THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Taxation of Individuals

November 2021

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.

- Except as set out below or indicated by additional information in the question, you may assume that 2020/21 legislation (including rates and allowances) continues to apply for 2021/22 and future years.

  1) You MUST assume that the UK remains within the European Union.

  2) You MUST ignore all temporary Covid related legislation including furlough, grants, loans and the reductions in VAT and SDLT rates.

  Except in relation to points 1) and 2) above, candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.

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

1. Ruby Cole is a UK resident and UK domiciled individual living in England. She is single and her son Alfie, who is 15, lives with her.

Ruby works full time for Flamingo Ltd. She is not a director of the company. Her salary for the 2020/21 tax year was £45,500. This was after sacrificing £6,000 per annum with effect from 6 April 2020 in exchange for a company car, which was provided on the same date.

Ruby's P60 for 2020/21 shows that she paid tax at source on her salary of £6,600.

Ruby's company car was first registered on 1 September 2019 and has a manufacturer's list price of £22,650. Flamingo Ltd paid £18,750 for the vehicle on 1 March 2020. During March 2020 Flamingo Ltd paid £565 for a set of alloy wheels for the vehicle. The vehicle has a petrol engine and produces CO_2 emissions of 102g/km. No fuel is provided for private use.

On 6 April 2020, Flamingo Ltd made a loan of £16,000 to Ruby. This was followed by a further loan of £2,500 on 1 May 2020. Ruby has not made any repayments and was not required to pay any interest. Ruby lent 75% of the money she borrowed from Flamingo Ltd to Peacock Ltd. The funds were used to buy equipment for Peacock Ltd's trade. Ruby owns 10% of the shares in Peacock Ltd.

In November 2014, Flamingo Ltd awarded Ruby 50 shares in the company in recognition of her outstanding performance. The only restriction attaching to the shares was forfeiture if she left Flamingo Ltd's employment within six years of the award. The restricted value of the shares in November 2014 was £15 per share and the unrestricted market value was £29 per share. In November 2020, following the lifting of the restriction, the market value of Ruby's shares was £82 per share.

Ruby did not make any elections in respect of the shares in 2014.

Flamingo Ltd made an employer pension contribution of £7,000 for Ruby in March 2021. This was the first contribution made into their workplace pension scheme for Ruby. Ruby did not make any employee contributions into the scheme during 2020/21. The scheme is not a defined benefits scheme.

In addition to her workplace pension, Ruby has a private pension. For the last few tax years, she has made an annual contribution of £40,000 into this pension. The last time she contributed to this pension was in December 2019. In May 2020 Ruby turned 55 and withdrew a lump sum of £5,000 from this pension, under a flexible drawdown arrangement. The value of the fund immediately prior to the withdrawal was £456,000.

On 15 August 2020, Ruby purchased some treasury stock. The annual interest is £4,000, payable quarterly on 30 April, 31 July, 31 October and 31 January. The ex-div dates are 20 April, 20 July, 20 October and 20 January.

Ruby makes a donation of £15 per month to a registered charity. Ruby has signed a gift aid declaration in respect of this donation.

Ruby received child benefit of £20.70 per week during the 2020/21 tax year.

Alfie has two savings accounts as follows:

Account One: This account contains money gifted to Alfie by his Aunt. During 2020/21, gross interest of £157 was credited to this account.

Account Two: This account contains money gifted to Alfie by Ruby. During 2020/21, gross interest of £236 was credited to this account.

Requirement:

Calculate Ruby's Income Tax payable for the year ended 5 April 2021. (20)

2. Sarah is a UK domiciled individual who has always been UK resident and is a higher rate taxpayer. In 2015/16, Sarah opened up an overseas bank account with £25,000. She did this because the overseas bank was paying a better rate of interest than her UK bank. She then used some of this money to acquire units in an offshore non-reporting fund to maximise her investment income.

In 2015/16 Sarah received interest of £750 from her overseas bank account. No overseas tax was deducted. She also sold the units in the offshore non-reporting fund at a gain of £700. The proceeds were paid into her overseas bank account.

In 2016/17, she used all of the remaining cash in the overseas bank account to acquire units in an offshore reporting fund. She was entitled to income of £2,500 from the offshore reporting fund for that year, but no payments were made to her from the fund in the 2016/17 year. However, it did pay out this income in the 2017/18 year. The income for subsequent years was of a similar amount and was always paid out in the following tax year. It was paid into her overseas bank account.

Sarah was not subject to any foreign tax in respect of either of her offshore funds. The Double Tax Treaty in place with the country in which Sarah holds her investments follows the OECD Model Treaty.

As Sarah considers her tax position to be straightforward, she has always completed her own tax returns. She did not think that she had to declare anything relating to her foreign investments on her UK tax return as they were kept outside the UK.

Requirement:

Explain how Sarah's offshore investments should be taxed in the UK and the consequences of not having reported the income. Calculations are NOT required.

(10)

3. Ayesha Patel is a UK resident and domiciled individual who is an additional rate taxpayer.

At 6 April 2020, Ayesha owned 100% of the share capital in three companies: Coconut Ltd, Mango Ltd and Avocado Ltd.

Coconut Ltd and Mango Ltd are trading companies. Avocado Ltd is an investment company.

Coconut Ltd has large cash reserves and Ayesha plans to sell her shares in Mango Ltd to this company for their market value, which is £346,000.

Ayesha has also agreed to sell 90% of her shares in Avocado Ltd to an unconnected third party for £685,000.

Ayesha has used her Lifetime Allowance for Business Asset Disposal Relief in full.

Requirement:

Discuss the tax implications of Ayesha's planned share transactions and recommend any actions she should take. (15)

4. Oscar was born in Ruritania and is domiciled there.

He became UK resident for the first time on 6 April 2011 when he moved to London for his job. On 5 December 2014, he moved to Switzerland for a secondment. He was eligible for split year treatment for 2014/15 with the overseas part of the year beginning on 5 December 2014.

He returned to the UK on 7 July 2017 to resume his duties in the UK. He was eligible for split year treatment for 2017/18 with the UK part of the year beginning on 7 July 2017. He claimed the remittance basis for 2017/18, 2018/19 and 2019/20.

Throughout 2020/21, Oscar was employed on an annual salary of £75,000. This was subject to PAYE of £14,500 and was paid into his UK bank account at the end of each month.

In 2020/21 Oscar made net personal pension contributions of £3,000. He received UK bank interest of £2,450 and UK dividend income of £2,320.

Oscar has a property in Ruritania and rents this out. The rent was £45,000 per annum until 30 November 2020 but increased to £60,000 per annum with effect from 1 December 2020. The rent is payable monthly in advance on the 1st of the calendar month and is paid into one of Oscar's Ruritanian bank accounts.

During 2020/21 Oscar paid letting agency fees of £7,400, water charges of £1,200 and an insurance premium of £7,000 for his Ruritanian property. Oscar uses the cash basis for calculating rental profits in the UK. No Ruritanian tax is due on the rental income.

Oscar sold another Ruritanian residential property on 20 November 2020 for £250,000. The property was acquired on 1 April 2010 for £40,000 for investment purposes, but Oscar never found a tenant for this property. The property was worth £200,000 on 5 April 2017. No Ruritanian tax was due on this sale.

Oscar has a Ruritanian current account (Account A) and three Ruritanian savings accounts (Accounts B, C and D).

All Ruritanian rental income and interest is paid into Account A. Oscar has been using monies from Account A to make gifts to his family members in Ruritania and in consequence this account is overdrawn.

At 6 April 2020, Account B contained £30,000. This was made up of Swiss earnings arising when he was non-resident. The proceeds of the sale of the property in November 2020 were paid into this account. In December 2020, Oscar used all of the funds in Account B to make a gift to his 21 year old daughter, Lottie. He transferred the funds to her Ruritanian account. She then used the fund as a deposit to acquire a UK property for her to live in by herself.

At 6 April 2020, Account C contained £60,000. This was made up of:

1) Ruritanian interest from a deposit maturity credited directly to this account in 2019/20. The gross interest was £25,000 and Ruritanian tax of £5,000 had been deducted from this amount.

2) A distribution from a Ruritanian discretionary trust of £40,000 that was paid to Oscar in 2018/19. This has not been subject to Ruritanian tax.

During 2020/21, Oscar transferred £12,000 from Account C to Account D.

At 6 April 2020, Account D had a balance of £90,000.

This was made up of:

1) Ruritanian dividend income which had arisen in 2014. The gross amount was £36,000 and Ruritanian tax of £6,000 had been deducted from it.

2) A gift from Oscar's father of £60,000 made in 2016.

There have been no other transactions in Accounts C or D since 6 April 2020.

Oscar is considering remitting £30,000 to the UK from one of his Ruritanian accounts.

Requirement:

1) Explain, with calculations, whether or not Oscar should claim the remittance basis for 2020/21. (10)

2) Discuss the UK tax implications for Oscar of the transfers from Accounts B and C. (4)

3) Advise from which Ruritanian account Oscar should remit funds to the UK. (6)

Total (20)

5. Henry and his ex-girlfriend Dorothy are in the process of selling Grasslands, their house in London.

Henry and Dorothy bought Grasslands, as tenants in common, (*Scots Law: without a survivorship clause*) on 6 April 2003 for £100,000 inclusive of all costs. They each own a 50% share of Grasslands.

Henry and Dorothy moved into Grasslands immediately and lived there until 5 April 2004 when they went backpacking around the world together until 5 April 2007.

They then lived in Grasslands again until 5 April 2009, when they both moved to Cornwall because Henry's employer sent him there on secondment. During this secondment, Henry's employer paid for Henry to live in rented accommodation as it was too far for Henry to commute from Grasslands each day.

On 5 April 2011 they left Cornwall and moved overseas to Dubai so that Henry could take up new employment and Dorothy accompanied him. Henry and Dorothy lived in accommodation provided rent-free by Henry's Dubai employer, during their entire time there. On 5 April 2013 Henry left his employment in Dubai and he and Dorothy returned to live in the UK again, immediately moving back into Grasslands. They did not return to the UK whilst Henry was working in Dubai.

On 5 April 2014 Dorothy broke up with Henry, moved out of Grasslands and returned to Dubai. Dorothy has not been UK tax resident since 5 April 2014. She may or may not be UK tax resident in 2021/22, depending on how many days she spends in the UK in the year.

Henry decided that he no longer wished to live in the house and so he also moved out of Grasslands on 5 April 2014 to live with his mother in Manchester, where he still lives.

Henry and Dorothy have never let Grasslands out during their ownership of the property and it remained empty during periods where they lived elsewhere and from the date they left.

On 5 April 2015 Grasslands had a market value of £350,000.

They anticipate that that sale will take place on 5 April 2022 for £400,000 net of selling expenses.

For 2021/22, Dorothy's taxable income will be less than her personal allowance whilst Henry will be a higher rate taxpayer. Neither Henry nor Dorothy expect to have any other capital gains and neither has any unrelieved capital losses from previous tax years.

Requirement:

Calculate Henry's and Dorothy's Capital Gains Tax liabilities on the disposal of their respective shares of Grasslands. (20)

6. Sean Newhouse is a UK resident and domiciled individual who lives in England. In May 2021 he retired from his employment on an annual salary of £175,000. Since then his only income has been from the following investment properties:

1) A flat in London
2) An apartment in Edinburgh
3) A cottage in the Peak District
4) Two holiday villas in Portugal

The London flat is let out on a 12-month assured shorthold tenancy agreement. It was occupied by the same tenant throughout 2020/21 for a rent of £65,000. Sean realised a rental profit of £18,000 net of allowable expenses.

All other properties are holiday lettings which are usually available all-year round for short-term stays. In 2019/20, they met HMRC qualifying conditions for Furnished Holiday Lettings.

The Edinburgh apartment was available throughout 2020/21 and was occupied for 215 days. It generated rents totalling £32,000 for the year, with a profit of £5,000.

There was severe flooding in the Peak District during 2020/21, which resulted in significant damage to Sean's cottage. Sean received £65,000 from his insurance company but he incurred £90,000 in total on work to the cottage. This work included rebuilding and redecorating indoor and outdoor walls, replacing furniture in the property, extending the patio area and installing some new patio doors. The work was all completed during 2020/21 but Sean paid the final balance due of £30,000 in May 2021. During the year, the property was available for short-term lettings for 252 days in total but only occupied for 98 days. Sean received rents totalling £16,500 but realised a loss of £28,400, after expenses, including mortgage interest of £1,500 per month.

The two villas in Portugal were occupied for over 300 days each during 2020/21. Sean received rents totalling £19,000 from each villa. After deduction of allowable expenses, he realised a profit of £7,200 on one villa but a loss of £370 on the other.

All rental profit and loss figures provided have been calculated on the cash basis.

Requirement:

Discuss the basis on which each of Sean's properties will be taxed in 2020/21 including any beneficial elections he can make. Calculations are NOT required.

(15)