact that the 40% test is non-statutory and discussed the implications of this.

Question 4

The first part of the question relating to treaty residence was dealt with well by many candidates. However a number of candidates became too focussed on applying the treaty residence tie break tests from the DTA and failed to spot that these were no longer relevant once the individual was non-resident for UK tax purposes.

A number of candidates lost time by either copying out a number of the facts from the question content or explaining why the individual would have been considered non-resident in the UK under the statutory residence tests. If the question states the individual's UK residence position under domestic rules there will be no additional marks for exploring this in the answer.

The second part of the question was handled less well. Candidates should focus on the scenario in the question. A number of candidates spent time discussing the tax treatment of non-tax advantaged schemes. Not all candidates commented on each stage in the "life cycle" of a share option which will have lost them marks.

Question 5

Answers to this question were mixed. Almost all candidates answered well when discussing the ongoing 52 week liability to UK National Insurance identifying both that there was a liability and also explaining why.

Candidate should be specific in the language used when answering questions. In this case they should refer clearly to the type of NIC being discussed and comment on each element of an individual's compensation package where this has been identified in the question.

There were a number of answers that inferred that the UK National Insurance treatment would have some impact on the South African social security treatment. This is not the case where there is no reciprocal agreement. In these circumstances candidates would not be expected to know or comment on the social security rules in the destination country.

Question 6

Most candidates correctly identified that based on the facts, it was likely that the contractor was an employee, rather than self-employed. Many of the marks gained by candidates were in identifying the facts provided to the specific employment status indicators and drawing a sound conclusion.

Few candidates attempted to quantify the PAYE failure and the Income Tax and NIC at stake, despite being given the hourly rate and average number of hours worked over the tax year by the contractor.

Candidates needed to highlight errors made by the company and provide advice on how they could take retrospective action to be compliant, rather than simply explain how HMRC would view the arrangement and how they could go about reclaiming lost revenue.

Advanced Corporation Tax

General Comments

Overall candidates showed a good level of tax knowledge. However, the legibility of some scripts was extremely poor, which makes it difficult to determine if marks have been earned: candidates therefore need to think about the quality of their handwriting. Also a number of scripts were messy and some candidates seemed to be answering different questions at the same time, with answer pages for a single question scattered throughout the answer booklet. There was very little indication that candidates planned their answer in advance of writing it out.

Question 1

This question asked candidates to prepare a briefing note to a Tax Partner covering loss relief on a proposed cessation of trade, including consideration of the impact of a property disposal either before or after the appointment of a liquidator.

The determination of the losses available included the calculation of the gain on the assignment of a lease. Candidates lost marks by failing to apply the rules concerning leases, failing to understand the interaction between the figures calculated on cost and March 1982 value or disappointingly, by augmenting losses significantly with indexation allowance.

Most candidates recognised the opportunity to claim terminal loss relief but there was confusion as to the operation and relevant accounting periods. Candidates also lost marks by failing to consider all options including group relief and only a small number of candidates grasped the commercial benefit of utilising the loss against the profits suffering the highest rates of tax.

Discussions of the property disposal varied with the better-scoring candidates considering the option of transferring the property and the need to maximise net proceeds, rather than simply focusing on minimising the tax cost. Many candidates failed to appreciate that if the terminal loss could be fully utilised, utilising the current period loss against the gain would not necessarily be beneficial.

Question 2

This question required candidates to prepare training notes for colleagues concerning the Diverted Profits Tax.

Most candidates answered this reasonably well with the key points identified. The best answers understood the need for an awareness of all aspects (background, application and administration) rather than providing excessive detail on one aspect.

Question 3

This question considered computational aspects relating to fixed assets and disposals giving candidates the opportunity to demonstrate their knowledge of chargeable gains groups, rollover relief and capital allowances, particularly relating to fixtures.

Most candidates identified a number of the key areas and their discussion of rollover relief was generally good. However, although candidates generally identified the relevance of the transfer of the property from a group development company, many concluded that the base cost was market value as it was a connected party transfer rather than because of the stock appropriation rules. A surprising number spent significant time discussing degrouping charges despite the fact that the property was sold rather than the company.

Few candidates considered capital allowances in connection with the property disposal and acquisition as commercially, the potential for relief and the consideration of the pooling rules is very important to businesses. Some candidates appeared confused as to disposal values with claims that the cost or market value of the plant scrapped would be included within the pool, and many referred to balancing allowances and charges on the main pools despite the ongoing trade. Credit was given to those who discussed the possible opportunity of benefitting from a short life asset on the scrapped items.

Question 4

This question considered the tax treatment of an interest rate swap functioning as a cash flow hedge of the group borrowing costs. This is an area which has become more relevant with the recent changes in accounting standards.

Many candidates made no reference to the application of the Disregard Regulations. Some went into detail of the application of anti-avoidance legislation which was not relevant to the scenario.

There were, however, plenty of marks available on the basic elements of the loan relationship and derivative contracts rules. Candidates need to make sure that they are picking up on these basic points, even where the scenario posed may be unfamiliar to them.

Question 5

This question considered the tax risks under the controlled foreign companies (CFC) legislation as part of the due diligence for a potential acquisition. As such, the question was interested in both the historical position and also the position going forwards should the transaction go ahead.

Most candidates had a reasonable grasp of the structure of the CFC rules, being able to recite the core definitions, exclusions and gateways. The better answers approached the scenario in a logical manner, for example, going through each exemption in turn or taking a company-by-company approach. To get full marks, candidates needed to both explain the rule and then apply it to the scenario.

Very few candidates showed any knowledge of the full and partial exemptions for financial profits on qualifying loan relationships. This is one of the main areas where the CFC rules are relevant in practice.

A few candidates showed some appreciation of the Cadbury Schweppes decision, although most skipped over this requirement.

Question 6

This was a computational question set in a buy-out scenario. Candidates generally performed well, showing a good understanding of the scenario and of the computational adjustments needed.

There were, however, some common mistakes:

- A number of candidates incorrectly treated Bidco and Robin Gyms plc as trading companies.
- Some candidates treated the royalty payment in rather odd ways showing poor understanding of the intangible fixed asset rules – for example, treating the royalty as a group neutral transfer of an IFA or considering whether a 4% amortisation claim would be more beneficial.
- The long-funding lease point was often not correctly treated, with a number of candidates claiming relief for the depreciation charge rather than claiming capital allowances.
- While most candidates who got that far identified the need to limit group relief for the overlapping period, very few candidates identified that it was not just and reasonable to time apportion Bidco's expenses for the period. Another common mistake was to limit the group relief to a proportion of Bidco's losses for the overlapping period, without considering how much of RGUK's profits related to the overlapping period.

VAT UK

General

A number of candidates wrote significant amounts on areas that were either not requested or were specifically excluded from the requirement which wasted time and gained no credit.

Question 1

The SDLT aspects of the question were not particularly well handled. A number of candidates incorrectly assumed that since the property was a relevant residential purpose building for VAT purposes, it necessarily followed that it was a "dwelling" for SDLT; there is no such correlation. Only one candidate addressed in any depth whether student accommodation could be a "dwelling". It was pleasing that a fair number of students picked up the point that the transaction could be classed as relating on non-residential property given that it involved 6 or more dwellings, or at the taxpayer's option, multi-dwelling relief could be claimed.

The VAT aspects of the question were generally handled better. A significant number of candidates did not address the basis on which the formation of the penthouses may be zero rated, and many directly attributed input tax incurred on parts of the building to the onward supplies to be made, rather than as residual input tax as directed by the question. The short term let of one of the penthouses was generally dealt with well. A number of candidates considered that the short term lease of the garages would be exempt, rather than standard rated parking facilities. A few candidates thought that the option to tax could be applied to residential property.

Question 2

This question was generally well handled by candidates. While most identified that a deemed supply arose on stock in trade motor cars temporarily used for private purposes, the majority thought that the supply was valued at market value, not cost as set out in VATA, Schedule 6, paragraph 7. Similarly, there was confusion as to the basis of valuation of the deemed supply when cars were permanently removed from stock. Although many candidates correctly identified that breakdown cover underwritten by an insurer may be exempt from VAT, no candidate attempted to set out the parameters of the relief. In relation to free breakdown cover, it was pleasing to see candidates supporting their answers by reference to *Peugeot Motor plc [2003] STC 1438* and *Ford Motor co Ltd [2007] EWCA Civ 1730*. As perhaps was to be expected, the final part of the question (which was concerned with the practice of "bumping", the subject of a number of Tribunal appeals), produced a wide variety of answers - it was apparent that candidates had not applied general principles of the tax to a situation of which they had no practical knowledge.

Question 3

On the whole, this question was poorly dealt with by candidates. Most worryingly, despite the fact pattern presented, a large proportion of candidates did not even consider whether VAT fraud was taking place and many candidates wrote numerous pages of material on penalties for careless errors and approaches to penalty mitigation (in some cases even suggesting that any penalty could be fully mitigated as due care had been taken). Most candidates were able to comment on the VAT treatment of catering and hot takeaway foods and, generally, efforts were made to comment on the facts set out in the question to identify that the VAT treatment

applied by business was not correct. Most candidates were able to pick up some marks for commenting on the contents of a Tax Payer Notice and HMRC's power to search premises; however, many candidates missed relatively straight-forward marks by not addressing these issues in the context of the facts provided (e.g. commenting that records would include till rolls, supplier invoices etc).

Question 4

It was expected that candidates would score well on this question on whether a person was an independent contractor and when he should be registered for VAT. A significant number of candidates lost time by covering the late registration penalty when this was specifically excluded from the scope of the question. Many candidates simply recited material from the question with little or no commentary. A number of candidates made basic errors as to when registration took effect in the case of compulsory registration, and failed to identify the exemption from registration where HM Revenue & Customs are satisfied that a taxpayer's turnover in the 12 months following the date when registration will normally take effect is less than the de-registration threshold.

Question 5

Answers to this question were generally very poor. Whilst the principles being tested were core to the syllabus, a surprising number of candidates appeared to struggle with the practical application of the partial exemption principles. Although most candidates took a decision as to whether to include the interest income as exempt income or to treat it as incidental little, if any, commentary was provided to explain the decision taken. Few candidates were able to identify that the VAT recovery percentage must be rounded to two decimal places or identify the requirement to ring fence input tax incurred in relation to transactions in securities.

Many candidates ignored the question's requirement and wrote paragraphs about 'use' based VAT recovery for newly registered businesses and the Capital Goods Scheme, which didn't gain credit. Many candidates also appeared to confuse the VAT treatment of inputs with the VAT treatment of supplies, believing that VAT exempt purchases (such as the purchase of shares in Carrozzo SPA and Fisher Ltd) impacted the calculation of the VAT recovery rate.

Question 6

This question was generally well answered by candidates. Most candidates provide clear and accurate advice on the IPT treatment of the products and the relative benefits of the cash and special accounting schemes. Candidates were generally able to comment on the remediation project and the implications for Empress PLC in terms of adjustment to premium and requirements to reimburse policy holders, although some candidates placed too much emphasis on the mechanisms around reimbursement of policy holders. Whilst a good proportion of candidates did provide an overview of the IPT rate change and anti-forestalling provisions some marks were lost where candidates failed to apply these provisions to the products described in the question.

VAT CROSS BORDER

General

The candidates did reasonably well in picking up the points which merely required identification of the issue. However, too often they did not go further and apply what they identified to provide advice/guidance.

Question 1

Many lost some of the easy marks by not stating basic considerations of importing (e.g. C88, EORI, C79 recovery), even though the question clearly stated that the business had never purchased goods from outside of the EU before.

Many candidates made a good effort in relation to the import VAT calculation, although whilst acknowledging children's clothes were zero rated, nearly all candidates included the duty on this element of the consignment in the calculation.

Some candidates seemed to ignore the fact that the question only required advice on the VAT considerations and not Customs Duty, wasting time on points for which credit could not be given.

The majority of candidates recognised returned goods relief would be available in relation to the stock from Switzerland and were able to state the conditions. However, many failed to identify that onward supply relief would be available in relation to the goods coming from India and going out to France. It follows that candidates didn't therefore identify that the relief wouldn't be available in respect of the products where changes had been made (i.e. football logo printing).

Question 2

Most candidates picked up the key points in relation to liability of supplies and realised that given the charity's activities not all VAT would be recoverable. However, many candidates failed to provide advice on whether/why it would be beneficial to register the charity for VAT.

Candidates appear to have spent a lot of time explaining what forms will be required for the import entries (e.g. C88) and the requirement to have an EORI number which were not the focus of the question. Furthermore, many candidates also went into great detail in explaining specific reporting requirements in relation to the boxes on the UK VAT return but failed to state whether or not KBY should register.

Better candidates addressed the mix of business and non-business activities of the charity and the associated consequences in relation to VAT recovery. Some also supported their conclusions and advice with case law references.

Many candidates also spent too much time on reiterating points already made and failed to consider their advice from a client's perspective as to whether the advice was clear, specific and concise.

Question 3

Most candidates successfully determined the difference between types of supplies made by Worldwide Corporation GmbH and the associated registration applications for the business. Most candidates merely wrote about possible penalties from a theoretical point of view without practical application to the client scenario.

Many candidates could draw distinction between disclosed and undisclosed agency, but only a few gave advice as to which one may be more appropriate/beneficial to the client. Moreover, most candidates also explained the difference between the branch and the subsidiary structure but as with the agency options did not provide advice as to which one may be more beneficial to the business and why.

None of the candidates commented on the commercial aspect of different VAT rates on private individuals and the impact on pricing (i.e. the UK VAT rate is higher than the German VAT rate) despite being able to identify the difference between the VAT rates in the two countries.

Question 4

Generally the scores were very low. Often, candidates simply did not write enough to score well.

Very few candidates set out the guarantee requirements accurately or with enough detail to be relevant to a business. The requirement to hold guarantees is one of, if not the most, significant changes for UK businesses under the UCC. The fact that for the first time a 70% reduction in the guarantee for actual debts (deferment account) is available would be of interest to most businesses, even if they ultimately did not apply for it because they do not qualify for AEOC or deem the level of work to require the status to not be worth the reduction in their guarantee.

Similarly, the fact that a business that has been operating IP Suspension for some time now needs to provide a financial guarantee unless it can meet conditions for a reduction or waiver is significant.

Many candidates talked about the removal of IP Drawback or the merging of PCC and IP, neither of which were relevant to the scenario. Many failed to mention transitional arrangements or to apply the rules to the scenario to inform the business the date by which it had to have UCC-compliant authorisations.

Question 5

Candidates generally fared better on this question.

Many wasted time writing about valuation in general (six methods, hierarchical, additions and deductions which by itself does not score marks) without linking this to the scenario.

Equally some candidates wrote a heading such as “commissions” then said that buying commissions were excluded, and selling commission included in the Customs Value without specifying how that applied to Mr Zhang and / or Ms Yang. Others simply said, for example, that Mr Zhang’s charge could be deducted from, or not included in, the Customs Value without saying why.

Far too many candidates are wasting valuable time writing elements specifically excluded in the question e.g. the VAT treatment of transactions (mainly commissions); penalties and speculating about whether Pastel was related to its suppliers.

Most candidates could not identify the correct treatment for the 10% of the subsequent selling price being passed to the Chinese supplier. A number of candidates tended to say this automatically meant that Method 1 could not be used; most however decided that the additional payment must be a selling commission or royalty, again highlighting the lack of practical knowledge.

Candidates were mostly able to write about the prior sale transitional rules (although many failed to note the date by which contracts had to be signed) but then failed to apply these to the scenarios. Most failed to identify that the Guatemalan Coffee could never have been the subject of a prior sale as the “prior sale” was for a different product than was exported to the EU.

Question 6

Most candidates scored well in this question, largely as a result of answering the more basic elements of the question well (recognising incorrectly charged VAT, rules for overseas VAT recovery, place of supply of admission, overseas VAT registration obligation and supplies to branches).

It was disappointing that some candidates thought that the supply of a conference was a TOMS supply and went down this route meaning credit could not be given for the points made.

Few candidates commented on the more technical parts of the question such as forfeited deposits.

The part of the question in relation to the app downloads was answered particularly poorly with many candidates not even able to state the electronically supplied services use and enjoyment rules clearly and some candidates not attempting this part of the question. The majority of candidates were able to offer advice as opposed to merely stating facts.

Overall, candidates' performance on this question was encouraging.

APPLICATION & INTERACTION

Question 1 – Individuals, trusts and estates

The question was based on a scenario of an individual moving permanently overseas who would make return visits to the UK and maintain assets here. He had requested advice on the UK tax consequences of his departure and the implication of selling assets either prior to departure or following departure. It also required tax consideration of the transfer of funds to a trust for his daughter who suffers from mental illness.

Candidates were required to consider his residency status under the Statutory Residence Test and consider the effect of his domicile on his Inheritance Tax situation. They were required to calculate the Capital Gains Tax liability on the sale of assets and comment on the effects of delaying the disposal until after he left the UK. They were also required to consider the rules in relation to trusts for disabled persons.

Candidates dealt with the application of the Statutory Residence Test very well and were able to demonstrate a very good knowledge of the automatic overseas, automatic UK and sufficient ties tests. However a large number of candidates failed to consider the split year rules. Most candidates were able to determine that only UK source income would be taxable once the individual became non-resident but few considered the disregarded income rules.

The Capital Gains Tax treatment on the sale of assets was generally well done and candidates were able to demonstrate a good knowledge of the rules. Areas where marks were commonly missed were in relation to the availability of Entrepreneurs Relief on the disposal of Cassa Sun and the fact that the refurbishment works on Daisy House might not be allowable for Capital Gains Tax purposes.

The relevance of domicile to the individual's Inheritance Tax situation was covered well and candidates were able to demonstrate a good understanding of the rules in relation to displacing a domicile of origin with a domicile of choice. However a large number of candidates did not consider the effect of the deemed domicile rules.

Many candidates identified that a trust for Emily would qualify as a trust for a vulnerable beneficiary and gave a good outline of the basic rules surrounding these trusts. However, a large number of candidates wasted time in discussing the basic income tax treatment of trust income and charges applying to relevant property trusts which was not a requirement of the question. A number of candidates also covered the Capital Gains Tax considerations of transferring assets to trust despite being advised that the individual planned to transfer cash.

Most candidates considered the Non-resident Landlord Scheme and outlined the requirements in relation to registering under the scheme. Few candidates considered VAT registration.

Question 2 - Taxation of Larger Companies and Groups

General Comments

The majority of candidates were able to address the tax issues raised by the question. Candidates who had a detailed understanding of some areas did well, whereas those with only superficial knowledge missed available marks. Few candidates exhibited wider commercial awareness, missing hints in the question.

It was particularly noticeable that nearly all candidates, even those who performed less well technically, did well on presentation skills, with executive summaries and with reports generally being well set-out, in logical order and with use of appropriate style and language. Many candidates also included within their scripts their draft plan; this was worthwhile because where points in the plan, for whatever reason, did not make it into the actual report, marks were awarded if it was clear from the plan what the candidate intended. It is worth noting, however, that some executive summaries were quite long, running to several pages, and thus will have consumed time at the expense of technical content in the body of the report.

There was a tendency among the candidates to write all they appeared to know about a particular subject, regardless of its relevance and application to the intended recipients of the report. This was particularly noticeable with regard to discussions on the meaning of capital expenditure, what is plant and machinery, and the penalty regime.

Most candidates could have spent more time ensuring that they fully understood the question requirements. Time was wasted writing about matters that were not asked about. For example, many candidates discussed the tax position of Kidihull Ltd despite the question explicitly excluding this from its scope.

Candidates could also have gained more marks by using the available information in the question. Where there are numbers in a question, they are likely to form the basis of some sort of calculation requirement in the question, even if it is not explicitly stated. A minority of candidates carried out calculations of VAT and considered the impact on rents of an option to tax. No candidate successfully calculated the percentage holdings of investors in Newco in order to determine EIS relief qualification.

The marks available for each part of the question that are stated on the exam paper are a good guide to the time to spend, and volume of output required, by that part. Some candidates over-looked that rule of thumb, especially in relation to the second requirement, which was often answered superficially.

Requirement 1 - Capital allowances and VAT

Most candidates picked up the marks on identifying capital allowances treatments. Marks were awarded for mentioning renewals allowances (sanitary ware), energy-efficient investments, and short life assets. Marks were also awarded to those candidates who discussed the effect of capital expenditure in Newco.

The VAT element was generally not well answered. Most candidates showed very superficial knowledge, failed to use the numbers provided and did not properly address the potential impact on tenants and on Soliminster Ltd of an option to tax.

Few candidates correctly addressed the tax status of Wallhampton Limited as a non-resident landlord, subject to income tax and thus entitled to (non-enterprise zone) capital allowances.

Requirement 2 — HMRC letter

This was the least well-addressed part of the question. Many candidates wasted time on detailed discussions and calculations of the penalty regime, and few addressed the different assessment/amendment positions of each of the various accounting periods under review.

None of the candidates addressed the accounting issues, and few considered the wider commercial issues around the bank loan and alternative funding.

About half of the candidates took a pro-HMRC approach to this part of the question, showing little appetite to contest HMRC's position, and suggesting that the company had knowingly undertaken some sort of tax evasion that had been concealed and thus rendered the company liable to significant penalties. A more balanced view could have been taken.

Requirement 3 – EIS

Most candidates had some knowledge of the subject matter, and many took the opportunity to list excessive details of what they know about EIS, including setting out the nature of the reliefs available to investors, which was neither asked for by the question nor directly relevant.

Nearly every candidate identified the need to create a Newco, but none properly and correctly addressed the deemed percentage shareholdings of each investor and the consequences of claiming EIS relief.

Question 3 - Owner Managed Businesses

General Comments

Candidates were required to draft a report covering the tax implications of; a retiring partner (Aaron Amies) and profit allocations for the other partners including a newly admitted partner (Davina Davies); changes in the membership of the partnership and the planned disposal of the partnership's existing premises; the planned acquisition of new premises.

Most candidates adopted a suitable report structure (i.e. properly headed and including an introduction and appropriate executive summary, section numbers and appendices). Once again, however, a few did not (particularly omitting a reasonable introduction or referenced appendices, with some even adopting a letter format) and therefore failed to gain the easy marks available for this.

Closing Position for Retiring Partner and Profit Allocations

This required some fairly straightforward profit adjustments, profit allocations, calculation of overlap profits and application of basis period rules. As such it should have been very straightforward for well-prepared candidates and indeed many scored well in this section. Perhaps surprisingly, however, there were many instances of basic errors. These included basic profit adjustment errors; failing to allocate the profits correctly; treating the cars as

taxable benefits and taxing partner's salaries as dividends. There were also some candidate who thought that the date of Aaron's departure (31 March 2017) and Davina's admission (1 April 2017) fell in the 2017/18 tax year.

Changes in Partnership Members and Disposal of Existing Premises

This section focussed primarily on the capital gains tax implications and was perhaps the most difficult section of the question. Most candidates were familiar with the principles involved which enabled weaker candidates to score some marks even though their detailed application of the rules may have been lacking. A common mistake was a failure to realise that there were two changes in profit share ratios (one on 31 March 2017 when Aaron retired and a further one the next day when Davina joined) causing fractional share increases and decreases on two occasions and not just once.

Planned Acquisition of New Premises

This section focused on using rollover relief to relieve the gains that will be realised on the disposal of the old premises and the availability of any tax relief, particularly capital allowance relief, for the proposed expenditure.

Some failed to identify that rollover relief was available to mitigate the gains. The ability to recognise available reliefs/exemptions is obviously important for tax practitioners so unfortunately these candidates would not have scored well in this section. Many recognised that there was a £10,000 shortfall in the use of proceeds but failed to realise that the additional enhancement expenditure could be treated as part of the acquisition cost. Also not many candidates identified and discussed the other potential rollover relief problem posed, namely that the new building would not be taken into immediate trade use. In addition there was often a lot of confusion regarding the time limit for making the roll-over relief claim.

The discussion of capital allowances was generally good. The discussion of whether a revenue deduction for the initial repairs would be available was, however, often superficial and failed to identify the facts that the necessary repairs were to be undertaken within a very short space of time from acquisition and that the price was being negotiated to reflect the dilapidated state of the building.

Other Issues

The high capital allowance availability for the year ended 31 October 2018 meant that a trade loss was predicted for this period. Many candidates did not identify and discuss this possibility.

The VAT implications of this scenario were very straightforward. Some candidates tried to look for more than was actually there. Very few commented on the need to update the VAT registration for the change in partners. In addition a common mistake was failing to realise that because the premises were going to be used in a taxable business VAT on any expenditure could be recovered in the 'normal' way and without the need for opting to tax the new property.

Question 4 - Human Capital Taxes

General Comments

Overall performance on this question was very disappointing. The best performance was barely a pass with the majority failing. All candidates missed the fundamental point that this was a question about handling an HMRC enquiry. Whilst candidates were good at listing the PAYE failures, no candidate advised the client how to disclose or mitigate penalties nor did any candidates attempt to quantify the amount owed. PHS marks were weak because there was a complete failure to provide advice.

Candidates also had a tendency to write answers to the questions they hoped/thought may have been there. For example, writing in great depth on the availability of PPR even though there was no indication that it may be sold.

Requirement 1

This required candidates to look at the payroll reporting of two internationally mobile employees in the light of questions raised by HMRC. Candidates were also asked to provide tax advice to one of the individuals regarding their UK properties.

The majority of candidates presented their answers in the correct formats with clear headings. However, there were disappointingly few summaries at the start of the letters highlighting the key points being raised and the recommended actions for the client. Additionally while many candidates identified that there could be penalties surprisingly few answers went into any more detail of what penalties the company might expect and how they could be calculated.

Almost all candidates correctly identified the residence position of both individuals. However many candidates gave very long descriptions of the application of the statutory residence test to each individual, which was beyond the level of detail the letter recipient would be likely to require.

The domicile position of the UK inbound assignee Derek Pratt caused more issues with some candidates incorrectly considering him to be non UK domiciled despite having a UK domicile of origin and a clearly stated intention of retiring back to the UK. This led to these candidates discussing overseas workday relief which was not applicable in these circumstances.

Many candidates dealt well with the Employment Related Securities reporting requirements. The best candidates were able to give a clear explanation of what the company should have done, when they should have done it, what the relevant penalties were and gave a recommendation of what the company should do now.

The majority of candidates were also able to give a clear explanation of the taxation and payroll requirements associated with a non-qualifying share option scheme.

When it came to discussing the LTIP awards for the two relevant individuals candidates performed less well. Some candidates focussed purely on the final tax result after submitting the tax return rather than discussing the employer's responsibilities for payroll withholding in connection with the awards.

Candidates should regularly refer back to the target of the advice letter or report that they are writing and consider what that individual will need to know about the subject being discussed. In this case as the target of the advice was the payroll manager it was of key importance to consider the impact of the matters being discussed on the payroll reporting for the employer.

Most candidates missed the impact of the UK-US DTA on the US pension contributions being made by Derek Pratt and instead spent time commenting on migrant member relief. There was not enough information in the question to determine whether MMR would be available. Additionally it is unlikely that a DTA extract will be included in the question unless it will be needed to answering the question. Candidates lost marks in this section for focussing purely on the tax consequences to the individual and not commenting on the impact of the pension contributions on payroll reporting. Candidates also lost marks for not being sufficiently precise in their comments. For example making a general statement that "AM's pension contributions are OK" will not pick up any marks.

In the section on Derek Pratt's properties most candidates picked up marks for identifying that losses on renting a property at below market value could not be set against other property income. Candidates performed less well when discussing the IHT and CGT implications on the proposed transfer of the reading property into a discretionary trust. Many picked up basic marks for elements of the IHT impact but no candidate was able to clearly discuss the potential for gift relief and the impacts if gift relief was claimed.

Many candidates wrote two or more pages discussing PPR relief on the London home in detail. There was no suggestion that Derek was looking to sell this property so at most discussion of this should have been limited to a couple of lines.

Requirement 2 required candidates to provide notes on any non-tax issues in connection with the advice being requested. A number of candidates identified that there were concerns over providing Derek with advice without sufficient contractual protection but very few answers went beyond this to explore the additional practical issues around engagement letter scope, clear fee agreements and professional competency. Most candidates identified that the client's comments about not wanting to reopen the past were of concern and that we should advise them to make a full disclosure.

Question 5 - VAT and other Indirect Taxes

Generally marks were a little disappointing.

HMRC queries

The question stated that both grazing and stabling is provided: these are different supplies with different VAT liabilities. However, most candidates saw this as the same thing.

The corrections needed to the VAT return figures amount to a prompted disclosure, so it is not advisable to make the corrections as adjustments to next VAT return, as some candidates suggested. HMRC Notice 700/45 at para 4.8 states:

"to avoid a penalty you must disclose full details before we begin to make enquiries."

Many candidates ignored the requirement that invoices are needed for VAT registered customers on request.

Riding school

A number of candidates stated that an LLP was a corporate body, thus ruling out the VAT exemption. The relative importance of riding insurance and limited liability under an LLP rather than unlimited liability for partners in a traditional partnership was not appreciated.

Many candidates failed to recognise this requirement for the Capital Goods Scheme. A common mistake was to make CGS adjustments for the final two years of the CGS life, whereas no adjustment is needed in the interval in which the transfer / cessation of use of the asset occurs.

Law

Generally marks were a little disappointing. Although the question stated that 7 marks were available for law, few candidates commented in sufficient detail to earn many of these marks.

Diversification

A number of candidates suggested that the existing partnership transfer its VAT number to the new partnership, ignoring the fact that the existing partnership was to remain registered until the converted buildings were sold (as noted in the question).

Residential conversion

This part was well answered by candidates, with good discussions of relevant case law. Some candidates confused the case law issues, believing the matter to be the availability of reduced rating on construction services rather than the liability of the onward supply.

SDLT

The suggested solution was to admit Becky to the new partnership before the land was transferred, thus taking advantage of the exemption in s65 FA 2003. Only one student recognised this possibility. However those answers which computed the 'sum of the lower proportions' were generally well done.

CGT

Only two fifths of the land is sold when there is a change of partnership interests, so many candidates' calculations were wrong.

Some candidates failed to appreciate that indexation is no longer available for private individuals, only companies.