Institution **CIOT - CTA**
Course **Adv Tech Human Capital Taxes**

Event **NA**

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Exam ID

Notice: **Exam was restarted!**

Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**1078**	**4901**	**5976**
Section 2	**726**	**3148**	**3875**
Section 3	**1085**	**5195**	**6247**
Section 4	**532**	**2379**	**2911**
Section 5	**730**	**3398**	**4110**
Section 6	**443**	**2219**	**2663**
Total	**4594**	**21240**	**25782**

Answer-to-Question-_1_

Where an employer awards shares to their employees as remuneration or as an emolument for their employment duties, these are considered employment-related securities. Unless there is no profit element (e.g., the employee pays a lower purchase price for the shares than the market value at acquisition) or the shares are part of a tax-advantaged scheme, an amount of the share award may be taxable as employment income under the domestic UK tax rules.

Social Security Position:

Regarding his social security position, as he is from the Netherlands and arrived in the UK after 1 January 2021, the EU Social Security Protocol must first be considered. Under the EU protocol, he can only be subject to social security in one country at any one time. As he works in a second country for more than 5% of his total days working, he would be considered a 'multi state worker'.

His social security liability would remain where he is habitually resident from 6 October 2024 if he works for more than 25% of his time in that jurisdiction. His condition has not been met as he only works 20% of his time outside of the UK. Therefore, his social security position will revert to where he his employer is resident. As he is locally employed in the UK, he would be subject to UK NICs from 6 October 2024. Ground Ltd would be secondary contributor in this case as they have UK presence and he is working for them.

His shares are in a company listed on a recognised stock exchange making them readily convertible assets (RCAs). As this is the case, there will be a charge to Class 1 NICs on chargeable proportions of the share options and Ground Ltd will be required to operate

PAYE on the income from these shares (notional or otherwise).

A Certificate of Continuing Coverage should have been put in place from 6 October 2024 to ensure that Netherlands social security contributions are not charged with respect to the shares or any other income (such as his overseas workdays).

With that in mind, let's look at the tax and NICs treatment of the share incentives provided to Max.

1) 20,000 Phantom Stock Units:

These stock units are general earnings as there is no entitlement to actual shares but rather a bonus at the price of those shares.

As he remained in the corporate group (employed with the UK subsidiary), he would be entitled to the stock units on 5 April 2025.

No information is given on the market value of the shares, but the market value of the shares multiplied by 20,000 would give the amount treated as employment income.

This would then be subject to income tax and Class 1 NICs at his marginal rate.

As these are general earnings, there is a requirement to report this income on the Real-Time Information by submitting a full payment submission. The deadline to do this was on or before his pay day. Ground Ltd will need to withhold the income tax and Class 1 Primary NICs from his pay and pay this to him net. They would also be required to pay Class 1 Secondary NICs to HMRC as well. The deadline to make this payment would be 22nd May 2025.

2) Ordinary Shares Subject to a Forfeiture Restriction of Less than 5 Years:

The shares that Max received were subject to a forfeiture restriction of less than 5 years. As such, there was no charge at acquisition (assuming no elections were made).

However, there would be a tax charge at the lifting of the restriction in January 2025.

This would be calculated as follows:

M/V @ lift of restriction: £3.00 * 50,000 = £150,000
Less: Price Paid: Nil
Less: Amount already charged as employment income: Nil
Amount treated as employment income and subject to tax and Class 1 NICs: £150,000

The tax and NICs amount would be paid for by selling the shares to meet the obligatoin.

As this is notional income, the UK tax and NICs deducted may reduce his take-home income to NIL (the 50% limit does not apply to notional income)

Where Ground Ltd cannot recover the income tax and Class 1 Primary NICs from PAYE, they would pay the remainder to HMRC. It would become Max's personal obligation to make good on the tax and repay it to Ground Ltd.

The deadline to do this is 90 days after the end of the tax year ended 5 April 2025. If he does not make good on the tax, an s.222 charge will arise and the outstanding amount will be treated as a benefit reportable on his P11D. This will be the case even if he makes good on the amount later.

3) Share Options:

As Max was internationally mobile in the period between the grant of the shares and their exercise date ('the vesting period') we must look at his tax residency history between 6 January 2022 and 5 March 2025.

He was Non-UK tax resident when the package was granted to him (6 January 2022). He was non-resident in tax years 2022/23 and 2023/24.

He then split the 2024/25 tax year from 6 October 2024 (likely under starting full time work in the UK) into a non-UK resident section from 6 April 2024 to 5 October 2024 and a UK resident section from 6 October 2024 to 5 April 2025.

He did not work in the UK when he was non-resident.

He will only be taxable on the proportion of the vesting period attributable to his UK residence and time working in the UK.

His residency in the UK is 5 months out of the 38-month vesting period.

There would be no tax charge at grant regardless of his residency.

There would be a charge on the lifting of the forfeiture restriction calculated.

At exercise, the charge to tax and NICs would be the Market Value of the shares at 5

March 2025 (£3.50 *60,000 = £210,000) multiplied by the proportion of the shares not already subjected to tax (or paid for, but this isn't relevant here).

The employment income would then be proportioned to to the amount relating to UK residency and duties in the vesting period (4/38).

As there is a non-tax advantaged share scheme operating with chargeable event happening in 2024/25. Ground Ltd must submit and annual return to HMRC by 6 July 2025 detailing all the chargeable events that took place during the tax year.

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

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

Answer-to-Question-_2_

He is treaty non-resident of the UK in from 6 April to 31 December 2024 as he does not have a permanent home available to him in the UK. He then becomes treaty resident of the UK from 1 January - 5 April 2025 as he only has a permanent home available to him in the UK.

Treaty Non-Resident Period:

For the period of treaty non-residence starting on 6 April and ending on 31 December 2024, he would only be subject to UK tax on his UK-sourced income, including employment income.

However, this is not the case for PAYE, which must be operated for individuals with UK workdays with UK taxes deducted at source. This would need to be operated by SurePharm Ltd.

They would need to report on his income per pay period using full payment submissions and report under the Real-Time Information system on or before the date he is paid. They would need to then deduct tax under PAYE and pay it to HMRC by the 22nd of the following tax month.

During this treaty non-resident period, he will not be subject to NICs under the treaty as the 2-year secondment does not expect to last for over 5 years at this point in time. There will not be a requirement to withhold NICs at all for this period. The Certificate of Coverage should be provided to HMRC so that they are aware that there is not a withholding requirement of NICs.

SurePharm Ltd should have given him an expat starter checklist to complete so that only tax (and not NICs) was deducted from his pay.

An Appendix 4 arrangement can be put in place where there are short term business visitors who are treaty non-resident of the UK and are not subject to UK NICs like Alex is. However, this is only available for individuals who spend less than 60 days of any presence in the UK during the tax year. As this is the case, Alex would not be eligible for it.

He would also not be eligible for an Appendix 8 as he will have had over 60 workdays in the UK.

An S.690 can be put in place for him as he is treaty non-resident of the UK and works both in the UK and overseas. Under a Section 690, he will only be subject to UK taxes on his UK workdays. His overseas workdays will not be subject to tax.

This would need to be arranged with HMRC beforehand. SurePharm must give HMRC details of the employee with the reason Alex is treaty non-resident (no permanent home in the UK).

Treaty Resident Period:

During the treaty resident period, the situation will change as he will become a permanent

UK transfer and will join the local payroll.

They should issue him with a new starter checklist to complete so that an accurate tax code can be issued to him so that they, as his employer, know how much tax to deduct at source per pay period.

As a permanent employee, there is an expectation that his period of work in the UK will exceed 5 years. Therefore, from 1 January 2025, he will become subject to UK NICs. Class 1 Primary NICs would need to be withheld at source on his earnings.

As he will be subject to NICs, SurePharm will need to deduct Class 1 NICs at source. As he is gainfully employed by them, they will also be considered the secondary contributor as they have a UK presence. In addition to withholding Class 1 Primary NICs at source, SurePharm must also pay Class 1 Secondary contributions as well as Class 1A NICs as well.

However, an Appendix 5 can be put in place for him so that any income from his overseas work can be paid to him net of any foreign tax credit. They would need software that can report foreign tax credits and HMRC would need to be made aware of the arrangement and approve it beforehand. They would need details of his name, NINO, and the country where he is going. They would need to submit quarterly and an annual report with all of the details of deductions made at source.

He would be subject to NICs in full throughout this treaty resident period - even for periods where he is working in America.

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

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

Answer-to-Question-_3_

Where an employer provides benefits to their employees as compensation or as an emolument for their employment duties, the cash equivalents of these benefits are chargeable to tax and NICs under the benefits code unless specifically determined exempt under statute.

The calculations of the benefits values ('cash equivalents') are as follows:

Company Car:

The annual cash equivalent of car benefits is calculated by taking the list price of the car and multiplying it by a CO2% dictated by HMRC.

The car benefit is changed mid year. The petrol company car from 6 April 2025 to 6 July 2025 (3 months) would be calculated as follows:

M/E: (let's say) 30 May 2025:

Annual Cash Equivalent:
List Price: £26,000

CO2%: 24%

97 rounded down to the nearest 5 (95)

95 - 75 = 20

20/5 = 4

Add: 20 = 24%

Yearly Cash Equivalent: £6,240

Monthly Equivalent to charge: £520

To determine the actual cash equivalent for 2025/26, we must apportion the car benefit to when it was available to him (i.e., 6 April 2025 - 6 July 2025). This was 91 days

Cash Equivalent for 2025/26: £6,240 * (91/365) = £1,556

Electric Car:

The annual benefit would be calculated as follows:

List Price: £28,000

CO2%: 2% (the fixed rate for fully electric cars)

Annual Equivalent: £560

2025/26 cash equivalent @ 274/365 = £420

The total car benefit for 2025/26 would therefore be £1,556 + 520 = £1,976

To calculate the amount to charge per month from the July payroll onwards, we would need to take this total car benefit for 2025/26, deduct amounts already deducted via the payroll and then divide the remainder by the remaining number of pay periods.

25/26 Car Benefit = £1,676
Less: Amounts already charged [520*3] = (£1,560)
Remaining amount: £116
Divide By: Remaining Pay Periods: 9
Cash Equivalent per month: £13

There is a tax-free exemption for the *provision*of charging points near or at the office. However, this does not extend to the reimbursing of fuel using the company card. The cash equivalent of this benefit would be calculated as follows:

Yearly Benefit: £27,800
Time Apportioned for availability of electric car: £20,869

This payrolled benefit must be reported on the company's FPS monthly on or before the last day of the month (payday). The tax would need to be paid by 22nd of the following month (19th if not paid electronically)

There is no requirement to put the car benefits on a P11D. However, the cash equivalent and calculation of Class 1A NICs must be reported on the P11D(b) due on the 6 July 2026. The Class 1A NICs would need to be paid by 22nd July 2026.

Accommodation:

Living accommodation cannot be a payrolled benefit. It must be reported annually on a P11D by 6 July 2026. A P11D(b) must also be prepared to calculate the Class 1A NICs due payable in the same way as the car benefit above. John must pay the tax himself either via his self assessment tax return due 31 January 2027 or via agreeing with HMRC to amend his tax code.

The 2025/26 cash equivalent of the benefit would be calculated as follows:

To determine the cash equivalent, one must first determine the price paid by the employer:

As the lease is under 10 years and relates to living accommodation, the cost to employer would be calculated as follows:

Lease Premium for 25/26: 90,000 * 1/8 = £11,250
Monthly Rent for 25/26: £4,800
Total Cost to the employer: £16,050

The starting point of the cash equivalent calculation is selecting the higher amount of cost to the employer and annual value. The cost to the employer is higher so should be used.

£16,050

The accommodation is being provided by means of an optional remuneration arrangement (OpRA). As such, the cash equivalent of the benefit is determined to be the greater of the cash equivalent under normal benefits rules and the salary sacrificed.

The total salary sacrificed by all employees in 2025/26 would be calculated as follows:
£400*12 months*3 employees = £14,400

The cash equivalent under normal benefits rules is higher than the salary sacrifice so should be used in this instance.

The cash equivalent for John is:

£16,050/3 = £5,350

Less: Amounts made good by John: (£4,800)

Cash Equivalent: £550

Under the benefits code, the furniture would amount to private use of an asset and be subject to a benefits charge of the higher of the M/V of the furtniture when John starts to use it and M/V at first use less 20% per tax year for previous years of use.

It is clear here that the M/V when John starts to use it should be used.

The cash equivalent would be £200 [1,000*20%].

Loan:

Cheap loans cannot be voluntarily payrolled.

As the loan is under £10,000, it would normally be exempt from a tax charge or reporting requirement.

Pension:

The pension contributions are a tax-free benefit. The OpRA rules do not apply to pension contributions as pension contributions are a stated exemption in the legislation.

The pension deductions should be reported in the full-payment submission for each pay period as well as on the employee's payslips.

3) Minimum Wage Obligation:

As a 21-year old. John is entitled to the National Living Wage of £11.44 per hour (2024/25 rate - it is higher for 2025/26)

This must be in reference to the relevant period which cannot exceed a month (rather than for a year).

Pay included when calculating the National Living Wage includes salary, but does not include any benefits (except for living accommodation benefits).

Assuming he isn't remunerated for any hours he does outside of his contracted hours, his pay for April 2025 would be as follows:

Salary for April 2025: £2,000
Number of Hours Worked in April 2025: 180 hours
Wage per hour: £11.11

There is an accommodation offset of up to £9.99 per day. However, John pays £13 per day for this accommodation so the accommodation offset does not apply.

John is not being paid the minimum NLW. Cactus has not met their NLW requirements.

They should pay the amounts outstanding due to John as soon as possible.

HMRC may choose to proceed with a penalty of the higher of £100 or twice the amount outstanding calculated at the rate of NLW at when the mistake was identified.

Cactus should ensure that they are aware of their requirements and increase his pay moving forward.

They could consider paying individuals for their hours worked outside of those they are contracted to work.

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

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

Answer-to-Question-_4_

Albert's situation in terms of UK tax, National Insurance, and reporting obligations would be as follows:

Tax:

To understand how Albert will be taxed, we must look at his UK tax residency position. This is dictated by the statutory residency test that determines his residency via the automatic non-residency tests, automatic residency tests, and the sufficient ties test.

He would not meet any of the automatic non-residency tests as he will spend over 90 days in the UK. He would most likely be resident by virtue of him spending 183 days or more in the UK.

As a result, all of Albert's workdays will be subject to UK tax, including the overseas workdays.

There is a limited exemption to UK tax where the work performed in the UK is 'merely incidental to the overseas duties'. However, this does not appear to be the case here as his duties consist of resolving interal IT queries which he performs for the majority of his days in the UK. His work in the UK will, therefore, be substantive and chargeable to UK tax in full.

NICs:

As he will be working in the UK and Spain, we must look at the EU SSC protocol to determine where he will be subject to NICs.

As he spends more than 5% of his time working in a second country, he will be subject to the multi-state worker rules.

As he spends more than 25% of his work in the UK and is habitually resident in the UK, he will remain subject to UK NICs on his employment income.

Vasquez should request a certificate of continuous coverage from HMRC to give to the Spanish tax authorities so that Spanish Social Security payments are not required when he is working in Spain.

PAYE:

An employer only needs to operate PAYE on employment income when they have presence in the UK. This does not appear to be the case for Vasquez SA as they have no offices in the UK. They also do not have an address in the UK as Albert does not use his home address for work purposes.

As this is the case, Vasquez is not required to operate PAYE on Albert's income. They can apply to operate PAYE voluntarily. However, this is not recommended as the will be subject to the same obligations as employers who have to mandatorily apply PAYE. As it will only be for 1 employee (Albert) the costs and admin of applying PAYE may be arduous for Vasquez to implement.

They would also not be considered his seconday contributor for NICs purposes either as they have no permanent establishment or presence in the UK.

Vasquez should retain documentation in case of an HMRC enquiry and should ensure that payslips are provided to Albert so that he can accurately report his tax and NICs position himself.

This means that Albert will have to account for UK income tax and NICs himself. He will need to contact HMRC to set up direct payments regarding Class 1 NICs. He will need to pay income tax by setting up a payment plan with HMRC monthly or paying the tax on via his self assessment tax return.

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

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

Answer-to-Question-_5_

When looking at how Amelia's employment income will be taxed, we must first look at her tax residency position.

Tax Residency Position:

Amelia's domestic UK tax residency position will be determined in accordance with the Statutory Residency Test. Under this test, three sub tests will be applied in the following order: automatic non-residency tests, automatic residency tests, the sufficient ties test.

Looking at the tax year on the whole, she will spend roughly
171 days overseas and 194 (12*9 + 25 + 31 +30) days in the UK.

She will not meet any of the automatic non residency tests as she spends 91 days or more present in the UK at midnight during the tax year (so doesn't meet the >16 days of presence or the criteria for full time work abroad).

Her expected position is that she will be full-year UK tax resident by virtue of her spending 183 days or more of presence in the UK.

Even though she is a UK tax resident, she will not be able to split the tax year under any case, as she plans to spend 108 days in the UK after 1 July 2025, so cannot split the tax year under starting full time work in the UK. Her partner is not working full time overseas and she will continue to have a UK home.

As such, she will be subject to UK taxation on her worldwide income and gains.

Treaty Residence:
As resident in both the UK and Genovia under their domestic tax rules, her treaty residency should be determined to understand how she will be taxed.

She will be treaty resident of the country where she has a permanent home available to her. Her apartment provided by her employer would count as a permanent home in this case as it has some degree of permanence (hotels and short term accommodation would not count, but this would).

Where she has two permanent homes, the centre of vital interests should be considered. Here, it is clear that her centre of vital insterests remain in the UK as her family continue to live there and she spends all of her free time in the UK.

As a treaty non-resident of Genovia, only her Genovian-sourced income would be subject to a tax charge.

Regarding her employment income specifically, no exemption from a Genovian tax charge would be available under Article 15(2) as her expected situation does not meet the conditions.

Namely, from 1 July 2025 to 1 July 2026 (a 12 month period starting in 25/26), she will have days of presence in Genovia of 183 days or more (208 days to be exact).

As such her employment income relating to her Genovian workdays will be subject to both the UK and Genovian tax regimes on her employment income.

Foreign tax credits would be available for the Genovian workdays where double taxation occurs.

Double Taxation Relief Calculation:

Her double tax relief calculation is as follows:

UK tax under domestic rules:

Salary: £80,000
PMI: £5,000
Bonus: £24,000
Accommodation: £27,000 [3,000*9]
Total: £136,000
(No personal allowance as she will earn in excess of £125,140, so reduced to nil).

37,700 @ 20% = £7,540
87,440 @ 40% = £34,976
10,860 @ 45% = £4,887

Total UK tax liability: £47,403

Amount charged to Segovian tax:

£80,000*(9/12) = £60,000

PMI £5,000 * (9/12) = £3,750

Accommodation: £3,000 * 9 = £27,000

Total Employment Income: £90,750

Less: 1/5 from unchargeable to Genovian tax under treaty: (£18,150)

Total: £72,600

£72,600 * 43% = £31,218

Foreign tax credits are at the lower of UK tax suffered and overseas tax suffered: £31,218 would be deducted.

FTC: £3,218

Amounts unchargeable under the treaty: £18,150

Appendix 5:

An Appendix 5 can be put in place when PAYE is being operated on her earnings to ensure that her earnings are net of any foreign tax credits.

This must be agreed with HMRC beforehand. The Amelia's name, NINO and the country she is going to must be given to HMRC.

Once in place, there is a quarterly reporting requirement and a report must be submitted at the end of the year.

However, this may not be practical for her employer as they would need commercial payroll software that can calculate pay net of foreign tax credits and if it is only for 1 employee, the admin surrounding setting up an appendix 5 agreement may be arduous.

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

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

Answer-to-Question-_6_

The Construction Industry Scheme applies to payments made to carry out construction operations.

Under the CIS, there are two main persons the contractor and subcontractor.

In this scenario, Propman Ltd would be considered the deemed contractor as they are carrying on a business involving construction operations and have a yearly spend on construction expenditure in excess of £3 million.

As a deemed contractor, Propman Ltd should register themselves as contractors as soon as possible.

Sub-contractors are persons who are under the duty to undertake construction operations and furnish in their own labour to undertake the operations.

The four payments made to the subcontractors would be treated as follows:

1) Architects:
Payments made for the work of architects is not subject to the CIS. Propman Ltd can make payments to these Architects gross and inclusive of VAT.

2) B Ltd:

Scaffolding counts as a construction operation and will therefore be subject to the CIS rules. B Ltd. will be the subcontractor in this relationship.

Propman should determine whether B Ltd is registered for CIS and if they are whether they are registered for gross payment. They would need to issue a status determination statement to B Ltd detailing the their decision and the deductions (if any) they will be making at source under the CIS.

Propman will be requried to provide invoices to B Ltd detailing the payments with any CIS deductions.

Under these rules, the contract payments will be the gross invoice sent to B Ltd net of the costs of materials (in this case their scaffolding) and VAT.

A CIS return will need to be submitted in the months of November and the month in which the scaffolding is completed on or before the day the scaffolding company is paid.

The CIS withholding (if any) will need to be paid by the 22nd of the following tax month.

3) C Ltd:

C Ltd will also be engaging in construction operations as they will be altering and demolishing the mill and will therefore be subcontractors.

CIS returns will need to be submitted in the same fashion as B ltd with deductions made at source.

4) D Ltd:

D Ltd will be engaging in contstruction operations as the installation of electric fixtures and power supply counts. They will, therefore, be considered subcontractors.

However, the security system will not count as construction and can therefore be paid gross without the reporting requirement.

CIS returns will need to be submitted in the same way as the other subcontractors as explained above.

Propman Ltd as Subcontractor:

Propman Ltd will not be deemed as a subcontractor as they are only doing high-level management of the construction work arranged.