THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Human Capital Taxes

May 2025

TIME ALLOWED

3 HOURS 30 MINUTES

- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.

- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should indicate this where relevant.

- Scots law candidates may provide answers referring to Land and Buildings Transaction Tax rather than Stamp Duty Land Tax.

- Unless otherwise required by the question, candidates may answer the question using Scottish Income Tax rates or Income Tax rates applying elsewhere in the UK.

- Unless otherwise indicated by the provision of additional information in the question, you may assume that 2024/25 legislation (including rates and allowances) continues to apply for 2025/26 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.

- Additional marks may be awarded for presentation.

- You must type your answer in the space on the screen as indicated by the Exam4 guidance.

1. Delft plc is a publicly listed company in the Netherlands and it has a UK subsidiary called Ground Ltd.

Max had been an employee of Delft plc in the Netherlands for 10 years but moved to the UK on 6 October 2024 to begin a fixed-term three year employment contract with Ground Ltd. He became UK tax resident on 6 October 2024 having never worked in the UK previously. He works full time for Ground Ltd and is based in the UK. He spends 80% of his workdays in the UK and 20% overseas. When his three-year contract ends he has a contractual right to return to work for Delft plc in the Netherlands.

Max was awarded the following incentive package on 6 January 2022 by Delft plc. Max was not required to pay anything for these awards.

1) 20,000 Phantom Stock Units. A Phantom Stock Unit is a contractual promise to pay a cash bonus based on the share price of ordinary shares in Delft plc. The Phantom Stock Units paid out on 5 April 2025 based on the share price at that time. Max was required to remain employed within the Delft plc group up until 5 April 2025 to be paid the bonus.

2) 50,000 ordinary shares in Delft plc subject to a forfeiture restriction which ended on 5 January 2025. If Max had left employment with the Delft plc group before the restriction ended, he would have forfeited all of these shares.

3) Market value option over 60,000 ordinary shares in Delft plc. The share option contained a forfeiture provision that expired on 5 January 2024. The restriction meant that if Max left employment with the Delft plc group before the expiration date he would have forfeited the share option. The share option was exercisable from 5 January 2025 and Max exercised it on 5 March 2025.

Ground Ltd operated a 'sell to cover' payroll system in respect of shares and share options that sells a portion of the shares to cover the tax obligation. The shares of Delft plc were trading on the Dutch stock exchange at the following prices:

6 January 2022:	£1.00
5 January 2024	£2.00
5 January 2025	£3.00
5 March 2025:	£3.50

No elections under s.431 ITEPA 2003 have been made.

Requirement:

Explain what PAYE and NIC obligations arose for Ground Ltd in 2024/25 in respect of the employment incentives provided to Max. Detailed calculations are not required. (20)

2. SurePharm Inc is a US listed pharmaceutical company based in Texas. It has a UK subsidiary based in London (SurePharm UK Ltd).

On 6 April 2024, SurePharm Inc sent their head of product development, Alex Taylor on a two-year secondment to SurePharm UK Ltd.

Alex is a 40 year old US citizen who is married with two young children. Alex initially spent two weeks a month (50% of his working time) in the UK with the rest of his time in the US. His family remained in their rented home in the US and he stayed in various short term serviced apartments whilst in the UK.

Alex remained on the US payroll and US federal Income Tax and Social Security was withheld where appropriate. He was not liable for local US state taxes. A 'Certificate of Coverage' under the UK/US Social Security agreement was issued to show that Alex remained liable to US Social Security during the assignment period.

SurePharm Inc recharged Alex's UK related employment costs to SurePharm UK Ltd.

The lease on his US home expired on 1 January 2025, and Alex's spouse and children also moved to the UK.

On 1 January 2025, Alex become a permanent employee of SurePharm UK Ltd and subsequently purchased a UK home. Remuneration was then paid from SurePharm UK Ltd into his UK bank account.

Alex was required to visit the US for work for one week per month from January 2025 onwards. SurePharm Inc operated a US shadow payroll to account for US federal tax withholding on Alex's US work duties. Alex is not a director of SurePharm UK Ltd nor SurePharm Inc and remained US tax resident by virtue of his US citizenship and will maintain a substantial presence in the US in 2024 and 2025. SurePharm UK Ltd does not have an Appendix 4 (Short Term Business Visitors) agreement in place.

It has been determined that Alex will be a UK tax resident under the Statutory Residence Test for the duration of the 2024/25 UK tax year. However, as Alex is also deemed to be a US tax resident, it has been concluded that under Article 4 of the UK/USA Double Taxation Agreement, Alex will be treaty resident in the US during the period 6 April 2024 to 31 December 2024. Alex will be deemed treaty resident in the UK during the period 1 January 2025 to 5 April 2025.

Extracts of the UK/USA Social Security Agreement and Article 4 of the UK/USA Double Taxation Agreement are provided below.

Requirement:

Advise on SurePharm's PAYE and NIC payroll withholding requirements during 2024/25 and explain any mechanisms by which double taxation can be managed at source. (15)

Extracts from UK/USA Social Security Agreement
Part II – Provisions on Coverage

Article 4

1. Except as otherwise provided in this Part, a person employed within the territory of one of the Parties shall, with respect to that employment, be subject to the laws on coverage of only that Party. Where a person is subject only to the laws on coverage of the United Kingdom in accordance with this paragraph, those laws shall apply to him as if he were ordinarily resident in the territory of the United Kingdom.

2. Where a person who is covered under the laws on coverage of one Party and is normally employed by an employer in the territory of that Party is sent by that employer to work in the territory of the other Party, the person shall be subject only to the laws on coverage of the former Party, as if he were employed in the territory of the former Party, provided that the period of work in the territory of the latter Party is not expected to exceed 5 years, or such longer period as may be agreed upon by the Competent Authorities in a particular case. This paragraph does not apply to employment as an officer or member of a crew on a ship or aircraft.

Extracts from UK/USA Double Taxation Agreement 2002

Article 4: Residence

1. Except as provided in paragraphs 2 and 3 of this Article, the term "resident of a Contracting State" means, for the purposes of this Convention, any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, citizenship, place of management, place of incorporation, or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or of profits attributable to a permanent establishment in that State.

2. An individual who is a United States citizen or an alien admitted to the United States for permanent residence (a "green card" holder) is a resident of the United States only if the individual has a substantial presence, permanent home or habitual abode in the United States and if that individual is not a resident of a State other than the United Kingdom for the purposes of a double taxation convention between that State and the United Kingdom.

4. Where by reason of the provisions of paragraph 1 of this Article, an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.

End of Question

3. Cactus Ltd is a UK based company that has registered to payroll benefits from 2025/26 onwards. It chose to register all possible benefits and did not exclude any employees.

John is UK resident and turned 21 in March 2025. John has worked for Cactus Ltd since he was 18. He receives a salary of £24,000 per annum. The salary is paid in equal installments at the end of every month for that month. He is contracted to work 2,040 hours per year. John's calculation year for National Minimum Wage runs from 1 April to 31 March.

In April 2025, John worked his contracted hours plus an additional 10 hours.

In 2025/26 John's remuneration package will also include the following benefits:

<u>Company car</u>

Cactus Ltd offers a choice of a £600/month car allowance or a leased company car. Since July 2022 John has had a petrol company car with a list price of £26,000 and emissions of 97 g/km. He will need to change the car on 6 July 2025, as the lease will expire. He plans to opt for a new fully electric model. The list price is £28,000.

Cactus Ltd will provide John with a charge card that allows him to charge the battery of the new company car at public charging points with Cactus Ltd meeting all costs. The card is linked specifically to the company car and cannot be used for any other vehicle.

<u>Accommodation</u>

John lives with two other Cactus Ltd employees in a house leased by the company. He moved in on 1 April 2025. Cactus Ltd leased the house in January 2020 for eight years, paying a premium of £90,000 and a monthly rent of £400. The annual rental value is £2,000. Cactus Ltd charges each employee £400 per month for use of the property and deducts this directly from their salary. At the start of the lease, separate bathrooms were installed at a total cost of £9,000 and Cactus Ltd purchased furniture at a cost of £3,000. The furniture is now worth £1,000. The accommodation is optional.

<u>Loan</u>

On 6 April 2025, Cactus Ltd agreed to loan John £1,500 to cover the cost of cosmetic dental treatment. A formal agreement was entered into so that Cactus Ltd paid the surgery directly on John's behalf and John will repay the £1,500 in £500 monthly instalments from his income after PAYE and NIC are deducted.

<u>Pension</u>

Cactus Ltd offers an auto-enrolment compliant pension scheme through salary sacrifice. The employee sacrifices 4% of their qualifying earnings in return for a matching contribution from Cactus Ltd. In total Cactus Ltd will contribute 8% of qualifying earnings.

Requirement:

1) **Calculate the benefit values, which need to be reported monthly and annually for 2025/26, with explanations.** (11)

2) **Explain Cactus Ltd's end of year reporting obligations with respect to the benefits provided to John.** (3)

3) **Calculate whether Cactus Ltd met their National Minimum Wage obligations for April 2025 in respect of John's remuneration and advise on any actions Cactus Ltd should take.** (6)

Total (20)

4. Vasquez SA is a Spanish company which is going to employ Albert, who is a UK national living in the UK. He will be paid via their Spanish payroll but will work remotely from his home in London. Vasquez SA does not have any entities or property in the UK and Albert will be their only UK based employee. Albert will work in the IT department resolving internal IT queries and will not have any contact with clients of Vasquez SA and he will not use his home address for work purposes.

   Albert has lived in the UK for his entire life and will work one day per week in Spain with the remainder of his working and personal time spent in the UK.

   Albert's presence in the UK will not create a UK Permanent Establishment for Vasquez SA.

   Requirement:

   Explain the UK tax, national insurance and reporting obligations for Vasquez SA as a result of employing Albert as a remote worker in the UK. (15)

5. Amelia is a UK national working for a UK company. She is being seconded to an overseas group entity of her current employer that is based in Genovia.

   Her assignment will commence on 1 July 2025 and she will spend four days per week (Monday – Thursday) working in Genovia and living in an apartment paid for by her employer which is always available for her use. She will return to the UK to work on Fridays and spend the weekends with her family at their family home in the UK, which she has owned for 10 years.

   Amelia's remuneration will consist of the following:

Salary	£80,000 per annum
Private medical insurance	£5,000 per annum
2025 calendar year bonus paid in March 2026	£24,000
Accommodation	£3,000 per month

   Amelia will be tax resident in both the UK and Genovia under the rules of those countries throughout her secondment. Genovia applies a flat rate of tax at 43% on salary, medical insurance and accommodation. Her salary is subject to Genovian withholding via a Genovian payroll.

   The UK has a Double Taxation Agreement in place with Genovia which is identical to the OECD Model Tax Convention.

   Requirement:

   Explain Amelia's tax residence, calculate the double taxation relief available, and explain any relevant UK employer schemes available to obtain the relief in 2025/26. (15)

6. Propman Ltd is a UK based property management agent which sources and arranges building maintenance work on behalf of its clients. The contract for any such work is always between their client and the business providing the maintenance work. Propman Ltd only oversees the work and pays the supplier on their client's behalf.

   Propman Ltd has purchased a former mill, which is to be converted into offices. The conversion project is expected to last a year.

   Landlord plc has agreed to purchase the converted building from Propman Ltd, once the work is completed. The contract for purchase is for the building only and does not include any construction operations. Landlord plc has made an advance payment, enabling Propman Ltd to purchase the building and undertake the renovation work.

   Propman Ltd will subcontract the construction work to the following businesses:

   1) A LLP – a firm of architects which will design the layout of the new offices. Their fee of £150,000 will be paid in full on 1 October 2025.

   2) B Ltd – a scaffolding business, which will set up and dismantle the scaffolding required for the project at a cost of £40,000. This will be paid in two equal installments of £20,000 each; one on installation on 1 November 2025 and the other when dismantled after the renovation works are completed. B Ltd own their scaffolding.

   3) C Ltd – a commercial property renovation specialist which will be engaged to carry out the bulk of the construction works, which includes the alteration and demolition of parts of the mill. Machinery will be leased and some of the works will be further subcontracted out. The cost of their renovation works will be £5 million, which will be paid in three quarterly installments of £1.25 million starting on 1 November 2025 with the final £1.25 million payable upon completion.

   4) D Ltd – a firm of electricians which will install the wiring and power supply in July 2026 at a cost of £300,000. As part of this contract, D Ltd will also install a security system at a cost of £100,000 once C Ltd has finished their part of the conversion project.

   Propman Ltd will have to cease the majority of their other work, aside from some ongoing support to existing clients, to focus on the project. Once the project is completed Propman Ltd will return to their core activity as a management agent. They will also provide management services to Landlord plc under a separate contract.

   Propman Ltd is not currently registered as a contractor within the Construction Industry Scheme.

   Requirement:

   Explain the tax implications and requirements resulting from the Construction Industry Scheme, which Propman Ltd needs to consider because of the conversion project. (15)