THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Taxation of Individuals

May 2021

TIME ALLOWED

3 HOURS 30 MINUTES

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

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

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

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

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

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

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

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

1. Jason Smith has always been UK domiciled and resident.

He has accepted a six-year contract to work full-time at a hospital in Australia starting on 6 April 2022. During the contract, he plans to visit the UK for around four weeks each tax year and intends to return to the UK permanently once his contract ends.

Since 6 April 2021 Jason has spent three weeks out of the UK, when he travelled to Australia to meet his new employers and look for accommodation.

His employers have asked him if he could start his new job in December 2021 rather than waiting until April 2022.

Jason owns two residential properties in the UK, 29 and 31 Brooke Street, which he purchased in July 2016. 29 Brooke Street is his home and will remain available for him to use when he visits the UK. 31 Brooke Street has always been let out. Jason plans to continue to let 31 Brooke Street for the next two or three years and will then try to sell the property.

Requirement:

Explain how the change in start date will affect Jason's UK residence position for 2021/22 and explain the implications of renting and selling 31 Brooke Street whilst he is out of the UK.

You are NOT required to explain the detailed requirements of the third automatic overseas test. (15)

2. Polly Johnson has worked for Oldcorne Ltd since 6 April 2007 and has always been a member of the company's final salary pension scheme. The accrual rate for the scheme is $1/60^{th}$, with a maximum of 40 years qualifying service. The following is relevant to the 2020/21 tax year:

1) Her annual salary (payable on the last day of the month) was £195,000 and this increased to £205,000 on 1 October 2020. Her P60 shows pay of £200,000 and tax deducted of £78,000.

2) Her 2020/21 tax code shows a tax underpayment from an earlier year of £1,000.

3) Oldcorne Ltd made pension contributions of £50,000 and Polly made no contributions. She had unused annual allowance brought forward at 6 April 2020 of £2,000.

4) Polly received UK bank interest of £14,000 and gross foreign dividends from Farland of £2,000 from which tax of £400 was deducted at source. The Double Tax Treaty between the UK and Farland provides for tax to be deducted at 15% in Farland.

5) Polly made net charitable donations under gift aid of £3,000.

6) Polly is married to Ben. His daughter from a previous marriage lives with them and Ben received £1,095 in child benefit during the year. Ben's taxable income was £65,000 in 2020/21.

Requirement:

Calculate the Income Tax payable by Polly for 2020/21.

(20)

3. Panos Freeman is a non UK domiciled individual. Panos works full-time for Cool Albania Ltd, an Albanian trading company.

Panos is coming to the UK, during 2021/22, for two years on a secondment to work for the UK branch of Cool Albania Ltd. During the secondment, Panos will return to Albania to work for one week each month and will continue to be employed by Cool Albania Ltd under his existing Albanian contract. Cool Albania Ltd will be required to withhold tax in Albania on his earnings in relation to the period he works there.

Prior to starting his secondment, Panos will purchase a flat in the UK to live in whist he is here. To fund the purchase, he will use cash from his Albanian bank accounts and a loan from an Albanian bank, which will be secured on his property in Albania. When he returns to Albania following the secondment, he will keep the UK property for use as a family holiday home.

Under the statutory residence test, Panos will not be UK resident for the 2021/22 tax year and will become UK resident on 6 April 2022. Panos was also resident in the UK in 2016/17 and 2017/18 when he was previously seconded to the UK. Albania is outside the EEA and does not have a reciprocal social security agreement with the UK.

Requirement:

Explain Panos's UK Income Tax and NIC obligations for 2021/22 and 2022/23. You are NOT required to explain his residency position. (15)

4. Suzie Garcia is a Spanish domiciled individual who has been UK resident since 6 April 2019 and she has claimed the remittance basis of taxation for the 2019/20 tax year and will do so for the 2020/21 tax year. She is an additional rate taxpayer.

In May 2019, Suzie acquired shares in Pine Ltd, a non-UK company, for £70,000. In March 2020, she sold her shares in Pine Ltd for £90,000 and paid the proceeds into her Spanish bank account.

In May 2020, Suzie used £10,000 of the proceeds from the sale of Pine Ltd to buy jewellery whilst on holiday in Dubai which she brought into the UK for her personal use. In March 2021, Suzie gifted this jewellery to her daughter, Danielle, for her 21st birthday. Danielle lives in the UK and the jewellery was worth £10,000 at the time of the gift.

On 6 April 2020 Suzie set up a non-UK resident trust using offshore monies. She cannot benefit from the trust nor can her spouse and minor children.

The trust used monies to subscribe for all of the shares in Oak Ltd, a non-UK resident company in which Suzie is a director.

Oak Ltd used the subscription monies to acquire a UK investment portfolio which is currently worth £1 million and which generated UK dividend income of £100,000 in the 2020/21 tax year. Portfolio management expenses of £10,000 were incurred in the 2020/21 tax year.

Requirement:

1) **Explain the Capital Gains Tax consequences of the purchase and gift of the jewellery.** (8)

2) **Discuss whether the transfer of assets abroad legislation can apply to the income of Oak Ltd.** (12)

Total (20)

You are not required to calculate any tax liabilities.

5. Steve Casey is UK resident and domiciled.

During the year ended 5 April 2021 Steve received a salary of £42,000 and paid net personal pension contributions of £1,200. He also disposed of the following assets:

<u>Shares in Daffodil Ltd</u>

In June 2020 Steve sold his 100 shares in Daffodil Ltd, an unquoted company which operates a successful electrical engineering business and also receives a small amount of rental income from a commercial unit.

He subscribed for these shares, for cash, on incorporation in January 2000 for £1 per share. Steve has been the sole director and shareholder since incorporation.

Under the terms of the share sale agreement, Steve received cash proceeds of £1,500,000 in June 2020. In December 2021 he will receive further cash proceeds equal to 15% of Daffodil Ltd's profits for the year ended 30 September 2021, which are forecast to be £3,575,000.

<u>Shares in Poppy Ltd</u>

In August 2020 Steve sold his 100 shares in Poppy Ltd, an unquoted company which operates a care home, for £1,782 per share. He subscribed for these shares, for cash, in June 2016 at £550 per share. The 100 shares represented 1.2% of Poppy Ltd's issued share capital. The rest of the shares are owned by the directors of the company and 10 unrelated individuals. Steve has never been a director or employee of this company.

<u>Ivy Cottage</u>

In September 2020 Steve sold Ivy Cottage, which he had always used as a family holiday home. No Principal Private Residence election had been made on this property. The sale proceeds were £135,000 and he incurred fees of £2,700. Steve inherited Ivy Cottage in July 2007 at a probate value of £98,000.

In August 2015 Steve paid £325 to demolish a derelict outbuilding at the property and £6,500 to build a new one, which he used for storage. This outbuilding was sold along with the cottage.

Steve has never made a claim for Business Asset Disposal Relief.

Requirement:

Explain the Capital Gains Tax consequences of the three transactions and calculate Steve's Capital Gains Tax liability for 2020/21. (15)

6. On 5 November 2017 Rupert Evans sold his 100% shareholding in Medium Co Ltd, an investment company, to Large Co Ltd. The consideration comprised an immediate cash payment of £1,000,000 and loan notes worth £500,000 issued by Large Co Ltd. The base cost of his shares in Medium Co Ltd was £300,000.

Rupert was advised that if the loan notes were qualifying corporate bonds then the gain on the loan notes would be calculated and frozen until the disposal of the loan notes. He was also advised that if the loan notes were non-qualifying corporate bonds then the calculation of the gain on the loan notes would be deferred. Rupert was concerned that Large Co Ltd would become insolvent in the future and therefore was advised to ask for non-qualifying corporate bonds. Large Co Ltd agreed to structure the loan notes so that they were non-qualifying corporate bonds and did so by including a provision which allowed the loan notes to be redeemed in a foreign currency in a very limited and unlikely set of circumstances. Advance clearance was not sought as his adviser did not feel it was necessary.

On 5 October 2020, Large Co Ltd became insolvent and the loan notes were deemed to be worthless. Rupert would like to make a claim to use the loss he has incurred on the loan notes. Rupert is concerned that due to the way he acquired the loan notes, this loss may be considered to be artificial and would like to know if there is any anti avoidance legislation which will apply to bring any additional gain in relation to his Medium Co Ltd shares back into charge.

Requirement:

Explain the tax consequences of Large Co Ltd defaulting on the loan notes, including an analysis of whether the General Anti-Abuse Rule will apply in this situation. (15)