



Chartered  
Institute of  
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# **The Chartered Tax Adviser Examination**

May 2018

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## **Application and Interaction paper Question 4 Human Capital Taxes**

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Suggested solution

# **REPORT TO LEARNSHAPE UK LTD ON TOM JOHNSON'S ASSIGNMENT TO THE UK AND ON OTHER IDENTIFIED RISKS AND OPPORTUNITIES IN THE UK**

## **INTRODUCTION**

Further to our recent meeting, you asked me to provide some UK tax advice regarding Tom Johnson's assignment to the UK and any areas where there could be additional risk or opportunity in the UK for Learnshape UK Ltd or BigShape Group Ltd. This report is based on the information provided at our meeting and the copies of correspondence you have kindly provided.

## **EXECUTIVE SUMMARY**

I have reviewed the information provided in relation to Tom Johnson's assignment to the UK and highlighted the UK tax and national insurance implications and looked at Stuart's position as this raises some risk areas for Learnshape UK Ltd.

Learnshape UK Ltd will need to operate PAYE on Tom's income liable to UK tax. The net cost of PAYE due to HMRC relating to the 2018/19 year is approximately £32,550, however, there are opportunities to relax PAYE procedures and I would recommend applying for a modified payroll.

There is an opportunity to reduce some costs by amending the way some benefits such as housing are delivered or claiming reliefs and deductions to reduce the tax burden. Some of these savings are also relating to length of Tom's assignment so if it is possible to limit the time he is in the UK to under 24 months tax savings may be possible.

There are risks applicable to the business and Tom's role in Austria which could lead to the creation of a permanent establishment, meaning that BigShape Group Ltd could be liable to corporation tax in Austria.

There are also some income tax and employment law risks relating to Stuart's departure which should be addressed before any payments are made to him.

The scope of this report is limited to the UK income tax and NIC implications, but also looks at other areas such as UK corporation tax and VAT where I recommend you seek the advice of my specialist colleagues. Also, Canadian and Austrian tax and employment law advice is recommended to address potential risks in these areas.

## **TOM JOHNSON'S ASSIGNMENT TO THE UK**

### **UK Tax Residence and Domicile**

Tom's income from employment earned whilst resident here will be liable to tax in the UK. The residence status of an individual is determined by the statutory residence test ("SRT") for each tax year and considers both the amount of time the individual spends in the UK and the other "connections" with the UK.

As Tom will arrive on 31 May 2018 for approximately 18 months, I expect he will be UK resident if he spends more than 183 days in the UK in the 2018/19 tax year. For 2019/20 it is likely that he will also be resident at least for the part of the year until his departure.

If during a tax year the individual starts to live or work in the UK, there is the ability to split the year as follows:

- (a) An "overseas part" for which the individual is taxed as a non-resident; and
- (b) A "UK part" for which the individual is taxed as a UK resident.

For the overseas part, broadly, income arising overseas is typically not charged to UK tax.

A tax year may only be split where an individual is resident in the UK and where and circumstances fit into one of eight cases. Cases 1 to 3 apply to individuals leaving the UK to either live or work abroad and cases 4 to 8 apply to individuals coming to the UK to either live or work here.

Based on the expected facts of Tom's situation, I would expect cases 4 and 5 apply to Tom as it he acquires a main residence and starts full time working in the UK. Split year principles also apply for the UK tax year of departure but I would confirm this when filing Tom's tax returns for each year

## **Domicile**

As Tom is a Canadian citizen and born and lived in Canada he is likely to be non-UK domiciled and he may make a claim to be taxed on the remittance basis which means:

- UK income is taxed on an arising basis; and
- Foreign income is taxed when if/when it is remitted (brought) to the UK

He would be able to claim a tax deduction for the proportion of his income relating to time working in Austria, called overseas workday relief ("OWR"). This is estimated at 25% so at least 25% of his income should be paid outside the UK and not remitted to the UK. Ideally Tom should be paid in full into an overseas bank account set-up specifically to receive his income and then bring to the UK the income he needs. This new account will not only allow Tom to take advantage of the mixed fund rules but also allows him the opportunity to bring non-taxable income to the UK from other accounts. I can discuss the mechanics of this with Tom when we meet.

Tom should keep a record of his workdays and retain boarding passes and meeting notes referring to non-UK workdays. He should arrange his banking to prove that the proportion of income relating to non-UK workdays income is not remitted to the UK. Failure to do so could result in the level of deduction for overseas workday relief being restricted or denied, resulting in increased costs for Learnshape UK Ltd

## **National Insurance**

UK and Canada have a bi-lateral social security agreement and BigShape Group Ltd may apply for a certificate of coverage for Tom to remain in the Canadian scheme and be exempt from UK National Insurance for Tom and Learnshape UK Ltd. Canadian social security is due on Tom's worldwide earnings. You should seek Canadian advice regarding the practicalities of this.

I understand that Tom has read about UK child benefit; it is only tax-free where the claimant or their partner's income is below £50,000. As Tom's income will exceed £50,000, a high-income child benefit charge of 1% of the child benefit for every £100 of adjusted net income ("ANI") exceeding £50,000 will apply, with the charge equalling the full child benefit once ANI reaches £60,000. ANI is total income less qualifying interest payments, the gross amount of personal pension contributions and the grossed-up amount of any Gift Aid donations. Tom should not claim UK child benefit for tax purposes, however, Jessica claiming child benefit would enable her to claim credit for UK state pension whilst here in the UK.

## **Requirement for Learnshape UK Ltd to Operate Pay as You Earn ("PAYE")**

It is necessary for Learnshape UK Ltd to apply PAYE for employees and this principle extends where an individual from overseas works for a UK company as the UK company is deemed to be the employer for PAYE purposes.

Although Tom remains employed and paid by BigShape Group Ltd in Canada, Learnshape UK Ltd has an obligation to deduct PAYE on UK taxable income. Canadian payroll withholding tax can stop whilst Tom is assigned to the UK, so this avoids double taxation.

## **Modified Payroll**

I recommend that Learnshape UK Ltd operates PAYE through a modified PAYE scheme; the benefits of which are relaxing the strict operation of PAYE and the ability to take reliefs and deductions throughout the year with a year end reconciliation to true up estimates used throughout the year.. An appendix 6 agreement is needed with HMRC to use a modified payroll which I can help you apply for.

There is a requirement for Learnshape UK Ltd to file Real Time Information ("RTI") for each payroll, year-end payroll reporting and a P11D for benefits in kind. The deadline is extended to 31 January following the relevant tax year for P11Ds.

## **Tax Equalisation**

Tax equalisation is an arrangement whereby an employee is no better off nor worse off because of an assignment and shifts the risk of higher rates of tax and social security in the assignment country to the employer. Tom would continue to have an equivalent level of tax deducted as if he had remained in Canada, called "hypothetical tax".

Tom's hypothetical tax ("hypo tax") liability is calculated normally on the pay and benefits had the employee remained in the home country. This is estimated in advance of each home country tax year.

The Company needs to consider what pay and benefits the hypo tax is calculated on, e.g. including stock options, Canadian tax reliefs. I would advise they discuss this with my Canadian colleagues.

I calculated the hypo tax based on information from your Canadian colleagues that Tom's effective tax rate for 2017 was 31.5%. See appendix 1. This is based on his salary and bonus as all other income items (apart from the stock option) are deemed to be assignment-related.

The hypo tax on his annual salary would be CAN\$ 75,600 per year (or CAN\$ 6,300 per month). For 2018/19 the salary taxable would be CAN\$ 200,000 (CAN \$240,000 x 10/12 months) so the hypo for the year would be Can\$ 63,000). For the bonus taxable in 2018/19 of CAN\$ 52,000 (Can\$ 240,000 @ 65% x 4/12 months) the hypo tax of CAN\$ 16,380 would be deducted when the bonus is paid.

Hypo tax is deducted from Tom's gross salary and retained by BigShape Group Ltd. It is passed to Learnshape UK Ltd as part of the inter-company recharges to enable Learnshape UK Ltd to fund the UK tax. It is important to note that Learnshape UK Ltd has an obligation to operate PAYE on the difference between the tax due and the hypo tax received from Tom. As this is meeting the employee's tax liability, the amount paid by Learnshape UK Ltd should be calculated on a grossed-up basis,

### **Comment on Other Elements of Draft Salary Package**

I comment on each item in Tom's draft salary:

#### *Bonus*

The first bonus paid to Tom after his arrival in the UK will be 30 November 2018 for the year ended 30 September 2018, most of which was performed in Canada. Only four months' worth of the bonus relating to UK duties from arrival to 30 September is taxable in the UK, the balance remaining taxable in Canada. When Tom leaves the UK, the bonus earned whilst resident in the UK is taxable here even if the bonus is paid after Tom has left the UK.

#### *Cost of Living Allowance*

This is taxable in full as cash.

#### *Housing Allowance*

As a cash allowance this would be fully liable to tax. However, if Tom's assignment is expected (and lasts) for less than 24 months temporary workplace relief ("TWR") is available which means that some of Tom's accommodation and subsistence costs would be tax deductible. It is only Tom's costs that are deductible, not those of his family. As Tom is tax equalised, I suggest that the benefit of TWR goes to Learnshape UK Ltd.

"Reasonable" costs of renting accommodation for Tom would be allowed which may be less than the costs of renting a four-bedroomed home to accommodate his family. In this situation, reasonable costs would take into consideration factors such as availability of suitable accommodation in the area and whether Tom needs space for entertaining for business, as opposed to a.

This exemption ends when Tom's intention to remain in the UK exceeds 24 months. I have not included any relief for the housing in my calculation but taking an estimate of 75% of Tom's accommodation allowance being tax deductible, tax savings of £14,727 (£2,000 x 75% = £1,500 x 12 x 45/55) per year may be possible. This could also be achieved by Tom having the rental agreement in his own name and Learnshape UK Ltd limiting his reimbursement to the tax-free amount.

Learnshape UK Ltd may wish to discuss these options with Tom to reflect the fact that Tom would have ordinarily paid accommodation costs for his family in Canada. This would not only reduce the taxable benefits for Tom but also reduce the costs for the company.

#### *Travel expenses and length of assignment*

Any expenses paid or reimbursed to Tom for travel between Canada and the UK including travel between his UK accommodation and the UK office will also be exempt provided his assignment does not exceed 24 months.

I recommend the duration of the assignment is set for a realistic time given the current circumstances. If the assignment is realistically expected to exceed 24 months at the outset, then TWR is not available. For an assignment initially expected to last below 24 months which is subsequently extended, TWR is withdrawn from the date a decision is made indicating the assignment will extend beyond 24 months.

In the event that TWR is not available, the cost of Tom and his family's travel to and from the UK may also be exempt from UK tax under another part of the legislation.

#### *Home Leave*

It is typical in assignment situations to offer home leave flights for Tom and his family to return to Canada to visit friends and family. So, if Tom is planning any return trips to Canada either for business or personal reasons relief for the cost of those trips may be available if paid by Learnshape UK Ltd., Up to two returns trips may be provided to the family each year of assignment without incurring any additional tax charge so if you would like to provide this benefit please let me know and I will explain the conditions.

#### *Car Allowance*

A cash car allowance would be fully taxable. If considering providing Tom with a company car instead, a benefit in kind charge would apply for the car and any private fuel, based on the value of the car, CO2 emissions and fuel type. Considerably lower benefits apply for a zero-emission electric vehicle and no fuel benefit. All car or fuel benefits are reportable on P11Ds and liable to Class 1A NIC @ 13.8%, however, in Tom's case as UK NICs are not due, an adjustment would be needed for Learnshape UK Ltd's P11D(b).

A company car is often a valued benefit to employees as all the costs associated with the car are met by the employer either directly or through a lease arrangement, resulting in fixed price and hassle-free motoring for the employee. The benefit of private fuel should only be considered by Tom if his annual private fuel costs would otherwise exceed the tax on the private fuel scale charge

The Corporation Tax (CT) deduction depends on how the car is leased; HP repayments include both interest and capital but only the interest is deductible for CT purposes and capital allowances available on the capital. If an operating lease, paying a simple rental payment, these are deducted through your P&L, whereby using a finance lease (like a loan) charge depreciation and interest payments through the P&L; both deductible for CT purposes. In both instances, as legal ownership of the car is not taken, capital allowances are not due.

For a high emissions car (CO2 exceeding 130g/km), CT relief is restricted by 15%, for leases started on or after 1 April 2013. For older leases the CO2 limit was 160g/km. Maintenance costs relating to leased cars are fully deductible regardless of the CO2 emissions.

#### *VAT on private use of fuel*

If you provide fuel for private use by Tom either in a company or his own car, there are four options for VAT:

1. Claim all input tax on fuel purchased and, using the HMRC fuel scale charge, calculate the output tax. The flat rates are dependent on the CO2 rating of the car.
2. Claim no input tax on fuel purchased.
3. Keep very detailed mileage records to prove no private fuel is provided. In this case, input VAT may be recovered.
4. Recover all input VAT and make a charge to the employee for the cost of the private fuel element

If you would like any help regarding the VAT or CT treatment for cars, please let me know.

#### *Private Medical Insurance*

This would be liable to tax as a benefit in kind. If Learnshape UK Ltd paid the cost of medical treatment up to £500 per year rather than insurance the costs would be exempt from UK tax, however, in practice paying directly for medical treatment rather than insurance could result in increased costs for Learnshape UK Ltd.

#### *Mileage*

The mileage rate paid to Tom for using his own car for business exceeds that permitted by legislation; 45p per mile for the first 10,000 miles and 25p per mile thereafter. No UK tax applies if reimbursed at or below the approved rates, however, paying at 50p per mile, the excess 5p per mile is taxable. Tom would be better off in paying tax on the excess 5p per mile rather than receiving the reduced amount but if you wished to avoid a tax charge and the additional administration of putting the excess through payroll, I recommend that the rate is restricted to 45p per mile.

If, however, you were considering a company car you may wish to consider paying at the lower advisory fuel scale rates; a maximum of 21p per mile for petrol or 13p per mile for a diesel car.

#### *School Fees*

Based on £25,000 paid per year this would result in grossed-up tax of £20,454 for Learnshape (£25,000 x 45/55). As you say, Tom's children may attend UK state schools, if places are available, so if this were an appropriate alternative from an educational perspective for Tom and his family, Learnshape UK Ltd could save the school fees and the tax thereon. You may wish to suggest to Tom that choosing a state school with perhaps with some of the savings paid to him as an allowance could be a suitable alternative to private education.

### *Relocation*

The current arrangement appears to pay a cash lump sum to Tom for relocation which would be liable to tax in full.

If as an alternative, relocation expenses are paid direct by Learnshape UK Ltd or reimbursed to Tom based on receipts, the first £8,000 would be tax free. This could result in savings of £6,545 (£8,000 x 45/55). Qualifying removal expenses will include:

- acquisition and disposal costs (including ending and starting to rent accommodation);
- removal and transportation costs;
- travelling and subsistence associated with looking for the new residence; and
- replacement domestic goods for the new residence.

Further reductions could also be made by excluding the travel for Tom and his family to and from the UK in the relocation amount as this would otherwise be tax-free under different parts of the legislation.

The costs must be incurred no later than the last day of the tax year following that in which the place of employment changed.

### *Stock Options*

The employment income taxable at exercise of a stock option is based on UK and non-UK workdays during the period between grant and vest. Using the current market value of Can\$ 4.70 as an example, the total taxable gain at vest could be Can\$ 22,000 (Can\$ 4.70 less \$ 2.50 x 10,000). Assuming Tom spends 18 months in the UK during this three-year vesting period, I would expect 50% of this gain to be liable to UK tax; the gain is taxable under PAYE even if exercised after Tom has left the UK, this is called a "trailing payment". This is subject to change as we would use the market value at exercise and the amount of time Tom spends in the UK.

You may wish to consider whether you would like to include stock option income as equalised income and deduct hypo tax at the point of exercise. To include stock option income as equalised income would enable Tom to be protected from any increased tax on the exercise of an option compared to his stay at home position, however, as Learnshape UK Ltd would bear the risk of the tax which is triggered by Tom's decision to exercise, you may consider that protection would be too difficult to budget and so exclude this from equalised income, transferring the tax liability at exercise to Tom.

### *Employment Law*

Whilst Tom will remain employed in Canada by BigShape Group Ltd, an assignment letter should be drafted as an addendum to his employment contract to ensure that his income and benefits and obligations under tax equalisation are agreed in writing. Learnshape UK Ltd should ensure that he has a right to work in the UK and may need to apply for a UK work permit for the duration of his assignment.

You should also consider the employment law impact of an employee working away from their normal place of work. As Tom will be working in the UK and Austria I would recommend that legal advice be sought regarding Tom's entitlements under each jurisdictions' employment law legislation and his entitlement to work in Austria.

### *Income tax – self assessment*

It is a requirement of an Appendix 6 agreement that Tom files UK tax returns under self assessment and he must notify HMRC within six months of the end of the tax year of his arrival in the UK.

Tax returns are typically issued by HMRC on 6 April immediately following the tax year. Electronic filing is due by 31 January following the end of the tax year

Penalties apply for late filing and additional daily penalties of £10 per day charged if more than three months late. I suggest we discuss registering him for self-assessment when we have his arrival briefing.

### **Calculation of UK Tax**

Based on the draft salary package for Tom, I have calculated the 2018/19 UK tax due on Tom's earnings as being approximately £32,550 after the deduction of hypo tax. See appendix 2.

- Based on income tax rates for 2017/18
- Income apportioned for 10 months in the UK for 2018/19 due to arrival 31 May 2018
- Bonus due November 2018; taxable for 4 months since arrival June to September 2018
- Calculation excludes Canadian social security
- Calculation does not take into consideration the corporation tax deductions in either UK or Canada for Tom's costs of employment
- Calculation does not take into consideration any UK tax on stock options
- Relocation exemption has not been claimed
- Overseas workday relief assumes that Tom retains at least £41,746 of his salary and bonus outside the UK.

## **OTHER AREAS OF RISK OR OPPORTUNITY**

### **Inter-Company Agreement Between Learnshape UK Ltd and BigShape Group Ltd**

An inter-company agreement is recommended for BigShape Group Ltd and Learnshape UK Ltd to agree how recharges are to be made in relation to Tom's services. As Tom will be working partly in Austria for BigShape Group Ltd, the agreement should state that he is partly seconded to UK and it is BigShape Group Ltd who is asking him to work in Austria.

As you know, profits of a trade must be calculated using generally accepted accounting practice (GAAP), and deductions must be relevant to the trade. As Tom will be working for Learnshape UK Ltd, the Company will be expected to bear some of his costs to take the appropriate corporation tax deduction.

Recharges should to be made relating to Tom's salary package and benefits including any employer insurances and local costs incurred. As Tom expects spending time in Austria, the agreement should include the percentage of Tom's costs which are recharged to the UK.

A mark-up should also be included on the recharge to ensure profits are taxed according to UK and Canada's transfer pricing legislation. Our transfer pricing team can help with the level of mark-up which is applicable in this situation and with the VAT treatment of these recharges to ensure you are aware of the correct accounting for VAT on recharges to/from Canada.

### *Permanent establishment risk*

Given the expected level of trips to Austria and his role in concluding contracts on behalf of BigShape Group Ltd, there is a risk that a permanent establishment ("PE") may be set-up in Austria for BigShape Group Ltd. Looking at the double tax agreement between Canada and Austria, Tom travelling to Austria on a regular basis could create a PE. Having a PE means BigShape Group Ltd would be deemed to trade in Austria and liable to corporation tax on the profits relating to the trade carried out by Tom. When the distribution centre is opened in Austria it is even more likely that a PE will be created. I suggest that we meet again to discuss the proposed timescale for the distribution centre and activities in the meantime with a view to discussing the implications for personal tax, corporation tax, employment law, BigShape's obligations as an employer and VAT.

### *Austrian Income Tax*

As Tom is likely to be spending approximately 25% of his time in Austria we should consider whether he will be liable to income tax in Austria. It is possible that exemption from Austrian tax is available under the UK/Austrian double tax agreement but suggest that you seek the services of my colleagues in Austria to determine the practical next steps.

### *Austrian Social Security*

Within Europe, an employee is deemed to pay social security where he/she works. I have already talked about a possible exemption under the UK/Canadian bi-lateral social security agreement for Tom's work in the UK, however, you should also consider whether there is a similar agreement between Canada and Austria to exempt Tom and BigShape Group Ltd from Austrian social security when he is working in Austria. I will arrange a conference call for you and my social security specialists to discuss this point further.

### **Stuart Shape's Departure from Learnshape UK Ltd**

You have advised that tensions were high following BigShape Group Ltd.'s acquisition of Learnshape UK Ltd and this resulted in Stuart Shape leaving Learnshape UK Ltd.

You should consider the employment law position regarding Stuart's leaving the business and whether his contract has been breached by Stuart's or Learnshape UK Ltd/BigShape Group Ltd.'s actions. It would be good practice to put a compromise agreement in place to ensure clarity regarding any payments which are due to Stuart and to limit future legal claims against Learnshape UK Ltd by Stuart, so I would recommend that you take employment law advice regarding the company's obligations in this situation.

Certain termination payments are fully exempt from tax such as employer payments to a registered pension scheme and the first £30,000 of a genuine termination payment is tax free and all payments may be NIC free. The £30,000 exemption should only apply to ex gratia compensation payments such as redundancy or compensation for loss of office, but it is not applicable where there is a contractual right to receive a termination payment.

HMRC will typically ask for a copy of the compromise agreement and employment contract if the payment is regarded as earnings. If the contract is silent and makes no mention of termination payments, then typically a "custom and practice" position is taken, i.e. what is the expectation by the employee to receive a payment on termination based on what has happened in the past to other employees in similar situations.

Learnshape UK Ltd may be liable to make damages or compensation payments to Stuart because of his employment ending without the required notice or due legal process being followed. Also, payments of income and benefits in kind accrued during Stuart's notice period may have to be paid. Please note that new rules from 5 April 2018 state that income tax and Class 1 NICs are due on all payments in lieu of notice.

Also, you may be aware that if Learnshape UK Ltd is in breach of contract with Stuart you may be prevented from requiring Stuart to comply to other terms of the contract such as non-disclosure or non-compete clauses. You may also be aware that an ordinary resolution must be passed to remove a director from office and require Stuart to relinquish his directorship of Learnshape UK Ltd on termination of his employment contract.

You may wish to seek employment law advice on the legal implications of Stuart's termination package.



## Appendix 1 - Calculation of Hypothetical Tax

	<b>CAN\$</b>	<b>£1 = CAN\$ 1.80 GBP</b>
Annual Salary	240,000	
Estimated hypo tax @ 31.5%	75,600	
Annual Hypo Tax	75,600	42,000
Monthly Hypo Tax	6,300	3,500
<b>Salary for 2018/19 – 10 months taxable</b>	<b>200,000</b>	
<b>Hypo tax on 2018/19 taxable salary (£200,000 @ 31.5%)</b>	<b>63,000</b>	<b>35,000</b>
Bonus 65% of Salary	156,000	
Estimated hypo tax @ 31.5%	49,140	27,300
<b>Bonus 65% of Salary - 4 months taxable in UK (65% of £240,000 x 4/12)</b>	<b>52,000</b>	
<b>Hypo tax on 2018/19 taxable bonus</b>	<b>16,380</b>	<b>9,100</b>

**Notes** Current exchange rate used, however, in practice monthly exchange rates would be used for the salary processing and bonus payments.

## Appendix 2 - Calculation of First Year Tax Cost of Tom's assignment to the UK

	<b>GBP</b>	<b>CAN\$</b>	<b>£1 = Can\$ 1.80 GBP</b>
Salary x 10/12		200,000	111,111
Less: Estimated hypo tax @ 31.5%		(63,000)	(35,000)
Bonus 65% of Salary x 4/12 months taxable in the UK		52,000	28,889
Less: Estimated hypo tax @ 31.5%		(16,380)	(9,100)
Housing Allowance £2,000 p/m x 10 months			20,000
Car allowance £1,000 p/m x 10 months			10,000
Mileage per mile (expected to travel to customers in UK and overseas up to 6,000 miles p/a). Taxable element 6,000 @ 5p x 10/12 months			250
School Fees x 10/12			20,833
Relocation allowance (one off)			20,000
<b>Total</b>			<b>£ 166,983</b>
Overseas Workday Deduction 25%			(41,746)
<b>Taxable Net Income</b>			<b>£ 125,237</b>
Tax Calculated on a Grossed-Up Basis			
Basic Rate Band	33,500		
Net of Band	26,800		
Tax @ 20/80 on Net of Band			6,700.00
Higher Rate Band	116,500		
Net of Band	69,900		
Tax @ 40/60 on Net of Band			46,600.00
Balance of Taxable Income	28,537		
Additional Rate Tax @ 45/55 on balance			23,348.45
<b>Total Tax</b>			<b>£ 76,648.45</b>
Less: Hypo Tax Retained by BigShape on Salary & Bonus			(44,100.00)
<b>Cost of Tax Equalisation for Learnshape UK Ltd</b>			<b>£ 32,548.45</b>

### Notes

- Based on income tax rates for 2017/18
- Income apportioned for 10 months in the UK for 2018/19 due to arrival 31 May 2018
- Bonus due November 2018; taxable for 4 months since arrival June to September 2018
- Calculation excludes Canadian social security
- Calculation does not take into consideration the corporation tax deductions in either UK or Canada for Tom's costs of employment
- Calculation does not take into consideration any UK tax on stock options
- Relocation exemption has not been claimed
- Overseas workday relief assumes that Tom retains at least £41,746 of his salary and bonus outside the UK.

## **MARKING GUIDE**

<b>General Topic</b>	<b>Core &amp; Report</b>	<b>Computations</b>	<b>Law &amp; Ethics</b>	<b>Awareness</b>	<b>Marks</b>
Higher skills and presentation marks	22				22
<b>REQUIREMENT 1</b>					
UK Residence					
Advising SRT based on days and connections to UK	0.5				0.5
Opinion regarding Tom's residence 2018/19	0.5				0.5
Likely residence for 2019/20	0.5				0.5
Split year arrangement	0.5				0.5
Cases 4 & 5 for split year	0.5				0.5
Taxation of income as a resident	0.5				0.5
Domicile					
Explaining relevance of domicile	0.5				0.5
Income taxed on arising basis	0.5				0.5
Foreign income taxed on remittance basis	0.5				0.5
Overseas Workday Relief being available	0.5				0.5
Requirement to be paid outside the UK	0.5				0.5
Avoiding remitting 25% to the UK	0.5				0.5
Mixed-fund rules	0.5				0.5
Importance of keeping evidence for non-UK workdays	0.5				0.5
<b>NIC</b>					
Reference to UK/Canadian bi-lateral agreement	1				1
Need to apply for certificate of coverage	1				1
Canadian social security being due on worldwide income	1				1
High Income Child Benefit Charge					
High Income Child Benefit Charge				1	1
How charge would apply to Tom				1	1
Advice regarding whether to claim				0.5	0.5
Claiming Child benefit and entitlement to wife claiming state pension				1	1
Requirement for Learnshape UK Ltd to operate PAYE					

General Topic	Core & Report	Computations	Law & Ethics	Awareness	Marks
Necessity to operate PAYE as deemed employer	1				1
Avoiding double tax by stopping Canadian tax/cash flow	0.5				0.5
Modified Payroll					
Modified payroll suggesting as an option	1				1
Explaining the benefits of modified payroll	1				1
RTI requirements under modified payroll	0.5				0.5
P11D filing date extension under modified payroll	0.5				0.5
Tax Equalisation					
Explanation of tax equalisation and hypo tax principles	1				1
Calculation of hypothetical tax on salary @ 31.5%		0.5			0.5
Correct calculation of bonus 65% and 4 months		1			1
Correct calculation of hypo on bonus		0.5			0.5
Practical aspects of how hypo deducted through payroll	1				1
Hypo passing to Learnshape via inter-company agreement				1	1
Tax needing to be calculated on a grossed-up basis	0.5				0.5
Advice regarding TEQ policy	HS				0
Bonus					
4/12 of bonus being liable to UK tax	0.5				0.5
Balance of bonus being taxable in Canada	0.5				0.5
Trailing payments after the end of assignment	0.5				0.5
Cost of Living Allowance					
COLA liable to tax	0.5				0.5
Housing Allowance					
Temporary workplace rules and 24-month rules	0.5				0.5
Suggestion that TWR relief taken by employer	0.5				0.5
Limit of allowable expenditure	0.5				0.5
Calculation of potential tax savings (using a reasonable % of costs)		1			1
Travel expenses and length of assignment					
TWR available on travel	0.5				0.5

General Topic	Core & Report	Computations	Law & Ethics	Awareness	Marks
Impact on TWR for extension of assignment	0.5				0.5
Suggest contribution towards rental or reduced COLA	HS				0
Car Allowance					
Company car benefit - explanation to rules such as based on value and Co2, petrol type (1/2 marks if mention car and fuel biks only)	1				1
Zero-emissions vehicles	0.5				0.5
Benefits reportable on P11D	0.5				0.5
Class 1A Employer's NIC being due	0.5				0.5
Class 1A @ 13.8%	0.5				0.5
Advice whether private fuel is worthwhile	1				1
Non-financial benefits of company car - hassle-free motoring etc	HS				0
Corporate deduction on HP mixture of interest and capital				1	1
Capital allowances on capital part of HP				1	1
Corporate deduction for operating leases				1	1
Corporate deduction for finance lease - depreciation and interest				1	1
High emission car CT deduction restriction				1	1
VAT on private use of fuel					
Awareness of issue				1	1
Listing at least 2 of the 4 options				1	1
Private medical Insurance					
Possibility to exempt if payments < £500 instead of insurance but practically that this may be too expensive	1				1
Mileage					
Mileage allowance rate exceeding MAT and resulting tax charge	1				1
45p for first 10,000 miles and 25p thereafter	0.5				0.5
Advice/recommendation about reducing the level of mileage v net cost to Tom	1				1
Advisory scale rates for company cars	1				1

General Topic	Core & Report	Computations	Law & Ethics	Awareness	Marks
School fees					
Calculation of tax on school fees (on a grossed-up basis)	0.5				0.5
Potential savings by suggesting state schools	HS				0
Discuss with Tom about incentive elsewhere	HS				0
Relocation					
Relocation being taxable as a lump sum	0.5				0.5
Exemption possible £8,000 exemption	0.5				0.5
Conditions of relocation	0.5				0.5
Timing of relocation payments e.g. no later than end of tax year following move	0.5				0.5
Calculation of savings on relocation		1			1
Stock Options					
Taxation difference between MV at grant v vest	0.5				0.5
Impact on UK days in grant to vest period	0.5				0.5
Calculations of estimate taxable on vest		1			1
Stock options in equalisation policy & discussing benefits or in/out	HS				0
Employment Law					
Suggestion of addendum to contract needed for assignment			1		1
Right to work in UK and Austria			1		1
Awareness of different employment laws applying to work arrangement			0.5		0.5
Self assessment					
Obligation to file under self-assessment and TR deadlines				0.5	0.5
Penalties for late filing				0.5	0.5
Calculation of Tax - Appendix 2					
Apportionment of salary for 10 months		0.5			0.5
Deduction of hypo tax against income		0.5			0.5
Correct calculation of bonus based on 4 months taxable		0.5			0.5
Non-inclusion of personal allowances due to income level		0.5			0.5

General Topic	Core & Report	Computations	Law & Ethics	Awareness	Marks
Using correct exchange rates for conversion to GBP		0.5			0.5
Calculation of taxable car mileage		0.5			0.5
Overseas workday deduction 25%		0.5			0.5
Correct basis for finding net of rate bands		0.5			0.5
Tax calculation using net bands		0.5			0.5
Deduction of hypo tax against total tax to give net cost		0.5			0.5
Non-inclusion of stock option income		0.5			0.5
<b>SUBTOTAL</b>	<b>33.5</b>	<b>10.5</b>	<b>2.5</b>	<b>12.5</b>	<b>59</b>
<b>REQUIREMENT 2</b>					
Inter-Company agreement					
Awareness need an inter-company agreement for recharges			1		1
Split of recharges for UK and Austria			1		1
Accounting treatment				1	1
CT deductibility				1	1
Mark-up arrangement				1	1
Permanent establishment					
Awareness of PE risk			1		1
CT impact of PE becoming taxable in Austria				1	1
Mentioning advice needed going forward - 0.5 mark for mentioned each of personal tax, employment law, corporate tax BigShape's obligations as an employer and VAT (max of 2 marks)				2	2
<b>Austrian Tax</b>					
Austrian income tax - awareness that may be due	1				1
Austrian social security awareness	1				1
Home leave					
Suggestion that could pay home leave tax-free	1				1
Termination Payment					
Employment law awareness			1		1
Recommending a compromise agreement			0.5		0.5
Benefits of compromise agreement (e.g. clarity of			0.5		0.5

<b>General Topic</b>	<b>Core &amp; Report</b>	<b>Computations</b>	<b>Law &amp; Ethics</b>	<b>Awareness</b>	<b>Marks</b>
payment or limiting future legal claims)					
Tax treatment of termination payments	0.5				0.5
£30,000 exemption	0.5				0.5
Contractual entitlement	0.5				0.5
Custom & Practice affecting treatment	0.5				0.5
Damages re PILON	1				1
Breach of contract and non-compete etc			1		1
Ordinary resolution needed to remove director			1		1
<b>SUBTOTAL</b>	<b>6</b>	<b>0</b>	<b>7</b>	<b>6</b>	<b>19</b>
<b>Total</b>	<b>61.5</b>	<b>10.5</b>	<b>9.5</b>	<b>18.5</b>	<b>100</b>