

MAY 2019 EXAMINERS REPORTS

CHIEF EXAMINER'S COMMENTS

This was the first session of our new syllabus and it was pleasing that in general candidates performed well. Whilst there were some minor changes to certain of the old "Advisory" papers in the new "Advanced Technical" papers, it was the change from the old "Application & Interaction" paper to the new "Application & Professional Skills" (APS) paper, which saw the biggest changes.

We believe that sponsoring employers require highly competent advisers who can communicate clearly and provide advice (rather than a series of factually correct statements, which leave the client no clearer as to what they should do). This is what creates clients who value the service provided, revenues for employers and hence the demand for CTAs. The purpose of the APS paper is therefore to test the candidate's ability to produce a report which a client would value. It does this by focussing on three skills in which candidates must demonstrate competence:

- Structure
- Identification and Application
- Relevant Advice and Substantiated Conclusions

The marking process is substantially different with candidates assessed on these skills across their answer as a whole rather than being marked on a broadly rigid marking scheme for mentioning various factual points.

We recognised that the first candidates would have limited resources available to them in terms of past papers and experience of what was expected of them and that this would be a challenge. We therefore worked closely with the tutorial bodies through the final stages of designing the exam. In particular, they were involved in the production of some of the pilot papers and were also involved in the marking trials, which provided valuable feedback and experience for all concerned. We were therefore pleased that this seems to have paid off as overall performance was good.

Across all papers, the number failing on Structure was low and indeed no candidate failed on Structure alone. One question which we have been asked is what style should candidates use for their reports? We have deliberately not specified a style that candidates should adopt because we recognise that there are a number of different and valid styles that they could use and most will adopt that of their employer. In particular, it is not necessary for candidates to number their paragraphs: it is far more important is that there is a clear and logical flow to their answer. That said, candidates may find that where there is material in their answer which is relevant to several topics, the use of numbering may make it easier to reference that material.

Other comments of general relevance are:

- Candidates will note that the model answers for APS are far shorter than for the old Application & Interaction paper. In itself, a long answer will not gain credit and therefore candidates must ensure that they resist the temptation to dive in and immediately start writing, and instead properly plan their answer. The failure to plan by some candidates manifested itself in answers with duplicated information or areas that were omitted or given insufficient weighting. This planning time will also help candidates to ensure that they make use of the information in the question.
- Candidates need to avoid the temptation to close down options too early to arrive at a conclusion. There might not be a "correct" answer and the skills being tested include the ability to weigh up all the options and arrive at a balanced conclusion.

- Support advice and recommendations with information provided in the question and inferences (including calculations where appropriate) drawn from that information. Do not just rely on instinct.
- Referring back to the paragraph on the purpose of the exam, a key question which candidates should ask themselves is “Would a client be happy to pay for this and feel that it has helped them? Clients do not value reports with lots of technical narrative where they are left to work out what they are supposed to do.

AWARENESS

Module A – VAT and Stamp Taxes

General Comments

Overall, a satisfactory performance with a few candidates performing particularly well (and a few others performing particularly badly). Most candidates attempted all questions, but a number did not attempt Question 10 on retail schemes.

Question 1

This question was on compulsory VAT registration and while the historic test was generally well done, the future test was often misunderstood.

Question 2

This question on the Capital Goods Scheme was generally done either very well or very badly, a common misconception being that the input VAT on the building was recoverable in equal amounts over ten years.

Question 3

Most candidates spotted that this question concerned a limited cost trader and consequently scored well. Other candidates failed to read the question properly.

Question 4

Generally well done, however common errors were to exclude zero rated supplies from the partial exemption fraction and failure to correctly round the percentage.

Question 6

The most common misconception in this question was that the input VAT previously claimed on stock/asset would have to be repaid, rather than accounting for the output VAT on the self-supply.

Question 8

Answers to this question were very mixed. Several candidates simply listed the conditions for a TOGC to apply, rather than addressing the requirements of the question. Of those who did answer the

question set, most failed to consider the age of the warehouse and the fact that it may well be exempt and therefore could be included in the TOGC without any options to tax being exercised.

Question 9

Another well answered question by most candidates. However some wasted time discussing all the advantages and disadvantages of a group registration for VAT, rather than confining their answers to the particular circumstances of the question.

Question 10

This was probably the most omitted question on the paper, however those candidates who attempted it generally scored highly.

Question 12

Generally well attempted by most candidates, although lack of clarity of explanation was a problem for some. Many simply stated that the SDLT was due within 30 days rather than stating the actual due date as per the requirement of the question.

Module B - Inheritance Tax, Trusts and Estates

General Comments

Overall, the module seemed to have been well received by candidates, although there were a number who didn't attempt all questions.

Question 1

This was well attempted by most, with the most common error being a failure to adjust for the residence nil rate band when calculating the baseline amount.

Question 3

Generally this was well answered, although quite a few candidates lost marks for the "two of five years" point.

Question 10

A surprising number of candidates calculated and deducted indexation allowance when calculating the gains arising on the disposals but otherwise it was generally well answered.

Question 11

When commenting on the penalties, a number of candidates failed to gain marks because their response was too imprecise.

Question 12

Although a significant number were unable to correctly deal with the first part of the calculation, most made a good attempt at gaining the last three marks.

Module C: Corporation Tax

Overall comments

There were noticeable gaps in the candidates' knowledge in some key areas, for example: R&D tax relief; loans to participators; the substantial shareholding exemption; and the CT61 procedure. Many candidates wasted time addressing points outside of the requirement or by providing explanations where calculations were required, and vice versa. Candidates should give more thought to how they present their answer, as this helps to ensure that no points are missed.

Question 1

Many candidates did not attempt this question. Although most candidates recognised that spreading applied, few were able to explain why this was the case and the impact on the company's tax calculations.

Question 2

Most candidates performed this question well with many scoring full marks. The treatment of the loan relationship credits caused most problems for candidates with some treating them as debits. The question asked the candidate to calculate the company's Corporation Tax liability but some candidates did not do this, stopping at taxable profits, and so missing out on a mark.

Question 3

Most candidates recognised that the income was taxable, and that the salary and gross deemed payment were deductible for the company. However, a common error was to treat the 5% deduction as an allowable expense for the company. Only a few candidates were aware that the gross deemed payment was allowable on a paid, rather than accruals, basis.

Question 4

The capital gain and loss caused most problems; the most common error being to set the capital loss against other profits of the same year. Quite a few candidates could have presented their answers better, for example, by using columns. This may have helped them to keep better track of the numbers.

Question 5

Although most candidates did well in this question, there were a number of common errors including: treating the NICs as non-qualifying expenditure; treating the director's salary as non-qualifying expenditure; applying an incorrect rate for the payable tax credit; and applying the rate for the credit to an amount equivalent to 100% or 130% - not 230% - of the R&D expenditure.

Question 6

Overall, candidates performed well in this question with quite a few scoring full marks. The question required the candidate to restrict the group relief claim by reference to the common period. Many candidates did not attempt this and for those that did, a common error was to time apportion the surrendering company's loss but not the claimant company's profit.

Question 7

This proved to be a challenging question for many candidates who struggled to apply the rules with regard to loans to participators. Quite a few candidates lost marks in relatively simple areas such as the rate of the charge (19%, 25%, 30% and 38.1% were all used a number of times) and the due date for payment/repayment (31 January; date loan made/repaid). Although the question asked for calculations only, quite a few candidates provided explanations, wasting time.

Question 8

A significant minority of candidates seemed to be unfamiliar with the conditions for the substantial shareholding requirement, for example, many thought the shares sold had to equate to a shareholding of at least 10%. Of those candidates who were able to explain the conditions applying to the investor company, few went on to consider the condition applying with regard to the investee company.

Question 9

Most candidates displayed a good knowledge of rollover relief. Where marks were lost, it was generally for not explaining fully the conditions for a claim for rollover relief to be made.

Question 10

This was a low-scoring question for most candidates, perhaps because they were unfamiliar with the rules applying in this area. Also, many candidates did not take sufficient care in presenting their answer, for example, not indicating which part of the question they were answering and not stating whether a profit figure was trade income or a capital gain. Although most candidates recognised that a capital gain arose, few calculated indexation allowance and fewer still calculated it correctly.

Question 11

Most candidates did well in this question with many scoring full marks. A common error was not to gross up the foreign profits for the foreign tax suffered. Overall, candidates were more comfortable with the Double Tax Relief calculation than the Controlled Foreign Companies calculation.

Question 12

Although the requirement was to discuss how the company would account for Income Tax on the payments, quite a few candidates discussed the Corporation Tax loan relationships rules. Few candidates were able to explain confidently the CT61 procedure.

Module D - Taxation of Individuals

General Comments

Generally the paper seems to have been well received with most candidates attempting all questions.

Question 1

Candidates often made errors in relation to the provision of furniture by including the £8,000 cost as part of the cost of the property itself for the further charge calculation.

Question 4

The question stated that no election had been made to use the cash basis, but should have read that an election had been made to use the accruals basis, as the cash basis would be automatic on the basis of the information given. On the whole, candidates correctly deduced that the answer wanted an accruals based calculation and produced answers on this basis. However, where candidates identified that the cash basis would be automatic and calculated on this basis, marks were awarded accordingly.

Question 5

This question was surprisingly poorly answered – a number of candidates lost marks for giving vague answers such as “it is deductible” without stating what it should be deducted from. The pension was rarely dealt with correctly and no candidates mentioned the possibility of setting the EIS tax reducer against the previous year’s liability.

Question 6

Few candidates knew the correct date for payment to be made by.

Question 12

Candidates generally did poorly on this question although some did make a reasonable attempt at some calculations.

Module E: Taxation of unincorporated businesses

Overall comments

Most candidates performed well in this paper. Some candidates did display a lack of knowledge in some areas; for example, overlap profits. In some cases, marks were lost due to simple errors; for example, forgetting to take into account the annual exempt amount when calculating the CGT liability.

Question 1

Some candidates lost marks by not referring to the badges of trade, as requested in the requirement. This would have helped them to structure their answers, ensuring that enough points were made to pick up all 5 marks.

Question 2

Some candidates struggled with the concept of overlap profits. A significant minority allocated profits to tax years on a simple time basis so that no overlap profits were created.

Question 4

Many candidates confused the rules for allowing relief against trading profits for staff gifts with the PAYE and BIK rules.

Question 5

A common error was to make a private use adjustment in calculating the capital allowances in respect of the car provided to an employee.

Question 6

Many candidates were unaware of the rules allowing rental receipts to be taken into account in calculating trade income in some circumstances.

Question 7

Some candidates applied Class 1 NICs to the salaries drawn by the partners.

Question 8

As in Question 2, some candidates struggled with the overlap profits, treating them as profits and so reducing the amount of the terminal loss.

Question 9

Most candidates scored well in this question although some were unaware of the restriction applying where rent has been paid. A common error was to forget to take into account the annual exempt amount.

Question 10

Many candidates did not attempt part 2 of the question. Those that did generally scored full marks.

Question 12

A common error was to answer the question based on the penalties for submitting a tax return late. This may have been due to a lack of familiarity with the penalties for late notification.

ADVANCED TECHNICAL

Taxation of Owner Managed Businesses

General comments

Overall, on this paper the pass rate was disappointing. It was noticeable that this wasn't as a result of candidates failing to answer either a particular question (because they knew nothing at all about the subject) or a more random failure to answer one of the questions (because they ran out of time). Questions 4 and 5 were the key questions which really made the difference to scores on the paper with average marks around 35%.

Question 1

This question considered reliefs on transfer of shares to a daughter. Most candidates achieved above average marks on this question and there were some very good answers.

Most candidates identified gift relief and entrepreneurs' relief, but not always why the conditions were met for gift relief. Many recognised that gift relief was restricted in relation to assets that were not chargeable business assets, but usually made at least one error in their calculation, or did not perform such a calculation. Many candidates recognised that the trading status of the company may be threatened by the same investment asset but then failed to explain this adequately.

Common errors were omitting to give a due date for payment of the tax or failing to give correct information about timing of the gift relief claim.

Question 2

This was a standard capital allowances computational question and marks were broadly average, but perhaps slightly below expectations. Some candidates provided narrative that was too lengthy and lost time which would have been valuable time for other questions. As always, there were common errors such as overlooking that corporate partnerships did not qualify for AIA but none of the errors led to significant loss of marks.

Question 3

This question tested an R&D scenario, in the context of both having to identify the qualification status of two projects and having to quantify the financial implications of any qualifying projects. We expected marks on this question to be above average as it is a discrete mainstream topic that candidates don't normally have a particular problem with. However, this was not the case and marks were well below average. Whilst a lack of knowledge may have played a part, more significant seems to have been a failure to apply the knowledge to the scenario: candidates struggled to assess the qualification status of the projects. This is a critical point in practice.

Candidates struggled badly to assess the qualification status of the projects, often not referring back to the actual projects themselves. Quantification of the qualifying expenditure was better, but some candidates should revise the four heads of qualifying expenditure which make up an R&D claim under the SME scheme. A wide variety of costs were included. Finally, the section on tax benefits was generally tackled well, other than confusion around the calculation of the maximum surrenderable amount.

Question 4

This question tested scenario involving loans to and from participators in a close company. Candidates were asked to explain the tax consequences for the company and three individuals in respect of loans made by the company to two of the individuals and a loan made to the company by the third.

This question was the worst answered question of the paper, with a material number of candidates not covering entire sections of the answer which suggests a lack of knowledge of the subject. It may

be that candidates were thrown because the question did not spell out the loans to participators problem.

Too often candidates confused elements of the legislation relevant to loans to participators with that applicable to beneficial loans. As is always highlighted, candidates should also pay closer attention to the wording of the requirement, as a question about income tax does not need a detailed explanation of the CGT position in respect of share options, for example, nor do we need to know about things which might have occurred in an alternative scenario.

Question 5

This question dealt with two possible scenarios for Angela Dudley to dispose of her business: as a sale of shares for £500,000 or the sale of the assets of the business by the company and subsequent extraction of the funds. The scenario should also have prompted candidates to comment on anti-avoidance measures known as “phoenixing”.

Some candidates made a good attempt at the question, however others seemed flummoxed by the scenario of the company disposing of its assets. Overall, marks were some way below what were expected for a mainstream topic.

Candidates needed to proceed step by step through the implications of each transaction. Errors included referring to entrepreneurs’ relief on goodwill, despite being clear elsewhere that the company owned the assets.

Most candidates were able to comment on the targeted anti-avoidance rules, although the rules were often applied to the sale of the shares rather than just on a liquidation, or commenting that the effect of the rules meant that just entrepreneurs’ relief was denied rather than capital treatment.

Question 6

This was a deductions question and on the whole marks were broadly average. They were required to provide advice on the tax treatment of four items of expenditure. Most candidates dealt with this systematically and presented their answer in an easily digestible format, which was good.

The only area which requires further comment is the first item which involved a property improvement in the form of an extension. The vast majority of candidates identified that this was capital; there was no deduction for the notional repairs cost and a capital allowances claim for the building costs was precluded by legislation. What almost all candidates missed was the likelihood that the extension would contain some form of integral features which meant the possibility of a deduction for some of the expenditure.

Taxation of Individuals

General comments

Candidates would have benefited from reading the questions properly and providing overall conclusions to their advice. Most of the candidates showed that they knew the technical detail but did not fully advise the clients based on the points in the question.

Generally the questions were laid out well but more advice needed to be given.

Question 1

This question tested candidates knowledge of the deemed domicile rules and the remittance basis.

Mostly all candidates showed that they understood what the definition of deemed domicile was and how to apply this. They also showed that they understood what a remittance was and the priority of how funds should be brought into the UK.

However the majority identified that Samantha would be taxed on the arising basis but still referred to her claiming the remittance basis and losing her personal allowance and annual exemption throughout the question and some even identified the charge that would be payable.

Although candidates correctly identified that Account A was a mixed fund, the majority of candidates did not apply the same logic to Account B. About half of candidates did not correctly apply the ordering rules for a mixed fund account although they knew where to find this in the legislation. For example, they identified that later years would be brought to the UK first but, where they identified there would be no tax consequences for doing this, they then ignored the later year funds and advised that the interest for the earlier years would be brought in first. Some candidates did not understand that the pre-arrival employment income would be clean capital and would be brought in last.

Candidates did not read the question properly and many referred to the death benefits as an inheritance that could be brought into the UK without tax consequences regardless of the fact that the question referred to these as taxable.

Overall the format of the question was well structured. However most candidates would have benefited from providing an overall recommendation of what the client should do rather than just setting out general facts.

Question 2

This question required candidates to prepare training notes explaining the Transactions in UK Land provisions.

Few candidates demonstrated a real understanding of these rules with some providing answers relating to Non Resident CGT rules or Annual Tax on Enveloped Dwellings. In the majority of cases, candidates provided general anti-avoidance information as part of their answer.

Only a small number of candidates provided a description of land and about the same number advised on how these rules applied for national insurance purposes.

Some candidates incorrectly copied what Condition B was from the legislation and so taking more care would have ensured they got the mark for this.

Question 3

This question tested the Capital Gains Tax implications of the sale of shares.

It was reasonably well answered on the whole, although there was confusion over the different tax treatments of VCT, EIS and SEIS shares, leading to some very muddled answers.

Many candidate allowed the VCT loss, or stated that 50% of the gain reinvested into the SEIS shares would crystallise when the shares were sold.

Adjusting the EIS and SEIS loss for the income tax relief at source was often overlooked.

Many candidates missed the point with Mike's wife, and gave lengthy explanations about how to transfer 10% of the personal allowance to Mike and did not address the possibility of a transfer of shares to Cathy prior to the sale.

Question 4

This question examines the tax implications of the winding up of a business and the sale of property.

Most candidates made a fair attempt at this question but many missed what should have been easy marks.

Quite a few candidates thought that the winding up of the company would automatically be treated as a capital gain, and a significant number suggested that the company should purchase the shares back from Mr Booth.

On the sale of the yard, the restriction of ER due to the payment of rent was often incorrectly calculated, with many candidates restricting the total gain by 50%.

Often candidates would spend considerable time writing how something should be calculated in words, and then failing to back this up with the actual calculations. They would probably have got more marks if they had instead provided clear calculations and minimal text rather than pages of explanations and no numbers to support.

Question 5

This question required the candidates to prepare meeting notes for a colleague in respect of four rental properties owned by a client.

A lot of candidates scored well on this question. In particular the answers in the section requiring candidates to describe the mortgage interest restrictions on residential properties were very good on the whole.

It was good to see that many candidates considered Mr and Mrs Blake's overall situation and provided relevant advice regarding no gain no loss inter-spouse transfers of property to make use of Mrs Blake's unused basic rate band.

One area of concern was that a large number of candidates incorrectly stated that the expenses incurred prior to the flat at Oak Lane being let would be allowable if the work was required to bring the property up to a habitable standard, whereas in fact the opposite is true.

Candidates often missed out on the mark available for the Ash Crescent section because they did not correctly identify that the expenses would be wasted to the extent that they exceeded the rent paid by Mr Blake's brother.

Question 6

This was a standard Income Tax computation question for a Scottish taxpayer.

Almost all candidates made a good attempt at this question and were able to produce Alexa's income tax computation with many scoring high marks. However, many candidates missed marks that should have been easy to obtain. For example, some candidates grossed up the figure provided in the question for 'gross dividends'.

All candidates struggled to calculate the car benefit and many incorrectly stated that the optional remuneration rules did not apply to the benefit.

A large proportion of candidates did not spot that Alexa is a Scottish taxpayer and some of those who did spot it, incorrectly applied the Scottish rates to all income or incorrectly extended the starter rate for the charitable donations.

Candidates should know how to make adjustments for gift aid donations but this was an area where many candidates lost easy marks.

Human Capital Taxes

General comments

Candidates need to consider who the client is when they are giving advice to ensure they provide advice focussed from the employer's point of view. It was, however, good to see that candidates were giving advice and making suggestions as to alternative structures and not simply quoting the technical rules.

Candidates would do well to consider the subject being tested overall in each question and to set out the regulations relevant to the answer as a whole at the start. Too often the candidates launched into the individual components of the question and found themselves repeating rules, which wastes time and gains them no more marks.

Question 1

This question required candidates to consider which employment package should be offered to a new member of staff relocating to the UK.

On the whole, candidates made a good attempt at this question, although some marks were lost when errors were made in calculating the tax and NIC liabilities under each scenario. This was disappointing as the calculations were generally straightforward. Only a minority of candidates managed to calculate the correct gross-up figure under Package B (whichever method was used to calculate it).

A lot of candidates wasted time by discussing administrative aspects of each package which would have been common to both. However, bonus points were given for relevant points unique to one of the packages, such as relating to auto-enrolment (for Package A) or temporary workplace relief (for Package B).

Many also went into detail about overseas workday relief, even though there was no indication of overseas workdays in the question. Furthermore, when candidates did make comparisons between the cost and administration aspects of each package, it was often unclear what point was being made as to which package the client should choose, so marks were not always secured.

Presentation marks were commonly lost where the calculations and advice was difficult to follow – especially as a result of lack of structure.

Question 2

In this question candidates were asked to consider PAYE and National Insurance issues, in relation to scenarios which were identified in relation to a due diligence exercise.

Candidates in the main responded by considering the benefit in kind aspects and focused on any PAYE aspects as earlier year updates, rather than considering the question in the context of advice relating to a transaction where the client will be interested to understand the impact on the pricing of the deal and any warranty and indemnity issues.

Candidates would have achieved more marks by focusing on the facts and impacts of higher tax rates and additional benefits in kind and missed out on marks as a result.

Most candidates incorrectly focused on usage of the yacht and apportionment on that basis rather than correctly looking at availability, which would have had a dramatic effect on the amounts involved and materiality.

Question 3

This question asked candidates to consider the tax implications of offering staff help with travel or relocation following an office closure.

Candidates tended to focus on stating whether each suggestion was taxable or not, as opposed to trying to find suggestions as to how the Company could restructure the offerings to make them tax/NIC free. Clients are looking for an adviser to help achieve the company's aims and give positive alternatives, not simply a list of negatives.

Candidates would have done better if they had considered the overall relocation rules first and then applied them to each suggestion rather than rushing straight into the suggestions. Many missed out on easy marks for stating and applying the relocation rules as a result.

Few candidates knew the rules for works buses or that Suggestion 4 could qualify as a relocation expense.

Question 4

This question required candidates to provide advice to a company in relation to the secondment of an employee to the UK.

The vast majority of candidates performed well on this question. It was pleasing to see that candidates had taken on the feedback given in previous years regarding application of the Statutory Residence Test, i.e. to be efficient and concise in running through the tests and not to spend several pages summarising SRT in general terms.

On the whole, candidates were also good at remembering to state the *impact* of being resident and treaty-resident in the UK – although some of the weaker scripts tended to speak of this in general terms at the outset rather than after the residence position had actually been determined.

Candidates were generally competent in analysing the treaty, but while many pointed out that the treaty allowed Germany to tax the German workdays (i.e. that the conditions in Article 14(2) were not met), the real point to make was that the treaty *restricted* Germany's right to tax to the German workdays only (i.e. the effect of Article 14(1)) – the consequence being that the German taxes available for a foreign tax credit claim in the UK also had to be restricted. In addition, many candidates got rather confused around the idea of a particular country having 'primary taxing rights'.

Disappointingly few candidates took the time to discuss the mechanics of the foreign tax credit and make the point that the foreign tax credit is limited to the foreign taxes paid and the UK tax on the doubly taxed income – let alone how the UK tax on the doubly taxed income is calculated in a scenario with two foreign tax credits. However, in general this did not prevent a candidate from passing the question.

Question 5

In this question candidates were asked to explain the UK Income Tax and National Insurance treatment of two redundancy packages and to make any appropriate recommendations to the employer.

Unfortunately, only a handful of candidates demonstrated they understood the PENP regulations and correctly calculated the PENP and the liability to tax and NIC of the two options. They therefore missed out on many of the available marks.

Most candidates did not quantify the total cost to the company or the net take home for Steve in order to compare the two package options. The answers were therefore muddled and the same points were repeated, which would have wasted time.

Most candidates did present a conclusion based on their answers and were duly credited for doing so.

Question 6

This question required candidates to consider the tax rules surrounding employer provided child care arrangements.

Regrettably, very few candidates correctly considered the cash received as a round sum allowance and some took time to incorrectly focus on the tax relief for a nanny.

Generally, a very good understanding of the Childcare Voucher rules was demonstrated and marks were awarded for understanding the restrictions for higher and additional rate taxpayers and timing changes.

Easy marks were missed by candidates who did not mention the qualification criteria for workplace nurseries and a surprising number incorrectly stated the relief available for the children of the divorced parents still supporting the child.

Easy marks were missed, perhaps because this question had generally been left to last with insufficient time allocated to it.

Inheritance Tax, Trusts and Estates

General Comments

There was a real mix of scores across the paper: questions 3, 5 and 6 resulted in the highest scores with well over half of the candidates achieving at least 50% of the marks; questions 1, 2 and 4 resulted in some very low scores and a number of non-attempts but better prepared candidates still managed to achieve good marks. Question 4 in particular was not popular with candidates, scoring least well overall and for the majority of candidates, attempted last. Those candidates who attempted the questions in strict numerical order scored more evenly across the paper but there was evidence that the less prepared candidates ran out of time. The low pass rate on the paper highlights the need for candidates to cover the full syllabus in their studies and not to simply concentrate on the most common areas.

Question 1

This question tested the Inheritance Tax (IHT) implications of gifts and sale at undervalue by a close company and the compliance requirements of the report and payment of IHT on such transfers. Overall this was answered moderately well by all but the weakest candidates and very well by a more than a handful of candidates.

The majority of candidates correctly identified that the company was close and that such transfers of value were immediately chargeable. Some candidates erroneously attributed the transfers to the shareholders connected to each donee rather than attributing the total transfers of value across the shareholders according to their respective shareholding. Others lost valuable marks by ignoring the position of the less than 5% shareholder rather than identifying he was not personally liable for any IHT arising on his share of the total transfer and that his share was not cumulated for IHT purposes.

Candidates lost easy marks for failing to identify who was responsible for and the penalty impact of the late compliance requirement of report and payment.

Question 2

This death estate question required candidates to consider the options available to redirect a specific legacy and part of the residue left on discretionary trust. It produced a poor response through a combination of poor knowledge and failure to read the question facts with a number of candidates scoring virtually none of the technical marks. It demonstrated candidates' lack of awareness /attention to the broader syllabus and valuable marks were lost by focusing too narrowly.

As one of the trust beneficiaries was a minor, the question facts specifically excluded the use of a deed of variation (DOV) in respect of the residue passing onto trust. However, a worrying number of candidates ignored this direction and continued to suggest the use of a DOV without reference to the need for a court order and the complexity that this entails. In contrast, all but a few candidates missed or seemed unaware of the benefits of s.144 IHTA 1984 whereby (for IHT purposes) assets appointed out of discretionary Will trust within two years of death are read back to the will. This demonstrated a worrying lack of knowledge of this key area of the syllabus. Few candidates considered the capital gains tax (CGT) impact ignoring the effect of the appointment before ascertainment of residue concluding that the land should be left in trust to avoid the punitive CGT liability on appointment. The Income tax impact was ignored by virtually all candidates resulting in the loss of 4.5 marks. Candidates performed significantly better in relation to the specific legacy. However, most missed that the residence/transferrable residence nil rate bands were available to replace the loss of the spousal exemption whilst others suggested the least tax efficient redirection of property achieved through outright lifetime gifting.

Question 3

This was a short targeted question requiring candidates to identify their knowledge of the eligibility criteria and application of woodlands relief. Overall the question was answered no more than adequately by the majority of candidates.

Most candidates could achieve 50% of the marks by simply stating the rules but those who also demonstrated an understanding of the circumstances in which the relief could be claimed and the consequences of a later sale of the timber scored well. Marks were awarded for passing reference made to agricultural/business property relief. However, a number of candidates, perhaps preferring this as a subject matter, went into significant detail on these reliefs and the criteria for claiming them, wasting valuable time and leading to loss of marks for failing to address the question posed. As a result these candidates' scores were too low to achieve a pass on this question.

Question 4

This required candidates to consider the CGT implications of the sale of the assets of a mixed life interest trust and the IHT implications of the subsequent surrender of the life interest in favour of the absolute entitlement of the remainderman. It is fair to say that all candidates struggled with this question to a greater or lesser extent and the display of knowledge was generally poor.

Valuable marks were lost for failing to identify the correct values of: the proceeds and CGT base cost of the shares and property, the market values on transfer, and for the non-qualifying interest in possession in relation to the previous ten year anniversary. A number of candidates considered the trust to be a wholly qualifying interest in possession and lost valuable marks as a result. Easy marks were lost for failing to identify the lifetime exemptions but most candidates identified the availability of the increased nil rate band. Most candidates failed to deduct the CGT arising on the sale in arriving at the subsequent transfer of value by the life tenant/the trustees.

The calculation of the exit charge was performed well by those candidates who attempted it (after recognising that 50% of the trust was relevant property) although business property relief at the lower 50% rate caught some candidates and therefore prevented them from gaining the additional marks for the full calculation of an exit charge. On a positive note, most candidates were able to identify that the trust could benefit from entrepreneurs relief in respect of the gain arising on the shares although in some cases this was the only part of the candidates' answer that was worthy of merit.

Question 5

This tested the candidates' knowledge of the identification of lifetime gifts, the claim available reliefs and calculation of the impact of those lifetime gifts on the IHT of the death estate. The majority of candidates achieved no more than 50% of the marks available on this question.

Marks were awarded for identifying which gifts were potentially exempt transfers (PETs) and allocating the annual exemptions in a chronological order. Most candidates were able to achieve this although a number ignored the chargeable lifetime transfer (CLT) as it was more than seven years old and attempted to reuse the annual exemption utilised against it. A minority of candidates were confused over the level of marriage exemption available.

This question required a logical approach by working firstly through the lifetime gifting position to calculate the nil rate band (NRB) available to the death estate (to include the transferable amount from the predeceased spouse). The majority of candidates tried to deal with both these stages at the

same time by identifying the lifetime gift and then calculating the impact of the death within seven years. This led to mistakes in the calculations, with the cumulative totals either missed altogether or muddled and incorrect. The NRB was applied incorrectly and those few that did include the CLT in the NRB calculations forgot to add it back at the end. This resulted in incorrect values of the NRB available in the final estate calculations. Those candidates that separated out the two calculations scored highly with some calculating the final IHT liability correctly.

Most candidates identified the heritage property relief and included this in the calculations, others stated that it was available but then hedged their bets if the painting did not qualify. Only a small number of candidates calculated the fall in value of the shares correctly whilst many candidates dismissed the information provided as irrelevant. There were easy marks for including the residential nil rate band (RNRB) and recognising the transferrable residential nil rate band (TRNRB) available in respect of the predeceased spouse. However, a number of candidates failed to identify the RNRB and/or TRNRB whilst a handful did recognise the relief but judged a claim to be ineligible on grounds that the granddaughter was not a direct descendant of the deceased.

Question 6

This question required candidates to calculate the tax liabilities for the period of estate administration and the tax implications for the beneficiaries of income/capital distributions including R185 entries. Those well prepared candidates that adopted a methodical approach with clear workings and layout achieved very high scores, with some achieving almost full marks.

Most candidates correctly identified the rental income and interest received recognising that the ISA income was still taxable as the date of death was before the change of rules effective from 6 April 2018. Most candidates identified the correct tax rates for the different sources of income but a small number incorrectly used the personal tax rates and bands. Most candidates correctly dealt with the loan interest as an allowable expense and the deduction of administration expenses from post tax income but there was evidence of some confusion over the latter.

Some candidates failed to include the CGT SP2/04 allowance for probate expenses whilst many of those who did applied the wrong level of allowance. No more than 50% of the candidates identified that the annual exemption was restricted to the year of death and two subsequent years, some candidates stated the rule correctly but still claimed it in the final year and others simply applied the trust annual exemption throughout. On the whole the correct CGT rates were used but a minority wasted valuable time by calculating a liability for the exempt Aston Martin. The R185 completion was poorly done across the board with many not even attempting the task and of those that did too many ignored the distributions of the jewellery and cash. Few candidates prepared a calculation matching the income received in each year to the distributions made and as a consequence, most candidates made unforced errors and lost valuable marks by picking up the wrong totals.

Only two candidates identified that this estate was above the limits for a small estate and as such could not be dealt with informally and needed to be registered with the Trust Registration Service. Most identified that self-assessment returns would be required.

Taxation of Major Corporates

General comments

This was a relatively straightforward paper. Most candidates answered question 6 (the computation question) first, which was probably the right strategy. Surprisingly, candidates found question 5

difficult although the topics covered have previously been examined. Question 4 contained a US hybrid entity but the question explained how that entity was treated for US tax purposes and therefore no prior knowledge was required.

Some candidates' scripts were very messy; in some cases writing was barely legible and most failed to use a ruler. Candidates should ensure they write the question number on the top of every page. Candidates who performed less well did not write enough – if candidates run out of points to make, inspiration may often be found from opening the legislation. However, candidates should not resort to repetition – marks will not be given for the same point made more than once.

Question 1

This question asked candidates to prepare a letter to a client discussing proposed share disposals as well as two lease transactions.

In general, candidates performed well on this question with most identifying the key points relating to the share disposals, including discussion of the application of the Substantial Shareholdings Exemption and the possibility of degrouping charges. The best candidates considered planning opportunities such as deferring the transaction and discussed these in commercial terms.

The understanding of lease transactions was less consistent with confusion as to when the consideration needed to be split between capital and income. It was particularly disappointing to see many candidates calculating the gain on the Manchester disposal based on the capital element of the proceeds and then deducting the income element again! A number of candidates also confused the part disposal rules and the adjustment of cost on a depreciating asset.

Question 2

This question focused on the new loss relief rules and the standard of answers varied significantly. While most candidates were aware of the introduction of the deductions allowance and associated restrictions, it was disappointing how many applied these restrictions to the current year use of losses.

In general candidates could have benefitted from setting out their workings clearly, including showing the origin of the losses being used.

Question 3

This question asked candidates to give an overview of administrative matters for a specific company with sufficient details provided to allow them to focus on relevant matters. The stronger candidates identified the relevance not just of matters such as the Corporate Interest Restriction rules but also Country-by-Country Reporting and the Senior Accounting Officer Regime.

The best candidates also focused on the administrative matters as requested whilst providing enough detail to put these into context. A number of candidates appeared to have spent significant amount of time discussing penalties, which was specifically excluded from the scope.

The highest marks were achieved by those who tailored the information – for example, providing payment dates relevant to the company rather than long generic discussions.

Question 4

This question asked candidates to advise on the structure of a new acquisition to a multi-national group. The structure included a hybrid entity, treated as a branch in the US and a company in the UK. Those candidates who identified the hybrid and the potential challenges under the new Hybrid Mismatch legislation and the Unallowable Purpose legislation scored well. Many candidates however wasted time on the Corporate Interest Restriction rules despite being told that there were equal credits and debits of interest in the UK so the structure was neutral in that regard. A surprising number of candidates also went into some length on Diverted Profits Tax despite that regime not applying to loan relationships.

The second part of the question on Controlled Foreign Companies exemptions was generally well answered with most candidates scoring above the pass mark.

Question 5

The focus of this question was on the migration of a company to South Africa, the charges to tax that arise and the availability of the option to postpone the tax payable.

The result was somewhat mixed with the main confusion being between the exit charge payment plans available when a company migrates to an EEA country and the postponement election available when the migrating company continues to be a 75% subsidiary of a UK parent.

A number of candidates also decided to treat an investment property as a permanent establishment.

Question 6

This computational was generally a well-answered question with candidates scoring highly. In particular, the capital allowance section was done well with many candidates gaining the maximum available marks.

However, with the RDEC, many candidates applied the SME rules despite the fact that the turnover in the accounts identified the company as large for RDEC purposes. With the pension spreading, the better candidates realised that the comparison with the earlier period needed to be in line with the current nine-month account period.

Domestic Indirect Taxation

General comments

Overall the results on this paper were a little mixed. A few well prepared candidates scored well but the majority scored close to just above or below the pass mark.

Many candidates struggled with at least some of the questions and missed opportunities to score marks and some of the answers contained surprising omissions and errors. In general where candidates tend to be lacking is in their approach to advising clients – i.e. understanding what the problem is, considering the alternatives; knowing (or at least appreciating) the legislation, case law and practice, and most importantly, being able to provide clear advice and recommendations that a client would be prepared to pay for.

Question 1

This was a question in relation to IPT and VAT for intermediaries.

This question was generally well answered, although many candidates didn't consider the impact on partial exemption and the restricted input tax resulting from the exempt supplies. Candidates were well prepared to consider the relevant case law in respect of insurance click throughs and applied the appropriate tests to the scenario. Candidates generally referred to the 4 year cap for making a claim to HMRC, however the question detailed that the business had only been making supplies for 2 years. Candidates often discussed penalties, despite the answer being a repayment due to the client.

Question 2

This was a question in relation to VAT on car leasing to employees.

The majority of candidates attempted this question last and therefore there were numerous instances of the answer not being completed, or not attempted at all. Candidates often didn't cover all of the points raised in the question (for example input tax recovery on fuel and repairs) and so missed out on some of the easier marks. Some candidates didn't consider the recent VWFS case, and only a small number of candidates considered whether the exempt income would be incidental or de minimis. Some candidates considered alternative arguments for example whether this was a hire purchase agreement or services, however failed to conclude on which applied to the scenario. The style of the memo was often written as if addressed to a client, whereas the question was for an internal memo. Overall candidates struggled to attain a pass on the question.

Question 3

This was a question about a potential business/company acquisition addressing VAT, Stamp duty and SDLT.

Every candidate attempted this question but most scored poorly on it. Many candidates took the view that VAT-free TOGC treatment for the acquisition of the business also meant that there was no SDLT on the freehold transfer. Some thought that there was an SDLT liability when the ownership of the company changed. Most candidates seemed to have little understanding of the issues around "bumping" of trade in values and the potential VAT issues associated with this and the potential problems of staff continuing to do this after the purchase of the business/company were not addressed. While some candidates considered partial exemption, none of the candidates got to grips with the problems that Artomodini might be encountering. A few candidates mentioned the IPT issues that might be encountered, and some points were scored for this.

Question 4

This was a question about a potential local authority VAT refund claim following the CJEU judgment in the case of London Borough of Ealing.

Many chose to answer this question first, however, most candidates scored very poorly, and this was the worst answered question on the paper. Most did not appreciate that local authorities do not need to consider Capital Goods Scheme adjustments provided their exempt input tax remains "insignificant" (i.e. less than 5% of the VAT that they incur). Some were not aware of the de minimis rules applicable to local authorities and applied the "normal" rules and others applied the local authorities' rules (i.e. less than £7500 or 5% of total VAT on costs) as if both limbs of the test needed to be satisfied. This led to consideration of retrospective adjustments and penalties, neither of which was relevant. Given that both points were expressly mentioned in the question, this is very disappointing. Many candidates simply assumed that any claim would be subject to the "unjust

enrichment” defence, sometimes mentioning the difficulty that the authority would face over refunding tax to users, but without considering whether, as a matter of fact, users or the authority bore the tax cost. Many also reversed the burden of proof in unjust enrichment cases suggesting that it was for the authority to show that it was not unjustly enriched, rather than for HMRC to put forward a prima facie case that it was. None of the candidates considered the future impact of a claim on the authority or ways of mitigating that if need be.

Question 5

This was a question in relation to VAT and IPT on sports drinks and recycling incentives.

All candidates attempted this question but fewer than 25% of candidates scored more than half marks reflecting general incompleteness in the answers. Specifically, many candidates gave an analysis of CPP principles when it was highly probable that the drink and “bottle for life” would both be standard rated and therefore irrelevant, thereby losing precious time. A minority of candidates overlooked the IPT aspects or merely stated that the insurance would be VAT exempt. Voluntary and compulsory “environmental contributions” for charity were well covered. A multitude of voucher, card and discount cases were quoted for the 25p credit and whether this could reduce the taxable value of the primary goods or the redemption goods – some illogically thought both! Free drinks for employees attracted numerous references to input tax recovery being justified and business purpose, quoting Danfoss, even though the ingredients for hot drinks are generally zero rate and in reality the point would not arise – few were aware of the special valuation provisions relating to this area in Sch 6 VATA 1994.

The requirement was for a technical memo to a Partner but was often written as if addressed to the business owner.

Question 6

This was a question in relation to VAT and SDLT on commercial property development.

SDLT marks were widely scored although some candidates were unaware of the ability to defer SDLT on “overage”. VAT aspects of tenant incentives were generally well answered but slightly less well for SDLT, with the most common mistake being incorrect analysis of the direction of supply which led to candidates stating the opposite of what was described in the question. One example widely quoted was that the Bank would have difficulty with exempt input tax created by an incentive when in fact it was charging output tax as an “anchor tenant” and its Partial Exemption position would potentially benefit. Clarity in analysing who was supplying and who paying consideration would have yielded candidates many additional available marks. A minority of candidates suggested that not opting rents would be favourable to the bank tenant but overlooked the problem this may cause for the landlord with potentially 19 other non-bank tenants. Few referred to the possibility of a development financier although other marks were awarded for recommendations to opt to tax leases, improve the landlord’s input tax recovery and the interest liability created by SDLT deferral.

Cross Border Indirect Taxation

General Comments

There was a wide spread of marks awarded on this paper. Some well-prepared candidates scored very highly, whilst conversely some candidates demonstrated a very poor level of knowledge and were clearly nowhere near ready to sit the paper.

The ability to apply the knowledge to the scenarios in the questions presented a challenge for many, who often found it difficult to bring together the various elements into a cohesive answer. Very few candidates offered advice to the client where more than one approach was possible or made suggestions for alternative courses of action.

Question 1

This was a question in relation to finance intermediary supplies through a currency trading website. This question was well answered by candidates who were able to correctly identify that the currency trading intermediation fell within the finance exemption and who understood the partial exemption implications. Many candidates started their answers with listing out the place of supply and VAT zero-rating conditions under the general rule, after which they decided the supply was exempt and a VAT invoice was not required.

Some candidates provided definitions and rules for electronic services and failed to notice that no consideration was received for the on-line access or the use of the website and so no electronic services were supplied. A handful of candidates wasted time on discussing the online marketplace operator requirements, which were irrelevant to the question. Most candidates knew about the Specified Supplies Order and were able to correctly reflect its impact in the calculations. The anti-avoidance provisions of s 43 2a were generally known although the relevance of the onward supplies within the VAT group was rarely mentioned with most stating the reverse charge was required because the branch was in the VAT group. Very few candidates knew that only the bought-in supplies were caught by this anti avoidance provision or knew how the supply should be valued.

Question 2

This was a question in relation to cross-border supplies of goods and services and it presented difficulties to many candidates, who struggled to properly identify the direction of supplies and the parties involved in each supply chain. Where these were mapped out correctly, easy marks could be gained for explaining the principles and the available simplifications. Instead, too many candidates simply stated the place of supply, triangulation and zero-rating conditions, sometimes more than once, gaining low marks.

Candidates, who noticed the call-off stock simplification was available, often concluded a UK VAT registration of the supplier would be required regardless. Only exceptional candidates knew the tax point for call-off stock supplies was when the goods arrived in the UK and not when they were called-off. The supply between the UK and Denmark involved four parties, which was only noticed by a few with most candidates concluding this was an intracommunity dispatch involving two parties. Overall candidates were ignoring their own conclusions as they were progressing through the question and forgetting that the VAT registration requirement had already been triggered, for example. This scenario considered two alternative supply chains with the client wishing to avoid VAT registration obligations but very few candidates compared the options or made any recommendations, which was expected by the client.

Question 3

This was a question in relation to a cross-border sale of a business. The majority of candidates recognised that the sale was that of a business but very few considered the specific circumstances and how they fitted within the TOGC conditions. Many simply stated this was (or wasn't) a TOGC without any justification. There were mixed opinions as to whether the sale of the software developed for use in the business was a supply of a good or a service. The royalty payments were unanimously seen as services with many candidates correctly identifying the tax point. Candidates generally considered the taxable status of charitable organisations and the conclusions were often supported by valid arguments. The place of supply of the services involving transportation of goods was not well known with many candidates assuming it followed the general rule. The importation agent services were poorly understood with many assuming the agent would be buying the imported goods and recovering UK VAT. There were easy marks to be gained in discussing the insurance intermediary and impact on VAT recovery with many candidates merely stating that the provision of insurance would be an exempt supply.

Question 4

This question was well answered with most candidates attaining a pass. There were plenty of marks available for discussing the principles of the liability of cross-border supplies of goods. Whilst candidates understood that export evidence was required within 3 months many went on to conclude the supply can just be reclassified as intracommunity dispatch, ignoring the fact that two independent supplies had been made.

The importation VAT issue was well understood although some candidates didn't correct the calculation for the excise duty paid. The team building event delivered in Ireland caused difficulties with some stating this would be admission to events, supply of staff or service taxable where performed. Many candidates correctly considered that ancillary supplies followed the event, but some advised for the chocolate should to be invoices separately as a supply of goods. The issue involving the supply of chocolates to France was testing the principles of intracommunity dispatches and what a supplier should do in the absence of its customer's VAT number in France, but some candidates suggested that the supplier was required to register in France.

Question 5

This question was testing knowledge to the UCC Processing relief (the separate reliefs of Inward Processing and Processing Under Customs Control under the old Code).

Candidates generally scored well but could have done better. Most answered the question using the old Code terms of IP (Inward Processing) and PCC (Processing Under Customs Control) and it should be noted that they were not marked down for this. However, relatively few talked about both reliefs and how (other than for failings like exceeding the throughput period) use of these could remove all duty payments for the business.

No candidate talked about the cash flow disadvantage that the business would have to weigh against the true duty cost saving when using "PCC". That being that Import VAT would be calculated on the full value of the finished printer not that of the imported components.

It appears that some candidates have become confused over the quantitative scale method and value scale method (explained in Notice 3001) that are used when a debt is incurred. Quite a few thought that this calculation is always carried out to calculate a debt when goods are exported; the calculation may be necessary to work out the amount of imported product that has been exported but exporting within the rules will not lead to a debt.

Too many candidates wasted time talking about regimes that would only give a cash flow advantage which the question excluded, quite a few even acknowledged that the business had said they were not interested in these and then explained them.

Candidates could have scored better by advising the business of the consequences of failures; such as not re-exporting goods within the throughput period or not submitting returns on time.

Question 6

This question asked the candidates to explain how a business could challenge a disputed decision and the pros and cons of challenging the decision.

The scores for this fairly basic question were surprisingly low.

Too many candidates spent time describing elements covered by or excluded by the question. Many explained the RTBH process (often acknowledging that they were summarising information from the question) or BTIs.

Several thought that it would be quicker to apply to Tribunal than to appeal to HMRC which suggests more practical knowledge is needed. Quite a few candidates advised against appealing against HMRC decisions as it would harm the relationship between the business and HMRC. It is unfortunate if this does indeed happen.

Candidates were generally able to describe the basics of the process but did not or were not able to give good advice on what to consider when deciding on a course of action; such as the costs and time involved and weighing this against the money involved. Others simply gave advice without justifying it, for example, "You should request an internal review first." which will never score as well as an answer that explains why advice is being given.

APPLICATION AND PROFESSIONAL SKILLS

Taxation of Owner-Managed Businesses

General Comments

This question focussed upon the tax implications of a shareholder – Peter Hoting – who owns a trading company – Arsane Ltd – which has surplus funds. Peter was looking to supplement his existing pension arrangements by using the company’s surplus funds to purchase an investment property and required advice on how this might be achieved.

Structure

To answer this question candidates were required to draft a report. No serious problems were identified with regards the structure of the reports drafted: in the vast majority of cases they were properly headed and included an introduction, appropriate executive summary and appendices.

Identification and Application

Candidates were expected to identify that Arsane Ltd did not have sufficient funds to purchase the investment property outright and to then explain the available options, particularly in terms of the resulting net of tax funds, to make up the shortfall. The options included selling a shareholding in another company – Bora Ltd - held as an investment; some surplus land; or borrowings.

Some candidates struggled, however, because they failed to identify that the substantial shareholding exemption would be available to exempt a sale of Arsane Ltd’s shareholding in Bora Ltd. (which would mean that all the proceeds would be available, which would entirely bridge the shortfall). Some candidates also did not realise that it was the net of tax proceeds that was ultimately important in determining available funds. Many also did not discuss borrowings at all as an option.

Candidates were also expected to identify that there were various ways in which the purchase of the investment property could proceed. The principal purchase options to consider were a direct purchase of the investment property by Arsane Ltd; a personal purchase by Peter Hoting using funds extracted in some way from Arsane Ltd; using a pension fund.

Candidates were also required to identify and explain that each of these alternative purchase methods had different tax implications regarding the way any company funds extracted would be taxed; any rental income itself would be taxed; their impact on capital tax reliefs (particularly within the context of the question entrepreneur’s relief and business property relief); their impact on other taxes (particularly VAT and SDLT); and whether a trading loss could be generated.

Relevant Advice and Substantiated Conclusions

In relation to the investment property, most candidates were able to make appropriate recommendations as to how the shortage of funds could be bridged.

In relation to the options for purchasing the property, this part of the question focussed upon making appropriate recommendations displaying an understanding of the need to balance preserving/maximising entrepreneur’s relief and business property relief for Peter whilst minimising the taxation of any funds being extracted from Arsane Ltd and if possible the taxation of any future rental income.

For this part of the question the performance of candidates was mixed. Candidates displaying the greatest overall competence were those who realised that Peter's principal aim was to plan for his retirement by using Arsane Ltd's surplus funds in the most tax efficient manner and that this required a discussion of using the funds to make tax deductible and tax-free pension contributions and ideally then making the link that the pension fund could itself purchase the property. This final link, particularly the specific use of self-invested personal pensions was, however, not essential. A conclusion that the other two principal alternatives were not tax efficient and making pension contributions as an alternative investment was far more tax efficient was often sufficient to reach the required competence level to achieve a pass standard.

Some candidates did not identify and/or properly discuss the various alternatives – some only looked at the adverse tax implications of Arsane Ltd making a direct purchase. Some candidates whilst discussing more than one alternative did not reach any conclusion and/or make reasoned recommendations. Such scripts could not therefore reach the required competence level to achieve pass standard.

Common advice failings included (1) thinking that any VAT charged upon the acquisition of the property could be recovered simply because Arsane Ltd was VAT registered (an option to tax election would be required which could have longer term implications); (2) thinking that the investment property would be an excepted asset for the purposes of business property relief ('BPR') (whereas in fact it may help by replacing existing excepted assets such as the surplus cash itself; 3) failing to identify that BPR required discussing at all; 4) long discussions about rollover relief and/or gift relief which were not really relevant given the presented scenario; and 5) failing to recognise that either Arsane Ltd making pension contributions or a bonus payment would generate a trading loss that could be used to generate a corporation tax refund.

Taxation of Individuals

General Comments

This scenario involved a non-domiciled high earning individual, Mick Gruber, starting work abroad while retaining ties to the UK, and making transfers of assets to his wife in connection with their divorce.

Overall, candidates showed good skills in identifying and applying the statutory residence test rules and the capital gains tax issues, and were able to identify most of the tax implications of the scenario for Mick, but many were let down by a failure to consider the remittance basis and by impractical recommendations. As consideration of the remittance basis was vital in properly advising Mick, the failure by many candidates to consider this was the cause of the overall low pass rate. A surprisingly large number of candidates either barely considered the remittance basis or did not consider it at all.

Structure

There was no evidence of time pressure, although some candidates seemed to have rushed their work by diving into the body of the report without much planning. This resulted in repetition of points, sometimes with different recommendations covering the same issue, or in topics being missed. The better reports split the content into clear sections in a logical order, to ensure that all areas were covered.

Identification and Application

Residence and Domicile

Almost all candidates showed good knowledge of the statutory residence test, and of the tax implications of residence and domicile on income and gains and applied this knowledge to the scenario.

A surprisingly large number of candidates did not consider the remittance basis at all. In some cases, this was because they had advised Mick to be non-resident, but even where candidates realised Mick would remain UK resident the remittance basis was often not considered. Proper planning of the report would have helped candidates to realise that, as Mick is a foreign-domiciled UK resident with a high level of foreign income, consideration of the remittance basis of taxation would be essential.

Where the remittance basis was considered, it was fairly simple to work out whether Mick would be better off paying tax on the arising or remittance basis for each of 2019/20 and 2020/21. However, many candidates either didn't carry out the calculation or got it wrong, this seemed again to be down to a lack of planning before starting to write the report.

Transfer of Assets

Almost all candidates realised that the taxation of assets transferred between husband and wife after the tax year of separation is at market value rather than no gain-no loss. Candidates needed to consider the impact of disposals on the taxation of Mick's income, and whether assets should be disposed of while Mick was UK resident or non-resident, as well as the capital gains tax cost, and then make a clear recommendation to Mick to help him decide which assets to transfer.

Candidates often dealt with the transfer of assets before having considered Mick's residence, whereas residence needed to be considered first, as it would clearly have an impact on which assets should be transferred. A common mistake made by candidates who did this was to advise Mick that he needed to keep enough income producing assets to cover his UK expenses – again, planning of the report before starting to write it out would have helped to avoid this.

Relevant Advice and Substantiated Conclusions

Candidates were clearly aware of the need to produce recommendations and advice.

In relation to the transfer of assets to Josie, there was no one 'correct' answer and candidates came to a range of conclusions. Where the report was muddled, the advice given was also unclear or technically incorrect and sometimes contradictory. However, where the report was well-considered, good recommendations flowed naturally.

Many candidates advised Mick to ensure he became non-resident from November 2019. This was a case of the tax tail wagging the dog - candidates should ensure that the advice they give is practical and realistic.

Human Capital Taxes

General Comments

This scenario involved a company Grange Stevens Group Ltd (“GS”) requesting advice about whether to use staff from the UK or from overseas for an IT project in the UK. GS also asked for recommendations about the start date of the project.

Overall, candidates showed good skills in identifying and applying the statutory residence test rules and the requirement for GS to operate PAYE. Whilst in the analysis candidates would compare the residence position and taxation of UK and overseas teams using the two possible start dates, only the better papers went on to make recommendations as to which team the company should use.

Structure

Few papers showed evidence of time pressure with most candidates completing the task. However, only a few candidates had taken time to plan their answers. This resulted in repetition of points, sometimes with different or no recommendations despite demonstrating technical understanding. The better reports split the content into clear sections in a logical order with recommendations clearly marked.

Identification and Application

NIC

Most candidates identified the NIC issues for reciprocal and non-reciprocal agreement locations. Some did not allow the NIC position to flow through by omitting to exclude NIC from their calculations or comment on the employer’s obligations under Class 1A NIC.

Taxation of Employees

Almost all candidates went into the details of the statutory resident test demonstrating good understanding of residence and how this resulted in income being liable to UK tax.

Many candidates spent a disproportionate time looking at the residence position in significant detail and, whilst this was technically correct, the better candidates understood quickly that even as non-residents employees from overseas would be taxable as treaty conditions would not be met for exemption.

Some candidates considered the remittance basis, which was not entirely relevant in this example as they were being asked to assess the employer’s obligations so candidates should be reminded that as a HC paper, they are not required to go into as much detail regarding the employee’s personal circumstances.

Requirement to Operate PAYE and Commentary on the Proposed Package

Almost all candidates appreciated the need for GS to operate PAYE and identified the relevance of a modified payroll. The better candidates went on to explain the benefits of the modified payroll with extended deadlines for P11D reporting. Whilst not specifically required, some candidates also went on to consider an Appendix 5 agreement to relieve double taxation.

Candidates also performed well regarding the proposed allowances and benefits package being suggested for employees and almost all recommended changes to the package to ensure better tax efficiency. Surprisingly, many candidates suggested paying qualifying relocation expenses up to the

£8,000 limit, however, as the project was for 7 months and temporary in nature, employees would not have been required to relocate their home so this was not correct advice.

Relevant Advice and Substantiated Conclusions

Candidates were clearly aware of the need to produce recommendations and advice and a small number of candidates helpfully sign-posted or labelled their recommendations which certainly made for a clearer report.

The advice, however, was not always as clear as it could have been. Candidates who performed well overall gave a good balance of advice and recommendations answering client's questions fully looking at not only whether the UK or overseas team would be best but the start date of the project and whether any one of the overseas locations was preferably to the others. However, some candidates who performed very well in the Identification and Application section scored lower in the Advice and Recommendation section simply because they did not make recommendations about which team would be best to use or the recommended start date. Most candidates gave recommendations about the structure of the package but this alone would not have been enough to secure a pass.

Candidates should be careful to read the question thoroughly, plan their answer and plan for time to review to consider what advice the client is looking for and ensure that they answer the question thoroughly.

Inheritance Tax, Trusts & Estates

General Comments

This question related to the issues arising from the sale of assets from the estate of Adam Jones and the proposed transfer of assets by his sister, Rose, to her daughter Abby.

Overall, most candidates successfully identified the availability of Inheritance Tax (IHT) post-mortem relief on The Haven and covered the basic Capital Gains Tax (CGT) and IHT issues on the gift by Rose to Abby of Red Cottage or the shares in Jones Pet Foods Ltd. Many candidates did however let themselves down by failing to consider and explain the availability of various IHT and CGT reliefs on Rose's assets.

Structure

It was very pleasing to note that every candidate who attempted this question produced a report in the format requested and included a suitable introduction and an executive summary. The majority of candidates also dealt each section of the report in a logical manner.

Identification and Application

Post-Mortem Relief & Capital Gains Tax on Disposals

Nearly all candidates identified that that post-mortem IHT relief would be available in respect of the loss on The Haven and most referred to the time limits for the relief, although not everyone was able to calculate the loss or the IHT relief correctly. Whilst the IHT aspects were dealt with well, it was very

disappointing to see that only a few candidates addressed the CGT impact of the claim on the estate's 2018/19 disposals as well as the IHT refund.

Most candidates also dealt reasonably well with the basic CGT computations on the sale of the properties and quoted shareholdings. However, a surprisingly large number failed to claim a deduction for the costs of obtaining Probate (available under SP02/04), many did not allocate the CGT annual exemption in the most beneficial way and some candidates also applied incorrect CGT rates to the gains.

The question clearly stated that Probate had already been obtained and that the first IHT instalment had been paid. However, some candidates wasted time producing an unnecessary IHT computation for the estate and calculated the IHT instalments. Some also went on to explain the due dates for payment and the penalties the Executors would face for not paying the IHT on time. None of this information was required and it was not necessary for a full IHT computation to be produced to calculate the IHT repayment arising as a result of the post-mortem relief claim. In addition, some candidates allocated far too much time to explaining the Executors' duties under self-assessment, the filing deadlines and penalty regime.

Gifts assets

Generally, the advice provided to Rose on the CGT and IHT implications of gifting Red Cottage to Abby was of a good standard and most candidates addressed the use of a Deed of Variation compared to a direct gift.

In contrast, the gift of ten shares in Jones Pet Foods by direct gift or via a Deed of Variation was not dealt with quite as well as not all candidates were able to correctly calculate the base cost of Rose's shares for CGT purposes and some did not consider the availability of CGT gift holdover relief. Most did however identify that Rose's shareholding would qualify for CGT Entrepreneur's Relief and IHT Business Property Relief, although not all adequately explained the qualifying conditions for each of these reliefs.

Relevant Advice and Substantiated Conclusions

All candidates were aware of the need to provide advice and recommendations to the clients and this was dealt with well by the majority in relation to the timing of the sale of The Haven.

In relation the gift from Rose to Abby, whilst most candidates concluded that she should redirect Red Cottage to Abby using a Deed of Variation, the reasoning behind this was often quite vague or based on the fact that that business property relief would always be available on the shares in Jones Pet Foods Ltd going forward. It is of noted concern that only a minority of candidates identified that gifting ten shares to Abby now would result in Rose losing control of the company and as a result she would lose 50% business property relief on her commercial property, The Factory.

Finally, despite the question directive to the contrary, far too many candidates suggested various additional gifting options for Rose and Steven to Abby on Abby's 30th and 35th birthdays at the end of their reports. This included various gifts of other assets, the creation of a trust now via a Deed of Variation or creating a trust in five years' time. This may have been done possibly to pad out the reports or to attempt to demonstrate a knowledge of other IHT areas not tested in the paper. As a general observation, such suggestions were not fully thought through: none of these candidates considered the order in which the gifts should be made, the possible IHT issues that could arise if a

potentially exempt transfer is followed by a chargeable lifetime transfer less than seven years later or consideration of who is the settlor of a trust created via a Deed of Variation.

Candidates should refrain from this adopting this 'scatter gun' approach by throwing in undeveloped ideas at the very end of their report as it can undermine what may otherwise be a good report narrative.

Taxation of Larger Companies

General comments

The question required candidates to write a report about the proposed acquisition of a partly constructed factory building, or of the company carrying out the development, and on future development opportunities of the building. The question provided financial and other details of the entity carrying out the development and of the companies comprising the proposed acquisition group. Candidates were asked to consider (a) the acquisition of the asset or the company, (b) how the property should be developed, and (c) which entity should make the acquisition.

Structure

Most candidates produced a report in an appropriate format and avoided using tax technical or other unsuitable language.

Some candidates failed to link issues, and instead addressed the pointers in the question as separate questions. As an example, there were many instances of conclusions being reached on the nature of the acquisition and of the development route to be followed before consideration was given to which entity should make the acquisition, and thus the extent to which losses could be accessed to shelter profits or gains.

Identification and Application

By identifying the clear pointers in the question, almost all candidates identified and addressed the issues arising. However, in doing so, many candidates did not address all the available options presented by the information in the question, and in consequence, did not always address those issues comprehensively.

Most candidates addressed the three issues of buying the asset, buying the company, and the consequences of opting to develop the property for rental reasonably well. They demonstrated a degree of commercial acumen, tax technical knowledge and an ability to weigh up options. One technical weakness of most candidates was the VAT treatment, and consequent SDLT cost, on buying the property. Furthermore, many candidates spent too much time on irrelevancies such as the tax position of the vendor (for example, could SSE be claimed?), what constitutes a group for chargeable gains and group relief purposes and the effect of the loan relationship rules (when in fact there was no effect) on the repayment of an intercompany loan.

Discussions on the other two issues, property development/trading and property dealing, were more variable in quality. Knowledge of the bases of taxation of different activities (property development, property dealing and property rental) was frequently weak. For example, many candidates sought to claim capital allowances on the development option. In particular, very few candidates were properly able to address the possible tax consequences of property dealing and the advantages of routing that

activity through Ormport (Land Holdings) Ltd, and in consequence, did not give this option sufficient attention.

Relevant Advice and Substantiated Conclusions

Generally candidates performed less well on this skill than on identifying and discussing issues. While the advice/recommendations given in the answers was generally unambiguous, as is required, it was frequently incomplete, because possible courses of action had been rejected or ignored too early without sufficient regard to all the available information.

The question of whether to buy the asset or the company was generally dealt with competently. Insufficient regard, however, was often given to the possibility that the vendor would only countenance a company sale. In addition, there was little discussion of the reasons for and consequences of different base costs under these two possible routes.

Turning to the three development options and the recommendations as to which company should make the acquisition, the quality of answers was more variable. Many candidates scored poorly because they had rejected options earlier on and, in some cases, completely overlooked to address how the property dealing and property rental options might be undertaken. Few candidates showed the necessary skills to weigh up options on the choice of acquisition vehicle under each development option, use all the available information, and then draw rational conclusions. Some candidates' abilities in these areas were undoubtedly hampered by an apparently sketchy knowledge of which type of losses can be carried forward against which types of income. There were frequent instances of conclusions being reached without sufficient evidence existing, or being shown, to support the conclusion.

In reaching overall conclusions and recommendations, the overall picture was somewhat better, with candidates making use of the, albeit often incomplete, conclusions they had made in individual areas. Performance could have been enhanced by weighing and taking more notice of evidence that might not immediately support the conclusion the candidate was advocating. There were several good instances of innovative thinking in suggesting how the development property might be moved around the group to optimise then use of losses, though not always supported by a sufficiently rigorous technical analysis.

VAT and Other Indirect Taxes

General Comments

Candidates were required to draft a report in response to an enquiry from the client, Kure Leisure plc whose principal activity is the ownership and operation of 16 holiday caravan and leisure parks. Kure is in the process of acquiring the trade and assets of Target Ltd, an operator of two holiday parks considered by Kure to be a desirable addition to its portfolio.

Given that this was the first paper in this format, overall performance was good. Of those that failed, several were close but failed to allocate sufficient time or thought to the recommendations and relevant advice that Kure required.

Structure

It was pleasing to note that almost all candidates passed this skill. A well laid out answer which flows properly is important in respect of assisting the client's understanding of the advice being provided.

Identification and Application

The identification and application of the relative merits of a share v asset acquisition was well handled, with most candidates demonstrating the requisite competence.

A significant number of candidates produced good answers in relation to identification of Target's VAT understatements.

Candidates' analysis was very poor in relation to the nature of the restoration costs and the scope of anti-avoidance legislation applying to tax losses on a change of ownership.

Nearly half of the candidates supplied adequate answers on the SDLT and stamp duty aspects of the acquisition. Unfortunately, a number of candidates having identified that stamp duty was chargeable at the rate of 0.5%, then went to compute the liability at 5% which then skewed their conclusion on the mechanism to acquire the business.

Relevant Advice and Substantiated Conclusions

Advice provided must be relevant to the client. Many of those candidates who failed to meet the required competence level in relation to this skill devoted far too much time on irrelevant matters; for example, the client clearly did not require advice (nor pay for such advice) on whether the transaction met the requirements of a transfer of a business as a going concerned, yet many candidates expended valuable time on the subject.

In relation to the share v asset sale, having identified and explained the issues, many candidates failed to translate them into relevant advice and client recommendations.

Many candidates having identified the position regarding the VAT understatements failed to go on to offer meaningful advice as how Target might practically proceed, other than to say "notify HMRC of the errors".

Similarly, many produced full answers on the application of capital goods scheme to the proposed costs of rebranding Target's facilities and upgrading of its swimming pools, with little or nothing said about the corporation tax treatment; in particular, the availability of capital allowances and advice as to how Kure might deal with issue.

The poor performance in respect of the restoration costs and tax losses was replicated in assessing the advice and recommendations supplied to Kure. Whilst some candidates recognised that the tax losses may not be worth the amount stated, very few went on to consider the commercial implications of this (and also the various VAT liabilities) and that the purchase price may be renegotiated as a result.

Having identified a particular issue, candidates should be asking themselves "So what does this mean to the client? What should the client be doing as a consequence?"