

MAY 2022 EXAMINERS' REPORTS

CHIEF EXAMINER'S COMMENTS

Overall Comments

Performance this session was satisfactory with the pass rates on most papers being in line with expectations. The two disappointing papers were the Advanced Technical papers for Human Capital Taxes and Inheritance Tax, Trusts and Estates with pass rates of 29% and 30% respectively. For a number of years, the pass rate on the Domestic Indirect Tax paper has been poor, but it was good to see that the improvement in recent sessions continued with a 49% pass rate this session.

Reading the Requirements of the Question

Possibly the single most important thing for candidates to focus on is to read the requirements of the question carefully. This should be done before starting the question, as answering it and at the end. The objective is to ensure that the answer deals with all elements of the requirement without bringing in material which is not required.

Three examples from this session's Advanced Technical papers to illustrate this are:

- Part one of question 3 of the OMB paper asked candidates to "explain". Whilst calculations could be included to aid the explanation, it was an explanation that was required and not calculations with brief explanations.
- Question 1 of the Individuals paper asked candidates to consider the tax implications of the grant of share options to a key employee by the existing shareholders. However many candidates discussed the grant of options by the company, which was not what was required.
- On question 4 of the Human Capital paper a lot of candidates wasted time writing about the remittance basis despite there being no mention of overseas workdays or offshore income in the question.

Open Book Exams

As identified last November, it continues to be the case that despite the exams being temporarily fully open book due to the revised arrangements for Covid, there has been no evidence that this has materially helped candidates and indeed it may have hindered the weaker candidates in particular.

Our perception is that weaker candidates have perhaps studied less in the expectation that they can look up material. Whilst they may gain some easy factual marks (although even these have often not been gained), it is clear that because they don't actually "know" the material they are unable to apply it. This was particularly apparent in Question 5 on the Human Capital paper and also Question 4 on the Individuals paper (where they appeared to have no knowledge of the Transactions in Land rules so couldn't look it up). It may well also be the case that these candidates are spending longer in the exam trying to look material up (and hence losing time) whereas in the past they may have used that time to focus on gaining the easy marks.

As far as the stronger candidates are concerned, we suspect that they have also gained little from the papers being open book because they understand that looking-up time reduces writing time. Accordingly they have identified that a thorough knowledge of the material will maximise their chances of success such that they may only need to refer to the legislation for detail, or perhaps to their manuals to check a point that they basically know (and can certainly find quickly).

AWARENESS

Module A: VAT Including Stamp Taxes

General Comments

Generally the paper seems to have been well received. There were a number of instances where candidates failed to answer all 12 questions but as there were differences throughout as to which questions were not attempted, this appears to be due to not knowing certain topics rather than time issues. It was good to see written and calculation style questions answered fairly equally by most.

Question 1

This was generally well answered, with candidates able to apply their knowledge well to the scenarios given.

Question 2

This was again generally well answered and it was pleasing to note an improvement in the general use of correct terminology rather than the usual confusion between exempt and zero rated supplies.

Question 3

Candidates scored highly in most cases, with good well explained answers able to differentiate between the options as to how to administratively deal with the offer of discounts.

Question 4

Poor scores were normally due to candidates calculating adjustments on a year-to-year basis rather than always referring back to the initial year of recovery. Some candidates failed to appreciate the sale adjustment should be for the remaining years, some had the wrong adjustment period (5 rather than 10 years) and some used the incorrect rating for the property sale, but all of these are the usual errors noted in this type of calculation.

Question 5

This was reasonably well answered but some candidates did not give enough detail on the necessary adjustment as a result of deregistering, despite being given full details in the question to make it easier to demonstrate their knowledge with a simple calculation.

Question 6

This was well answered, with most candidates realising this was based on a margin scheme. Those scoring less well generally gave standard calculation style answers instead.

Question 7

The answers to this question on VAT groups was mixed. Some candidates scored very well and some knew which companies could join the group but then failed to appreciate the impact of this, simply calculating output VAT for all companies, rather than just the group members.

Question 8

Very few candidates got all of the marks available, but on the whole, attempts were good. The most common mistake was to fail to gross up the standard rated sales, or indeed to gross up both the standard and zero rated sales.

Question 9

There were some very good answers demonstrating good knowledge on the time limits which would apply to the scenario. Most candidates were able to gain at least one of the two marks available for suggesting why the visit might have been arranged.

Question 10

The question on late registration was very well answered by most candidates.

Question 11

This was well answered in relation to the three transfers identified in the scenario. Where the legal position was answered, candidates generally scored well but a number did not attempt this part of the question.

Question 12

Most candidates did well in terms of calculations where the multiple dwelling relief (MDR) applies. Those not scoring full marks for this question generally forgot to do any comparison as to how much would be payable if MDR were not claimed.

Module B: Inheritance Tax, Trusts & Estates

General Comments

Generally there was a satisfactory performance by most candidates, although there were marks missed by not actually answering the question set. Candidates must learn to carefully read the requirements of the question and ensure that they follow them.

Question 13

No comments.

Question 14

Several candidates lost a mark as they did not answer the question and simply calculated the tax rather than the gross chargeable transfers.

Question 15

No comments.

Question 16

No comments.

Question 17

Performance on this question on related property was generally poor. Some candidates tried to calculate the diminution in value of the gift, not appreciating that she was disposing of her assets in their entirety. Several candidates simply calculated the transfer value rather than the PET and therefore lost the mark available for deducting the marriage allowance.

Question 18

No comments.

Question 19

This question was often omitted and when attempted, was often done badly. Several candidates did not answer the question set, and instead calculated the lifetime tax (which was given in the question).

Question 20

No comments.

Question 21

Performance in this question was generally poor. Some candidates clearly did not realise that current year losses must be offset against current year gains before the annual exemption and therefore offset the annual exemption against the gain on the property. Many candidates stated that losses can only be carried forward against future capital gains, despite the fact that the taxpayer had died, and others stated that capital losses could be offset against income. Several candidates stated that there could be no refund of Capital Gains Tax.

Question 22

No comments.

Question 23

Most candidates missed the fact that the Residents' Nil Rate Band needed to be tapered and just focused on proving that the reduced rate of Inheritance Tax applied to the death estate, despite this being obvious due to the size of the charitable legacy.

Question 24

No comments.

Module C: Corporation Tax

General Comments

Candidates displayed a good knowledge of the core rules. However, not all candidates addressed all aspects of all the question requirements and some candidates did not attempt all the questions.

Question 25

Almost all candidates performed well in this question.

Question 26

There were three aspects to this question – finance lease adjustments, the 15% disallowance for higher-emissions cars and the add-back for accrued pension contributions – and many candidates struggled with at least one area. On the 15% disallowance, some candidates added back 100% and some 85%, and on the pension adjustment, some candidates allowed the full amount on the basis that the contributions were paid within nine months of the year end.

Question 27

A significant number of candidates struggled with the disposal proceeds with some deducting the amount from the FYA qualifying expenditure and some recognising a balancing charge.

Question 28

Most candidates performed well in this question.

Question 29

Most candidates dealt well with the calculation of net s.455 tax payable but many missed the adjustment in respect of the accounting entry on the write-off.

Question 30

This was a high-scoring question for most candidates.

Question 31

Common problem areas were working out the carry-back period for the terminal loss and offsetting the capital loss against current year income or the prior years' gains.

Question 32

Almost all candidates were comfortable with the capital gains calculation. A common error was to deduct the full amount of indexation allowance, creating a capital loss.

Question 33

Most candidates dealt well with the overlapping period; however, there was confusion as to which amounts could be surrendered as group relief, with many candidates including the overseas property business loss.

Question 34

Performance was very mixed on this question. Although many candidates chose not to answer it, those that did tended to score highly.

Question 35

Most candidates displayed a good knowledge of the rules for the CFC exemptions. Some provided too much detail; for example, explaining how the CFC charge would apply.

Question 36

Although almost all candidates who attempted this question were aware that the company was required to deduct income tax at 20%, not all then went on to describe the CT61 process.

Module D: Taxation of Individuals

General comments

On the whole, candidates showed a good knowledge of most areas of the syllabus. Candidates are encouraged to follow the requirement, for example, by providing explanations where explanations are required and ensuring that all aspects of the requirement are dealt with.

Question 37

Almost all candidates demonstrated a good knowledge of the basic income tax calculation.

Question 38

Although the requirement was for the candidate to explain with the aid of calculations, many favoured calculations and some provided no explanation at all. Not all candidates appreciated the impact of the donation on the reduction in the personal allowance.

Question 39

Most candidates dealt well with this question.

Question 40

Not all candidates recognised that the annual earnings period rules applied.

Question 41

Many candidates made at least one small error, eg failing to time apportion the benefit in kind; failing to deduct the interest paid, or deducting it from the loan balance.

Question 42

Almost all candidates performed well in this question.

Question 43

Most candidates made at least one error, eg taxing the deposit; incorrect calculation of the revenue part of the premium, or failing to deduct the interest for the commercial property.

Question 44

Although many candidates did not attempt this question, those that did scored high marks.

Question 45

Most candidates dealt well with this question.

Question 46

There were some careless errors on this question, eg applying the PRR percentage to proceeds or cost; failing to deduct cost. A significant minority of candidates deducted lettings relief.

Question 47

Although the question stated that the property was commercial, a significant number of candidates applied the rules relating to residential properties. Many candidates did not appreciate that some basic rate band remained and not all candidates provided a due date for payment, as was required.

Question 48

Most candidates performed well in this question.

Module E: Taxation of Unincorporated Businesses

General Comments

Candidates generally performed well on this module.

Question 49

Some candidates discussed penalties in general without relating their answer to the question.

Question 50

Many candidates added back the loan to the employee written off, but the main error was in relation to the lease premium. Some simply spread the lease premium over ten years, and others, while correctly calculating the amount of the annual deduction, then failed to time apportion it.

Question 51

The most common reason that candidates lost marks was because they ignored the information given in the question and instead claimed a deduction for the fixed rate mileage allowance. Additionally, this was frequently done on the fuel element only.

Question 52

Most candidates did not treat the patent royalty correctly. Some taxed the amount as savings income received.

Questions 53 - 56

No comments

Question 57

Many candidates performed well. Common errors by some candidates included the failure to recognise that Bridget's 'salary' would increase the loss rather than reduce it, and/or the failure to recognise that Bridget's notional profit needed to be allocated to the other partners.

Question 58

Answers to this question were mixed. Some candidates missed the availability of gift relief and/or thought that there was no BADR on the goodwill.

Question 59

Candidates generally performed well on this question.

Question 60

Some candidates discussed penalties in general without relating their answer to the question. Several candidates stated that payments on account should have been made, and even went on to calculate them, despite the fact that this was the first year of trade.

ADVANCED TECHNICAL

Taxation of Owner Managed Businesses

General comments

Candidates generally performed well on the earlier questions in this paper, in particular the computational aspects. Candidates appeared to generally either perform well, or very poorly, on question 3, indicating that awareness and knowledge of the R&D rules varies quite significantly among candidates. A minority of candidates either did not attempt later questions, or produced very short responses, reinforcing the importance of good exam technique.

Question 1

This question required the calculation of plant and machinery allowances, structures and buildings allowance and a corporate chargeable gain, with explanations.

The question was generally well attempted. Those who didn't score well normally ignored the 130% super-deduction. However, there were a variety of other marks available throughout the question and missing this point did not necessarily mean a candidate would fail.

The 100% allowance for environmentally-friendly plant and machinery (which ended on 31 March 2020) was incorrectly referred to by a material number of candidates. The machinery deposit was generally poorly explained (although often correctly treated), with too many candidates clearly not understanding the rules around the timing of expenditure for capital allowances purposes.

In the chargeable gain computation, fixtures were often inappropriately omitted from the costs. However, of more concern was the number of candidates who increased the sales proceeds by the amount of the legal fees arising.

Question 2

This was an adjustment of profits computational question with explanations of adjustments, together with the calculation of self-employed NICs. The question was generally well answered.

The main area where candidates made errors was the treatment of the hire purchase payments. A few candidates were able to calculate the interest element of the repayments and adjust correctly. More candidates correctly disallowed the hire purchase payments and included the car in the capital allowances computation, although sometimes just including the payments made. A significant number treated the arrangement as a lease, sometimes restricting for private use. Where this approach was followed consistently i.e. the car wasn't also included in the capital allowance computation, then some credit was given.

Capital allowances were generally handled well, the main errors being claiming AIA on the connected party purchase and splitting the period into two periods for capital allowance purposes.

Basis periods were determined correctly by the majority of candidates; however, they did not often go on to calculate the taxable income i.e. taking into account the personal allowance.

Most candidates attempted the part of the question dealing with National Insurance, with many picking up good marks.

Question 3

The question looked at the R&D relief regime for SMES, asking candidates to both explain and calculate the relief available.

The question was generally well answered. Those who scored best question were those who gave more detail within their explanations, and those who answered part two of the question.

Candidates should note the wording of the requirement. Part one led with “explain”. It did not ask for a calculation “with brief explanations”. Most of the marks were therefore available for explanations, rather than any numerical aspects.

The most common errors were related to the connected subcontractor - there is no election procedure available for subcontractors who are connected.

Candidates generally answered part two well, but almost none considered the tax saved in the current year or quantified the maximum benefit as set out in the requirement.

Question 4

This question looked at the employment taxes and NIC implications for a partnership of a variety of employee benefits. Overall candidates performed well on core syllabus areas, but less well on more unusual elements.

Candidates generally showed a good understanding of the marginal cost rule. They performed less well regarding the provision of living accommodation by a connected third party, with the majority wrongly stating that this was not taxable. Another common error was to use 20% of the value as the basis for the benefit.

Regarding the provision of a free holiday to a retiring employee, the majority of candidates correctly identified less than 20 years, but a common error was to state that a taxable benefit arose rather than that this was settlement of a pecuniary liability.

Candidates performed well on car and van benefits, though many failed to identify the optional remuneration arrangement issues around the van and incorrectly treated the £50 car contribution as reducing the benefit.

Question 5

This question looked at the CGT and Income Tax implications of an individual transferring shares in a company to three different individuals.

The first gift of shares to a daughter who was not involved in the business was answered well, with candidates showing a good understanding of the 80:20 test.

For the second gift, many candidates failed to identify the step son as a connected person. In addition, many made no reference to the ‘by reason of employment’ exemption for family and incorrectly stated that an income tax liability would arise.

For the final transfer to an unconnected employee who was about to leave for France, many candidates identified the issue with hold-over for leaving the UK. However, only a small number of

candidates seemed to be aware of the full time contract with return in three years rule. There was also some confusion between being taxed under PAYE or via P11D.

Question 6

This question focused on the allocation of partnership profits and losses, as well as the income tax loss relief options available to each partner.

A significant proportion of candidates did not appreciate that the allocation of interest/salaries would increase the partnership loss – either applying the profit sharing ratio to the loss before salary and interest or reducing the loss for the salary and interest before applying it.

Almost all candidates identified that one of the partners would have a profit and the others a loss. However, only a minority identified that the profit required reallocation and only a very small proportion of those were able to complete the calculation correctly.

Most candidates were able to identify the loss relief options available to each partner. However, only a small proportion were able to develop this to discuss which options were most beneficial. Many explained how the options would work for each partner but with no mention of the tax rates or the impact that utilising losses may have on the personal allowance. A significant proportion of candidates stated that carrying losses forward is always a last resort and did not consider this option as a result.

Most candidates identified that one of the partners was a non-active partner. Most also spent time discussing the partner's non-active status and loss relief options despite having allocated them a profit in the first part of the question.

Taxation of Individuals

General

Overall, marks on this paper were disappointing. Whilst candidates' scored particularly well on question 3 with average score of 65%, this was more than compensated for by a poor performance on questions four and six where average scores were below 25%. On question 4, many candidates were unaware of the Transactions in Land legislation whilst on question 6, many candidates failed to discuss the impact on domicile as was required by the question.

Question 1

The first part of this question required candidates to consider how the existing shareholders of a family business could fund the purchase of two retiring shareholders' shares and to calculate the Income Tax and Capital Gains Tax implications of using company funds to do so. This required candidates to discuss the Company Purchase of Own Shares legislation and apply the rules to the retiring shareholders' differing circumstances. One retiring shareholder qualified for capital treatment whereas the other was non-UK resident and was therefore subject to income treatment. Overall, this part of the question was answered well. Most candidates identified the relevant conditions, correctly applied them to the retiring shareholders' circumstances and reached appropriate conclusions. However, while most candidates were able to explain the tax treatment, they struggled to accurately calculate the resulting tax liabilities. Most candidates identified that, where capital treatment applied, the gain also qualified for Business Asset Disposal Relief but very few candidates were able to identify that the income of the non-resident shareholder would be subject to the disregarded income regime.

The second part of the question required candidates to consider the tax implications of the grant of share options to a key employee by the existing shareholders and of the subsequent exercise of the options. Unfortunately, most candidates discussed the employee's tax liabilities in the event that the share options were issued by the company, despite the question stating that the options were to be granted by the existing shareholders personally and the requirement being to consider the existing shareholders' tax positions. This led to many candidates scoring poorly on this part of the question.

Question 2

This question required the candidates to calculate the individual's Income Tax, Capital Gains Tax and National Insurance liabilities for the year.

The question had returned to the UK at the start of the tax year following a period of non-residence. This meant that the temporary non-residence rules were relevant. Most candidates identified that this was the case and were able to clearly explain the rules and apply them to the share sale.

The question also examined the correct date to tax a director's bonus and again most candidates were able to explain the rules, although sometimes struggled to apply these to the situation at hand.

Most candidates recognised that directors have an annual earnings period for National Insurance. However, fewer recognised that the rates need to be pro-rated when an individual becomes a director part way through a tax year. Unfortunately, most candidates who did identify that the rates needed to be pro-rated used an incorrect number of weeks in their calculations.

Question 3

This question was predominantly computational and required candidates to calculate an income tax liability for the year, including identifying reliefs.

Marks on this question were high. Candidates generally did well in quantifying the taxable employment income, including calculating taxable benefits. Candidates also generally did well in quantifying the taxable investment income.

However, a number of candidates struggled to answer the elements of the question relating to allowable deductions from general income. A surprising number of candidates also failed to address the foreign tax credit. There were also a few candidates who identified the taxable income but did not go on to calculate the tax liability arising and thereby failed to score some easy marks.

Question 4

This question required the candidates to consider the tax implications of two different transactions involving the sale of land to a developer and how the consideration they would receive immediately and in future would be taxed.

Overall, this question was very poorly answered with the majority of candidates failing to identify that the Transactions in Land legislation was in point and a number specifically stating that it was not relevant. A significant number instead discussed the legislation for earn outs and BADR, neither of which were relevant. Where candidates considered PPR in respect of the farmhouse, many went into too much detail when only one mark was available for this part of the answer.

Of those who did recognise that there was an anti-avoidance issue, most were able to correctly identify that a "slice of the action" contract had been created and that income tax would be due on this element of the consideration. There were some easy marks available for explaining the legislation and listing the conditions for its application that were missed by many candidates. Some did pick up on the fact that Melanie's company derived its value from the land however they often concluded that the entire transaction was liable to income tax, rather than considering the point at which the intention to develop changed. Overall, most candidates who identified Conditions A-D as being in point for both transactions then failed to apply them correctly to the scenarios at hand.

Question 5

This question required candidates to consider the tax implications of sale of Series A and Series B loan stock and whether there were any reliefs available to the taxpayer.

This was a well answered question, with the vast majority of candidates correctly applying the QCB legislation to the loan stock and identifying that one was a QCB while the other was a non-QCB. Of those who did so, almost all went on to correctly explain the CGT implications, namely that there would be no relief for the QCB loss. Most candidates also correctly identified that a negligible value claim was available to the taxpayer for the non-QCB loss and most explained the mechanics and benefits of this sufficiently to be awarded the marks available.

The most common mistake made by candidates was to suggest a s131 claim against income, which would not have been available in the scenario in question.

A small number of candidates spent time explaining the accrued income scheme and the income tax position on the interest that would have been payable on the loan stock, which was not the point of the question. Only a handful of candidates considered the rules around debts on securities before they settled on the QCB legislation being in point and so some easy marks were missed. A number of candidates considered the rules around converting the QCB to a non-QCB in order to utilise the loss with most concluding that this would be prohibited under anti-avoidance legislation; whilst this was interesting to note, there were no marks available for these comments.

Question 6

This question required the candidates to consider the domicile statuses of a married couple and how their respective domiciles may have been impacted by changes in their residence over several years.

Overall, this question was poorly answered. A surprising number of candidates restated facts of the scenario as provided in the question and supplied a lot of generic information in relation to both the Statutory Residence Test and the Remittance Basis but only briefly addressed the subject of domicile.

Where candidates did address domicile, most were able to identify the relevant issues in relation to acquiring a domicile of choice. Most also successfully identified the conditions of deemed domicile and applied these to the couple's circumstances, however many failed to identify the date from which the rules applied; therefore, the conclusion was often incorrect.

This question also required candidates to consider the implications of a sale of shares on which Business Investment Relief, EIS Income Tax Relief and EIS Capital Gains Tax Deferral Relief had been claimed. Most candidates were able to identify the implications of the share sale and the steps required to mitigate the resulting tax liabilities. However, some candidates unfortunately confused

Business Investment Relief with Investors' Relief, meaning they missed out on a large proportion of the marks available for this question.

Human Capital Taxes

General Comments

Overall performance on this paper was poor. Although the subjects covered were mainly core, a major problem seemed to be that candidates failed to read the question requirements, so they did not answer the question which was posed. As well as directly losing marks which were available, many candidates wasted time discussing things which were not relevant, which in turn would have restricted their ability to gain the available marks.

The performance on question 5 on employment related securities was particular poor. This wasn't a challenging question so it seems that most candidates omitted this area from their studies, perhaps because it is not an area that are familiar with in practice or perhaps they hoped that the exam being open book would allow them to find the answer to a question on this area. Most candidates who failed on this paper will have done so because of their performance on this question.

Question 1

This question was about the legislation governing Optional Remuneration Arrangements (OpRA) as well as advising on the benefits and pitfalls of implementing various benefits via salary sacrifice arrangements.

The majority of candidates showed a good understanding of the OpRA rules and scored well on the parts of the questions relating to private medical insurance and on-site car parking. Candidates offered good recommendations around whether to implement each benefit offering via salary sacrifice.

Candidates appeared confused around the National Insurance savings for Employers when implementing Pension Salary Sacrifice. This led to many candidates scoring few marks on this part of the question. Further, many candidates focussed on whether Palm Ltd was liable to pay the Apprenticeship levy rather than on the implications for the Levy with the benefit offerings proposed.

Question 2

This question tested candidates' ability to work out which of many possible rules and exemptions applied to director remuneration. Most candidates recognised the different rules in play. However, many candidates muddled or misapplied each rule and it was clear that they did not fully understand them. The answer was less complicated than many candidates made it.

Question 3

This question was testing candidate's knowledge of the legislation governing tips and service charges, relating to Income Tax, National Insurance Contributions and National Minimum Wage.

Some candidates scored well on this question, with candidates understanding the different Income Tax and National Insurance treatment where tips are made directly to employees, and also where tips are arranged by the employer. The vast majority of clients also understood when a Tronc arrangement is created, however there was confusion around whether a National Insurance Contribution charge arose where payments are made by the Troncmaster.

The National Minimum Wage aspect of the question was well done by candidates, with the majority distinguishing between the different treatment of the deductions for uniforms / locker space and also the misconduct penalty. However, a number of candidates spent too long explaining the different rates of NMW pay for different age bands, which was not a requirement of the question.

Question 4

Candidates applied the SRT and Art 4 of the tax treaty well and got the residence statuses correct. Not many, however, correctly recognised when Scottish rates applied. There were also not many candidates who remembered that hotel costs could be covered by the relocation costs exemption, and only thought about temporary workplace relief.

A few candidates correctly realised that there was no income paid in 2021/22 and that there was no need to try and allocate a few days' pay to the first year. Candidates made the tax calculations for 2022/23 more complex than they were.

Almost a third of the marks were for discussing the student loan repayments but not many candidates really focussed on this aspect of the question. A lot of candidates wasted time writing about the remittance basis despite there being no mention of overseas workdays or offshore income in the question.

Question 5

This question was looking at the employment related securities legislation. Whilst most candidates recognised that the key charging provisions were contained in the restricted securities chapter, the application to the scenarios presented was more mixed. Many failed to recognise that an employee paying IUMV of the shares on acquisition meant that there would also be no income tax on the lifting of restrictions/sale as well as the acquisition itself (even though a s431 election had not been entered into). Similarly, the significance of the 14 day time limit on said election being missed in the third scenario, was not picked up by a number of candidates.

Whilst a large number of candidates recognised that a charge under s222 ITEPA 2003 was in point, with marks awarded accordingly, in most cases, candidates did not score as highly as possible, as they did not perform the calculation or missed some of the intricacies (e.g. set off in same pay period). In contrast a surprisingly large number of candidates wasted time by performing CGT calculations, which whilst relevant to the scenario were not included in the requirement of the question.

Question 6

This question was looking at Appendices 4 and 8. Most candidates correctly identified that Javier qualified and Maria did not due to having a UK employer. There was some confusion over the temporary workplace criteria and whether the UK was a temporary workplace and what costs could be included under the exemption. The answers generally lacked enough detail on the different options to gain all the marks. Nevertheless, candidates generally did well on this question.

Inheritance Tax, Trusts and Estates

General Comments

Overall this was a poorly answered paper with candidates displaying a poor grasp of core syllabus matters and with too many candidates failing to read the question directive and apply the facts to their answers. There was evidence of candidates reciting formal text but with no apparent understanding of it or its relevance to the facts. Questions 3, 4 and 6 were particularly poorly answered with scores of around 30%,

Question 1

This question contained an Inheritance Tax (IHT) calculation and a requirement to consider the use of a deed of variation or disclaimer.

The question was reasonably well answered by most candidates albeit almost all candidates did not appreciate that the pensions would not be subject to IHT and a significant number of candidates thought that an interest in possession to the spouse on death would use up the nil rate band. Few candidates could correctly perform the baseline calculations for the charitable donation and some did not deduct the charitable donation when calculating the taxable estate.

Some candidates could not explain the difference between a disclaimer and a deed of variation and therefore could not advise which option was best.

Question 2

This question concerned a death estate and a written element relating to the tax treatment of a bereaved minor trusts. The question was well answered by most candidates.

Some candidates did not deduct the mortgage debt from the BPR property and did not appreciate that the Residence Nil Rate band was available. Most candidates could not correctly calculate the quick succession relief.

Candidates who identified that the trust qualified as a bereaved minor trust answered the second part of the question well. There was however a significant minority who did not identify the trust and instead talked very generally about trusts which gave them very few marks.

Question 3

This question concerned the tax treatment of an offshore trust and was poorly answered by most candidates. Many candidates did not identify that there was historic undeclared income and that both the trustees and the settlor needed to make a disclosure. Some identified the settlor's omission but not the trustees. Most did not go as far as suggest that a disclosure should be made. As a result many easy marks were lost.

There were two sources of UK income, rental income received by the trustees attributed to the settlor under S624 ITTOIA and rental income received by Rice Ltd attributed to the settlor under S720. Very few candidates understood the distinction and there was little consideration as to whether the motive defence would apply in relation to the Rice Ltd income.

There was a lot of confusion as to the implications of the trustees owning commercial property directly. Many candidates thought that this would not be subject to UK IHT and some also thought that Income Tax on the rental income would not be due prior to April 2019. Most candidates thought that the Meadowview capital gain would be taxable at 28% when in fact this rate only applies to residential property.

Very few candidates identified that holding UK property in the structure was a gift with reservation of benefit.

Many candidates wasted valuable time explaining the taxable of trust distribution which was not required.

Question 4

This question, which predominantly dealt with IHT and some CGT but with a focus on gifts with reservation of benefit and pre owned asset tax (POAT), was very poorly answered with candidates missing the main focus and in some cases writing lengthy answers about matters that were not relevant.

Only a small number of candidates realised that the termination of the life interest, by gifting the proceeds was in fact a potentially exempt transfer (PET). As the life tenant of a QIIP, the whole disposal of the property would be covered by PPR, even the 50% owned by the trustees. However, many spent valuable time calculating the trustees/Peter's gain on the disposal, which was completely irrelevant and not requested.

A few candidates stated that the sale of the property meant no residence nil rate band would be available and that to preserve this the property should be gifted to his children, despite the fact that it had already been sold.

The majority of candidates did identify that the gift of cash to Sally resulted in the tracing provisions of POAT taking effect, although some believed the gift to be a gift with reservation of benefit instead, or in some cases, as well. With the POAT being missed, the possibility of making the election to be treated as a gift with reservation was also missed.

Generally, the answers to this question lacked detail and did not follow through the impact of the POAT. When calculating the current IHT position very few candidates allocated the annual exemptions against the correct gift. Only a couple of candidates identified the claim for downsizing addition could be made and included it in the calculations. As this computation was quite straightforward it was disappointing that so few answered this correctly.

Question 5

The question tested the candidates' knowledge of estate administration and whilst the overall standard of answer was better than for some of the other questions, with a higher number achieving a passing mark, it was still lower than expected.

Before the Income Tax and CGT liabilities for the estate in administration could be calculated, the residence of the estate needed to be determined. There was a mixture of responses which ranged from determining it correctly to ignoring it completely. Those that did identify that residence was an issue, then reached the wrong conclusion as to how the estate should be assessed, and what income should be included or excluded. Only a small number identified that the estate was UK resident for Income Tax but non-UK resident for CGT and as a result only a few stated that the gain on the share disposal was not subject to CGT.

Whilst the majority applied the correct rates of tax and calculated each tax year, there were a surprising number that applied personal tax allowances and rates including dividend and savings allowances.

There was some confusion as to which expenses were allowable and which not. Where admin expenses were not allowable in the tax calculations, they still needed to be deducted from the available income for distribution but this was missed by the majority of candidates. Many answers did not include calculations of the income available for distribution losing valuable marks.

Where included, the CGT on the cottage was mostly correct although some omitted the allowance for probate costs.

Calculation of the entries for the R185 proved challenging for all but a very small number of candidates. Marks were awarded where the workings were shown, and it was possible to trace back to the entries in the income tax calculations.

Question 6

The standard of answer on this question was extremely poor and displayed a huge lack of understanding of the application of both agricultural property relief (APR) and business property relief (BPR), how those reliefs interact and the order in which they should be applied. The application and availability of these critical IHT headline reliefs is a core area of the syllabus, therefore the overall candidates performance was extremely disappointing.

The incorrect rates were applied to the assets used in the business and the incorrect reliefs applied in many cases, especially on the farmhouse where relief is restricted to agricultural value alone. The 50% rate of BPR was missed by almost all candidates even though the property was clearly stated to be held by the trust outside of the farming partnership. There was also confusion as to whether to include or exclude the development value of the field, with some candidates trying to do both by 'hedging their bets'. Even so in many cases where it was included, it was concluded that BPR was not available even though APR had been claimed, and it was still being used as an asset of the trade. The majority of answers incorrectly denied any relief on the barns as they were not being used for agricultural purposes albeit they qualified for BPR at 50%. A very small number of candidates did mention the 'Farmer' case to support their claims and achieved good marks for doing so.

Whilst the majority of candidates correctly identified that 100% BPR applies to unquoted shares, only a very small number reduced the relief to account for the excepted asset that did not meet the qualifying period of ownership.

With the cottage for the retired farm worker, more than half the candidates said no relief was available because he was no longer actively employed. Of the remainder, either they allowed the relief but did not match it to the market value leaving a balance in charge or they increased the relief to match the market value. Not one candidate identified the special rule that restricts the market value to the agricultural value so that there is no amount left subject to charge.

With respect to the second part of the question, this produced a vast mixture of answers. A good number of candidates referred to distributions made in the first quarter after a 10-year anniversary. However, as so few had accounted for the restriction on the excepted assets in the limited company, no-one considered the point of waiting until they were fully qualifying.

Following on from the possible disposal of the field for development, a number of candidates wrote long narratives on how the trustees could claim CGT BADR but this was not relevant at all as it did not meet the criteria, wasted valuable time and achieved no marks.

Taxation of Major Corporates

General Comments

Most candidates scored very well on question 3 but seemed to find the other questions, particularly questions 1 and 2, more challenging. Some of this was to do with exam technique. For example, on question 1, candidates should have realised that where there were three property disposals, the examiner was looking for candidates to draw out different tax issues for each disposal, and therefore candidates should not be duplicating comments already made when discussing the third property disposal. Similarly on question 2, some candidates failed to consider all the possible tax issues, focusing on just one or two issues. In addition, some candidates failed to read the questions carefully, which meant they were then unclear on some facts, for example, on question 4, some candidates seemed unsure as to whether amounts referred to in the question were already included in the companies' profits or not, which affected whether or not an addition or subtraction to profit was required.

It was noticeable that Joint Programme candidates scored materially better on this paper than other candidates (on average scoring 7% more).

Question 1

This question asked candidates to consider the disposal of various properties.

Whilst most candidates produced reasonable chargeable gains calculations for the first two property disposals, many failed to show a clear understanding of degrouping charges with frequent reference to these arising on the sale of the properties. Candidates who identified that the sale of shares was an alternative option generally dealt with the degrouping charges better. Many candidates also failed to properly consider the treatment of stock appropriation. The best candidates referred to the possibilities of rollover relief and SSE only briefly because they appreciated that the non-trading status meant that these would not be applicable; the weaker candidates provided excessive detail that appeared to be learnt by rote rather than applied to the situation. Very few candidates referred to the impact of Stamp Taxes when considering the alternative options and even fewer referred in any way to capital allowance considerations.

Question 2

This question asked candidates to consider the UK Corporation Tax issues arising from the acquisition of an overseas group of companies.

Most candidates identified the potential issues associated with CFCs, but the best candidates were those who applied their knowledge to the specific scenario, rather than provide long generic discussion of the CFC rules which wasted valuable time. Some candidates lost out on marks by focusing only on CFCs, or in some cases, another limited aspect of the overseas expansion such as transfer pricing, to the exclusion of other potential tax issues. Whilst credit was given for a discussion of CFCs and transfer pricing, the better answers provided a concise summary of both these issues as well as a discussion on other issues that required consideration that were relevant to the scenario.

Question 3

This question asked candidates to calculate the tax charge and deferred tax provision to be included in the accounts of a newly incorporated company. Those candidates who commented that they had not been provided with opening pool values had therefore failed to read the question properly.

Candidates generally performed well in terms of the calculation of the taxable result – primarily a function of the capital allowances available to the company, although some failed to identify that the AIA had been used in full by other group companies. The quality of the discussion around deferred tax varied significantly, with many candidates failing to consider the potential deferred tax asset relating to the loss arising, and many providing confusing statements as to whether the deferred tax liability relating to accelerated capital allowances should be provided. Few candidates appreciated that, in the absence of evidence to suggest otherwise, it would be appropriate to provide for deferred tax at the enacted tax rate of 25%.

Question 4

This was a computational question that required candidates to make a variety of adjustments to arrive at the taxable profits for a small group of companies, to produce a basic capital allowances computation and to comment on the companies' QIPs position.

The question was reasonably well answered, with most candidates picking up marks on a range of aspects of the computation. Areas where a significant number of candidates made errors included: the connected party bad debt, where many candidates failed to identify that the provision should be disallowed; the bonus accruals, where most candidates identified that amounts should only be allowed when paid within 9 months of the period end, but many did not correctly deal with the prior year amounts; and the pension contributions, where many did not note that contributions are only allowed on a paid basis. Generally, the capital allowances section was answered well, although a sizeable minority of candidates did not set out their work in the format of a standard capital allowances computation. While credit was given for correct answers irrespective of format, this sometimes led to candidates making basic errors (for example, omitting to calculate the WDA on the pool brought forward). Most candidates correctly identified that DTR credits in respect of the PE profits should be given at the lower of the UK and foreign tax, but few went on to explain how the excess credit could be utilised.

Question 5

This question examined the intangible fixed assets regime, asking candidates to explain how the rules for relieving the cost of goodwill and IFAs have evolved over time, in particular the 2019 changes, and to comment on the treatment of two goodwill disposals.

Answers were mixed. Most candidates correctly explained how the different assets owned by Flowers Ltd should be relieved depending on their date of acquisition, and correctly described the rules introduced in 2019 reinstating relief for goodwill. Many candidates failed to identify that the company could elect to receive capital allowances in respect of the software intangible. While most candidates identified that the software development expenditure qualified for R&D relief, many only referred to one of the consequences of that (i.e., immediate relief for the expenditure, or RDEC). Many candidates did not identify that gains on the disposal of both pre- and post-FA02 goodwill could be rolled over.

Question 6

This question required candidates to explain the basis on which corporate residence is determined, to comment on several situations which presented the possibility of a non-resident company having a UK PE, and to explain the UK tax consequences of being resident or having a PE.

Answers were mixed. Most candidates gained marks by explaining factors relevant to residence or PE, and also gained marks by correctly explaining the administrative consequences of a company coming within the charge to UK Corporation Tax. However, some candidates focused on only one aspect (residence or PE). Others conflated the two concepts, for example stating that a fixed place of business would lead to the company Felix Inc becoming UK resident. A material number of candidates stated that the UK domestic law test for residence was place of effective management (POEM) rather than central management and control, or that the tiebreaker in the OECD Model Tax Convention was POEM alone, rather than competent authorities' agreement based on a range of factors including POEM. Credit was given for accurate/relevant material even where these errors were made. Many candidates did not appreciate that the seconded employees working for Hilari Ltd would not be regarded as carrying on the trade of Felix Inc, or that the office rented for three months would be unlikely to be regarded as fixed. Some erroneously stated that because Felix Inc's UK offices were rented, they would not be regarded as being at the company's disposal. A large number of candidates spent disproportionate time on the administrative requirements, in some instances describing requirements which were not relevant to the question.

Domestic Indirect Taxation

General

In general candidates performed well on this paper and the pass rate was relatively high, with a couple of candidates getting extremely high marks. A minority however were not prepared for the paper. Often such candidates did not read the question properly and covered material that had been specifically excluded in the requirement which wasted time for no credit.

The answers were generally well laid out with short specific sentences, and in most cases covered the points being addressed, in a logical fashion.

Where two options are given, it is important to make it obvious to the examiner, which option you are considering, as the examiner cannot award marks if they do not know which option you are talking about.

Question 1

This question concerned the newly implemented domestic reverse charge on construction services.

Overall, this was the worst answered question on the paper which was a little surprising considering that it is quite a new piece of legislation and therefore topical. Most candidates were able to summarise the purpose of procedure, the VAT accounting rules and were able to apply these to the scenario. The majority of candidates also identified the difference between the supply of staff and the supply of services and were able to comment on the differing VAT treatment.

Few candidates identified the potential for Woulham Interiors Ltd to be classified as an intermediary supplier, but instead focused on discussing end-user status.

Question 2

This question concerned a commercial operator of skiing activities offering a range of activities and services to customers.

The question was generally answered to a high standard; candidates explored the VAT liability of the various supplies well and were able to make concise points which earned credit. The weaker candidates wrote considerable detail on single and multiple supplies with little application of the rules to the scenarios posed in the question. Most candidates were comfortable with the principles around standard rating the ski lessons and identified the ski lift pass as a reduced rate supply. The majority of candidates also referenced appropriate case law to support their answer, as requested. Some candidates discussed the potential penalties Skiwithus Ltd could face, despite the requirements making it clear this was not necessary.

Fewer candidates were comfortable with identifying the package of supplies as falling within TOMS, and in particular, very few candidates were able to correctly identify that in-house supplies should be apportioned. Many candidates also focused on single and multiple supply treatment rather than the difference between a passive supply of land and a facility in relation to the use of the centre by a local club.

Question 3

This question concerned a university deciding to offer travel insurance to its candidates via a subsidiary and the IPT implications.

There were two options for the subsidiary and candidates had to recommend which one should be used. Most candidates identified the correct rules on overseas risk and UK risk and did make a recommendation (and in most cases chose the best one). The question required application of knowledge to the scenario, and it was pleasing that most candidates identified scenarios and were able to apply the rules, rather than just list out the law with no application. The weaker answers did not apply the law to the scenario and wrote too much on general administrative points which were not key to the question. There can be a tendency with some candidates to 'write all they know' about IPT without thinking about whether it actually answers the question.

A few candidates wasted time by re-writing the scenario before actually getting into their analysis of the issues. The medical insurance part was not answered well overall but as it was only one mark in the question, it did not impact on candidate's answers. Some candidates wrote about VAT at times, for which no marks were available, and others stated legislative references to VATA 1994, rather than the FA 1994. Some mixed up VAT concepts on insurance and those that apply to IPT, for example, stating that 'insurance is exempt.' It might be for VAT but not (generally) for IPT.

Question 4

This question examined the VAT exemption for fund management services, partial exemption and reclaiming input tax on pension fund management services.

The standard of answers concerning the defined benefit and defined contribution schemes was generally high, with many explaining case law and policy developments. Most struggled with the VAT liability of managing the investment trust company, either missing that it is a closed-ended scheme or concluding that the services were not management.

The partial exemption aspects were generally covered well, although a number of candidates made little or no use of the table of figures provided, which were clearly there for a reason.

Most candidates discussed the '70:30 split' concession for employers with occupational pension schemes and a good number of candidates went on to discuss more recent policy developments.

Question 5

This question concerned the margin scheme for second-hand goods, insurance intermediary services and whether an asset is intended for business or private use.

The majority of candidates covered the margin scheme aspects well. Many candidates focussed on the IPT treatment of the Mechanical Breakdown Insurance, despite the question asking about VAT. Most candidates identified the exemption for insurance intermediary services, but very few commented on the disclosure requirements.

Many candidates discussed the input tax block for cars, which is not relevant to the purchase of a motorcycle. Most candidates discussed the question of business use, albeit relatively briefly in many cases, with only a few candidates going on to suggest how Brian could evidence this.

Question 6

This question examined the VAT liability of canal cruises and the VAT treatment of vouchers.

Most candidates covered the VAT treatment of city cruises and dinner cruises well, with many referring to relevant case law in connection with the latter. Only a few candidates picked up on the significance of Kevin being connected with the person supplying admission, with some candidates concluding that the country cruise and Orchard House admission was a single taxable supply.

The Floatcard generated a wide variety of answers. Many candidates viewed it as a multi-purpose voucher. There were differing views on whether admissions were supplied by the attraction owner or Floatboat Ltd. Marks were given for all reasonable interpretations.

Cross-Border Indirect Taxation

General

Performance on this paper was quite varied. The better prepared candidates scored very highly whilst there were a number that were clearly not ready for the exam. The Northern Ireland issues were handled reasonably well though some of the answers on the Customs questions, particularly on question 5 were poor.

Candidates should recognise that examinations are set by reference to the syllabus rather than the study manuals and greater awareness of legislation, caselaw, and HMRC practice may be necessary in order to score well. Better performance was demonstrated by those candidates that were able to apply themselves to the specifics of the question and concentrate on the key aspects, as opposed to employing a scattergun approach in the hope of gaining marks on peripheral material.

Question 1

This question tested the VAT treatment of typical revenues and costs for a conference organiser operating an event in the UK.

Candidates typically answered this question well, showing good knowledge of the various place of supply rules at play, and all identified the need for Confco to register for UK VAT and account for revenues and costs in its own name. A number of candidates missed the point about the 'use and enjoyment' rules and the hiring of goods.

Lots of candidates were confused about the 'sponsorship' revenue, showing limited understanding of the likely commercial background ie a business/organisation agreeing to sponsor an event, with their brand being advertised throughout. Many concluded this would be outside the scope of VAT on the basis of limited benefits being received in return. This analysis is more appropriate in a small not for profit environment rather than at a large scale commercial event.

The potential TOMS angle was identified although only a handful of candidates identified an alternative to mitigate the cost of VAT (disclosed agency).

Question2

This question focused on establishing the VAT treatment of revenue and costs for a UK established Independent Financial Advisor (IFA) with a Swiss office.

Good knowledge of what creates a fixed establishment was demonstrated by most candidates, with all arriving at the appropriate conclusion. Overall candidates did not deal particularly well with the key technical issue here, being the VAT liability of the revenue, i.e. exempt intermediary activity and taxable advisory. Little detail was given in some cases on the tests for intermediary and how to distinguish between the two, i.e. an intermediary fee most commonly arises when a specific financial transaction takes place.

Almost all candidates demonstrated good knowledge of the 'specified supply' rules and the post Brexit changes.

The issue of the VAT treatment of the broker fee charged by the Jersey broker to IFA proved difficult for many candidates, with candidates confusing the direction of supply in many cases, assuming this to be revenue for IFA as opposed to a cost potentially subject to the reverse charge.

Question 3

This question tested candidates' knowledge of establishment and the post-Brexit environment for B2C sales of goods from the EU or UK.

Many candidates got bogged down in the question of 'fixed establishment' when the UK subsidiary had an arm's length intercompany revenue stream from the US entity and the US entity would be VAT registering anyway in order to make UK and EU sales. This demonstrated a lack of awareness of when fixed establishment is relevant in practice (most typically in a scenario where there is a single legal entity, not separate legal entities) and the risk relating to it ie non-payment of VAT (not present in this set of commercial scenarios).

There were a number of different supply chain scenarios to consider here and the complexity created by this, overlaid with the post Brexit OSS/iOSS rules, meant that only the candidates focusing on

each commercial scenario in turn were able to successfully determine the correct VAT treatment well. Despite the complexity, these are commonplace commercial scenarios facing UK and EU online sellers of goods post Brexit.

There was a tendency to focus too much attention on fiscal representatives/tax representatives which was not relevant generally and wasted valuable time for candidates.

Limited awareness demonstrated of the rules impacting the electronically supplied services with many candidates overlooking this element.

Question 4

This tested the newly introduced Northern Ireland protocol rules along with the online marketplace (OMP) rules.

Candidates showed very good awareness at the outset that NI retained its EU status for sales of goods, but some candidates then overlooked this when analysing the transactions.

Most candidates correctly identified the VAT treatment of the commission charged by Portal.com and also dealt well with the treatment of the B2B supplies and exports.

There was good awareness of the need to consider the OMP but many candidates did not recognise that the OMP rules did not apply here. The key point of understanding is to recognise they are effectively anti avoidance provisions, and therefore the EU OMP rule would not apply to a NI vendor on the basis it is EU established (hence no risk of avoidance due to EU establishment). Similarly the UK OMP rules would not apply as the UK regards NI as part of the UK. The VAT avoidance risk is therefore removed, meaning the rules require the NI to account for the VAT, not the OMP.

Question 5

This question tested the options open to HMRC where related companies issued one invoice for goods and one for "other charges".

Surprisingly, candidates did not perform particularly well on this question. Around one-third of candidates discussed penalties even though the requirement specifically excluded them, and this demonstrates the importance of reading the question properly.

Most candidates wrote about what additional elements must be added to a Method 1 valuation but very few discussed the items that may be deducted or excluded, which might have been more help to Watagua.

A lot of candidates limited the scope of their answers by incorrectly stating that related parties may never use a Method 1 valuation and so only talked about alternative methods of valuation. Many candidates did not give any "advice" on what to do other than saying the matter should be looked into and the company should disclose its findings to HMRC.

Question 6

This question tested non-preferential rules of origin.

Most candidates appeared confused by the difference between preferential rules of origin and non-preferential rules of origin (marks were awarded where the rules are substantially the same) which limited their ability to score highly.

Most were able to explain the basic rules but relatively few could give advice on how to check (other than request a BOI) whether goods might originate where the supplier was based.

APPLICATION AND PROFESSIONAL SKILLS

Taxation of Owner Managed businesses

General Comments

This question focused on the timing and tax implications of a married couple transferring ownership of their company to their son, with the wife having been given only three years to live. There was also a secondary issue regarding the transfer to the company, by the husband, of a warehouse used by the company.

The general standard of answers was good, particularly in relation to discussion and application of the various CGT and IHT reliefs.

Structure

Candidates were required to prepare a draft report. No significant problems were identified regarding the structure of the reports drafted.

Executive summaries were often overly long and, as a result, did not sufficiently highlight key points. Some candidates presented technical analysis in the executive summary rather than the main report body.

Identification and Application

Capital taxation of gifts

Most candidates scored well in this section. However, some candidates used combined capital gains computations for both the husband and wife, rather than individual computations.

Valuation principles

Candidates often lacked a good understanding and application of the CGT valuation rules and, in particular the IHT related property valuation rules.

Significance of timing

The advantages of early gifting from an IHT perspective, particularly the point that an early gift will 'freeze' the value for an appreciating asset, was often either missed or poorly explained by candidates. Many candidates also incorrectly thought that residential nil rate bands applied to an earlier *lifetime* gift of a house, meaning that they went on to assume the main nil rate bands would be available upon death.

Reliefs in detail and current problems

Candidates generally performed well in this section. In particular, discussion of the trading status of the company was handled well, with most candidates concluding that 'in the round' the company would likely be regarded as a trading company. The asset base used for this conclusion, and for restricting gift relief, was however sometimes incorrect (for example, including an investment shareholding which, by virtue of it being an exempt asset, is not a chargeable non-business asset). Some candidates also incorrectly stated that an industrial unit let to a third party would be an excepted asset for restricting business property relief.

Disposal of investment / excepted assets and allocation / use of funds

Candidates generally performed well in this section. However, many candidates, whilst dealing well with the disposal of non-trading assets, failed to go on to discuss the need to then extract the additional surplus funds generated to deal with the increased IHT excepted asset problem.

Disposal of warehouse

Candidates generally performed well in this section.

Other issues

Candidates performed quite poorly in this section. A significant number of candidates thought that stamp duty was payable despite the share disposal involving no consideration, and that the warehouse would cause stamp duty land tax to become payable despite having a market value below the appropriate threshold. Discussion of legal issues (how the shares are transferred, consideration of pre-emption rights etc.) varied in quality, as did the need to alter the wife's will should the decision be made to give her shares to her son upon her death. Very few candidates identified the possibility of a trading loss arising for the company after the extraction of its surplus cash using employer pension contributions.

Relevant Advice and Substantiated Recommendations

Timing of transfers

Candidates who performed well in this section provided clear advice regarding the significance of timing. Not just in relation to the chronological sequence of events for tax purposes, but also the overall scenario – i.e. that the shareholdings were appreciating in value quite quickly and the clients had expressed a desire to move as quickly as reasonably possible.

Although a variety of different advice was given by candidates, those scoring well generally either (i) advised that action be taken to reduce recognised potential CGT and/or IHT liabilities before the shares were transferred, to enable relatively early tax-free transfers; or (ii) recognised this, but advised that there may be benefit for the wife to transfer her shares upon death instead. Candidates who advised waiting for both the husband and wife to die before transferring the shares tended to score quite poorly.

Disposal of investment / excepted assets and allocation / use of surplus funds

Candidates who performed well advised that it would be beneficial to dispose of the company's non-trading assets to improve/eliminate any CGT / IHT relief restrictions (and not just to generate extra funds to buy the warehouse). Candidates who performed less well often failed to recognise the need to then extract the funds in a tax efficient manner (to prevent problems arising for IHT purposes) or offered poor advice in this area.

Disposal of warehouse

Most candidates performed well on this area, realising that taking advantage of the BADR associated disposal rules was a good idea. However, many did not go on to assess the benefits of replacing an excepted asset with a trading asset.

Taxation of Individuals

General Comments

The scenario involved a husband and wife, one UK-resident and one non-resident, which gave candidates opportunities to demonstrate knowledge of the Statutory Residence Test and family tax planning.

Justin's intention to retire in the next two years and to gift assets to Mary required consideration of the capital gains tax reliefs available, while Jenny's residence status added the opportunity to take advantage of non-residents not being liable to capital gains tax on certain assets, but also the possibility of losing the valuable opportunity to rebase the cost of Unit 4 or 53 Red Street.

Quite a large number of candidates gave IHT equal prominence in their answers with income tax and CGT. This was surprising given the ages of Justin and Mary and that there were no immediate IHT implications. Though credit was available for identifying and advising on IHT issues, the question was mainly about income tax and CGT.

Overall, the question was answered well. Candidates showed good knowledge of the Statutory Residence Test, Gift Relief and BADR, but surprisingly few candidates went on to consider using Jenny as an intermediary to pass assets to Mary.

Structure

Structure was good, with reports split into logical sections. It was definitely helpful for candidates to specifically include a 'recommendations' section within each part of their answer, to ensure that they did include all the recommendations needed to demonstrate application of their knowledge.

Identification and Application

Residence Status

The main weakness on this section was a tendency to write out large amounts of the Statutory Residence Test, which was not necessary, but overall this part was answered very well. Candidates showed detailed knowledge of the Statutory Residence Test, and were able to apply the rules to Justin and Jenny's circumstances.

Most candidates then considered the impact of Jenny's employment options on her residence status, and also the impact of her residence status on the taxation of her income.

Weaker candidates were confused by the possibility of Jenny having a UK employer while being non-resident and working overseas, and didn't have sufficient knowledge of the sufficient ties test to pick up that Jenny needed to continue working in Ruritania throughout the following tax year to ensure she qualified for split-year treatment.

Gift of assets to Mary

Candidates showed very good knowledge of BADR and Gift Relief, and correctly applied that knowledge to the two potential transfers. Very few candidates went on to consider the possibility of making gifts to Mary through Jenny in order to make use of her non-resident status.

Transfer of assets to Jenny

The potential loss of rebasing if assets were transferred from Justin to Jenny was understandably not picked up on by almost all candidates as it is not commonly encountered, though it has big tax implications. Credit was given for discussion of potential tax savings through inter-spouse transfers and their impact on the couple's overall income.

Better candidates considered whether Justin's personal allowance could be restored and the taxation of rental or dividend income in Jenny's hands, taking into account disregarded income of non-residents and also Ruritanian tax rates on investment income. Weaker candidates often focused on detailed discussion of the non-resident landlord scheme, which is purely an administrative issue and doesn't impact the amount of tax due.

Other issues

Candidates showed good knowledge of IHT and many also discussed main residence relief.

Relevant Advice and Substantial Recommendations

Recommendations relating to Jenny's residence and employment

Advice was needed to ensure that Jenny knew the tax implications of UK residence/non-residence, and what action she should take to ensure she did not remain resident. Most candidates provided suitable advice, the majority concluded that Jenny should take the Ruritanian employment in order to ensure she met the conditions to split the 2022/23 tax year.

Recommendations relating to transfer of assets to Mary

Very few candidates considered making transfers through Jenny, so recommendations were made based on the points candidates had considered about BADR and Gift Relief, and on this basis reasonable conclusions were reached recommending either asset. There was a tendency in this section to give a lot of weight to IHT considerations, with candidates making a recommendation based on the availability of BPR. This wasn't unreasonable if well discussed, given that there was no other clear differentiator (depending on what other issues the candidate had picked up).

Recommendations relating to transfers between Justin and Jenny

Although candidates had not identified the issues around rebasing, credit was given for reasonable recommendations aimed at reducing the overall tax due from Justin and Jenny, based on making use of inter-spouse transfers and the differences in tax rates between the UK and Ruritania.

Other recommendations

Credit was given for recommendations relating to IHT issues and maximising PRR.

Human Capital Taxes

General Comments

The question required candidates to consider the PAYE obligations for an Irish employer Eirepipe Ltd and its parent company Cable plc for an Eirepipe employee Tom Crip who was working remotely in the UK. Candidates were asked to comment on the PAYE obligations considering whether Eirepipe had a place of business in the UK, leading to whether Tom should be employed locally by Cable plc going forward or seconded to them until a planned future restructure. Candidates were also asked to comment on the social security aspects including applying for a portable A1 certificate. They were also to consider permanent establishment rules, transfer pricing, inter-company agreements and employment law aspects. Candidates were asked to make suggestions for handling prior periods as well as make suggestions for a more tax efficient remuneration package.

Generally, most candidates performed well on this paper and demonstrated that they were able to absorb the facts provided, understand the nuances of the case, identify the issues, and provide advice and recommendations.

Structure

The structure of candidate's answers was good, and the appropriate sections were present.

Identification and Application

Residence status and PAYE implications

Generally, candidates concentrated significantly on the residence of Tom Crip; the detail to which the candidates went into the residence analysis was typically too much for the nature of the question, especially for the earlier years. The employee was carrying out work in the UK which would not have met the criteria for incidental duties and would be taxable whether he would be resident or not. Only a few candidates appreciated this whilst the majority went into significant detail on residence conditions.

The stronger candidates considered the place of business in the UK of Eirepipe to determine whether there would be a PAYE requirement and the impact of hiring a shared workplace but none considered an employer NIC only requirement for Eirepipe on the basis that they were an EU employer.

A few candidates recommended a Direct Payment scheme which is a reasonable alternative but many candidates suggested the PAYE requirement would belong to Cable plc.

PE issues, VAT and transfer pricing

Many candidates considered the permanent establishment obligations and transfer pricing issues. The better candidates also recommended that a further review was carried out or that a PE could potentially be avoided.

Some candidates also commented on R&D deductions and CFC obligations. A very small number considered the impact of currency on the situation.

NIC requirements

The better candidates were well versed on the EU protocol for National Insurance, with some considering a practical solution to apply for an A1 for Tom to remain in the Irish system especially as the costs were lower than the UK, at least for the time until Tom made a decision to remain in the UK indefinitely. Some candidates identified that UK NIC would start from December 2020 and recommended an A1 application to exempt Tom from Irish social security. Some candidates recommended that Tom review his UK state pension position given the time he spent in Ireland was a gap in his UK NIC record.

Employment law and inter-company agreement.

The majority of candidates considered the need for inter-company agreements and employment law advice. A good number of candidates also commented on the corporate tax deductibility of the costs for this.

Current remuneration package

The majority of candidates were able to identify how Tom's current remuneration package would be liable to tax and NIC and most calculated the taxable benefits. Most also commented that the package was not tax efficient and were able to make a range of recommendations to make it more tax efficient.

Relevant Advice and Substantial Recommendations

Advice and recommendations around the options and recommend that Tom is employed by Cable plc

When making recommendations for the arrangements, the majority of candidates suggested a local hire by Cable plc but some also recommended a secondment. Even though this was not in the model answer, provided candidates have good reasoned arguments for a secondment, marks were awarded.

Advice and recommendations on employment law & other practical aspects

Most candidates recommended legal advice and corporate tax advice for a PE as well as Irish tax advice. The better candidates also considered whether it would be possible to avoid a PE or ways to limit Tom's activity to reduce the risk. The better candidates also considered the company restructure and legal advice for due diligence purposes or even bringing forward the restricting to accommodate Tom's role and avoid the PE.

A few candidates also mentioned Senior Accounting Officer requirements for sign-off on Tom's package given that he was a director.

Most candidates recommended a voluntary disclosure for the PAYE obligations and mentioned the interest and penalty regimes.

Advice and recommendations regarding structure of the employment package

Most candidates recommended changes to Tom's benefits package especially removing the fuel benefit by limited fuel usage to business only or by paying for relocation expenses instead of the housing allowance. Some candidates also recommended considering a lower emission, hybrid car or electric car with the accompanying company-provided charging dock.

The majority of candidates recommended that whilst Cable plc would be required to offer a pension under auto-enrolment to Tom, only the better candidates made the point that whilst employed by Eirepipe with no place of business in the UK no auto-enrolment obligation existed. Some candidates recommended a review of Tom's pension to consider the pension annual allowance charge.

The better candidates also commented on Tom's cashflow and considered the use of a loan to assist him whilst awaiting a tax refund from Ireland.

Inheritance Tax, Trusts & Estates

General Comments

The question asked for a report to be prepared to the trustees of the Hartley Settlement advising on the sale of land and property within a farm and the cessation of the life tenant's interest in the trust.

In general candidates were able to deal the first part of the question better than the second and most were able to provide a reasoned recommendation in relation to the sale of the West Fields site. In comparison, the advice provided in relation to the cessation of the trust was poor and in many cases candidates failed to consider the availability of both agricultural property relief and business property

relief in the context of a farming business. Very few candidates properly quantified the tax savings that could be achieved by choosing one option over the other, so their final recommendations to the client often lacked sufficient detail.

Structure

All the candidates attempting this question produced their answer in an appropriate report format and most included an introduction, an executive summary and calculations as appendices.

A lot of candidates also provided a summary of the trust as an introduction to their report which is acceptable. However, candidates who have prepared this in advance of the exam need to ensure that this type of introduction is not just a repetition of the pre-seen material and is also tailored to fit the rest of the question provided to them on the exam day. For example, many candidates included details of the requirement to complete self-assessment tax returns and the income tax rules and rates applicable to interest in possession settlements including the rates charged on sources of dividend and investment income, none of which was actually relevant to the question.

Identification and Application

CGT on the sale of the West Fields site by the trustees.

It was disappointing to note that only a handful of candidates were able to correctly calculate the CGT liability arising on the sale of the West Fields site by the trustees. Common errors included using the wrong base cost for the land and barns, not including the £75,000 cost of developing the farm shop and forgetting to deduct the trust annual exemption.

A majority of candidates correctly taxed the trustees' gain at the 20% rate. A small number of candidates incorrectly applied the 10% Business Asset Disposal Relief rate to the business assets within the site, even though it was clear from the question facts that Peter's lifetime limit had already been exceeded.

There was also some confusion on the part of some candidates over the sale of the goodwill which they thought should be taxed on Peter personally. They did not understand that the business was owned by the trustees but run by Peter, so the gain on the goodwill would be taxable on the trust.

Finally, a number of candidates miscalculated the CGT because they did not read the question properly. Exhibit B detailed the values of each area of farmland stated as the "price per acre", not the total cost of each area. Candidates who failed to notice this incorrectly stated that the base cost of the 40 acres of land at West Fields was only £1,250 in total, instead of £50,000 (ie. 40 acres @ £1,250 per acre).

CGT on the appointment of the West Fields site to Peter and the availability of holdover relief.

Only half of all candidates explained that the appointment of the assets out of the trust would result in a capital gain for the trustees. Of these candidates very few correctly went on to state that holdover relief would only apply to the capital gain on the business assets (ie. only on the goodwill, the car park and the farm shop) and even fewer calculated the CGT liability payable by the trustees on the gain arising on the remaining land and the four undeveloped barns.

The most common error made by those candidates who did consider the availability of holdover relief was to assume the entire gain on the sale of West Fields could be held over, therefore, resulting in no tax payable by the trustees.

CGT implications of transferring the property into joint names with Saskia.

The question explained that Saskia had a large capital loss carried forward which should have led candidates to consider a transfer of the West Fields site into joint names with Peter (following the appointment out of trust) to obtain some tax relief on the loss and to utilise her CGT annual exemption.

Most candidates recognised this and made this suggestion in their report, but not all calculated the tax saving that could be achieved by doing so.

IHT & CGT implications of ending Peter's interest in the trust with the trust continuing with Luke as life tenant.

Many candidates understood the basic principle that the cessation of Peter's interest with the trust continuing with Luke as a life tenant would be a chargeable lifetime transfer for IHT purposes, as the trust would fall into the relevant property regime. However, some candidates failed to produce an IHT entry charge calculation and of those who did, none were able to correctly calculate the tax due.

Where a calculation was prepared most candidates struggled with the correct APR and BPR status of the assets and many incorrectly concluded that APR was available the whole of Yew Tree Farm so no IHT would be payable by Peter. Of the candidates who provided a more detailed analysis of each area of the farm, only a few considered both APR and BPR.

Candidates who did not notice that the valuation of the land in Exhibit B was the price per acre, thought that no IHT would be payable because the value of the land fell within Peter's IHT nil rate band.

Some candidates were confused by the fact that Luke was managing the farm on behalf of the trustees and incorrectly concluded that as the trustees, Peter and Saskia, were not personally farming the land themselves, BPR would not be available.

In relation to the CGT implications of the trust continuing, only half of the candidates were aware that no CGT would arise if Peter's interest ended with the trust continuing with Luke as life tenant.

IHT & CGT implications of ending Peter's interest in the trust and Luke becoming absolutely entitled to the trust assets.

Many candidates correctly stated that if Peter's interest in the settlement ended and Luke became absolutely entitled to the assets, this would be a PET by Peter for IHT purposes. Most were also able to explain that he would need to survive for seven years for this deemed PET to fall outside his estate but very few commented on the availability of APR or BPR on the PET or the requirement for the Luke to retain or replace the assets with other qualifying assets.

In relation to the CGT implications, it was also clear that some candidates were aware that a gain would arise on the cessation of the trust but as they were running out of time by the time they covered this aspect in their report, they either briefly commented on this but did not prepare a calculation or where holdover relief was considered, they assumed that this would be available in full, negating the requirement for calculations to be prepared.

Relevant Advice and Substantiated Recommendations

Sale of the West Fields site by the trustees or appointment of the property to Peter followed by onward joint sale by Peter and Saskia

Even though very few candidates correctly calculated the trustees' CGT liability, most candidates recommended that the appointment of West Fields to Peter out of the trust, followed by a joint sale to the third-party purchaser by him and Saskia would be the best option as they could see that utilising Saskia's loss and her CGT annual exemption would result in tax savings.

As noted above not all candidates quantified the saving, leaving the client unaware of how much tax they would save by following the recommendation.

It is also worth noting that candidates need to be aware of the commercial viability of the recommendations they make. For example, a few candidates (mainly those who thought that holdover relief was available on all the West Field assets) recommended only transferring some of the land and buildings to Peter followed by a three-way joint sale between Peter, Saskia and the trustees to the purchaser. Other candidates recommended obscure percentages of the property should be transferred into Saskia's name so that she would only use up her losses and annual exemption, but not have a CGT liability. These options are likely to cost the client more in fees and may alienate a purchaser without providing any real tax benefit.

Consideration of the IHT implications of the cessation of Peter's life interest including the APR and BPR aspects.

The pre-seen information stated that the trust held farmland, so it was surprising to see that many candidates appeared unaware of the conditions required to qualify for 100% APR and BPR and therefore, did not factor the reliefs into their calculations or conclusions.

Some candidates also spent more time concentrating on areas that they were familiar, such as explaining how the trust's future ten year anniversary charges and exit charges would be calculated, instead of focusing on the immediate the IHT issues that would be of concern to the client.

CGT implications of ending Peter's interest in the trust including consideration of holdover relief on the assets.

The CGT side of the advice was dealt with slightly better than the IHT implications, as most candidates seemed to be aware that no CGT would arise if the trust continued, and the alternative option would result in a CGT liability for the trustees.

As referred to above, where holdover relief was considered, many candidates assumed this would be available in full, so their conclusions and recommendations were not always for the right reasons.

Advising on continuing the trust with Luke as life tenant or ending the trust and passing the assets to Luke absolutely.

Many candidates reached the conclusion that from a purely tax point of view, Luke should receive a life interest in the trust following the cessation of Peter's interest. However, as mentioned above, more often than not this recommendation was not necessarily for the correct reasons.

A common example of this was where candidates, who did not notice that the valuations in Exhibit B were the values "per acre", stated that there would be no IHT entry charge (because the value fell

within the nil rate band so did not touch on the APR and BPR issues) and no CGT if the trust continued with Luke as life tenant. They then went on to compare this to the large CGT charge that would arise if Luke became absolutely entitled (again calculated using the value per acre as the full base cost) and did not consider the availability of holdover relief. As they did not cover the important issues of APR, BPR and holdover relief, full credit could not be given for them reaching the correct conclusion.

In addition to the above, there were a number of candidates who appeared to understand the technical IHT and CGT implications of continuing the trust compared to providing Luke with an absolute interest in the assets but did not follow this up with proper IHT and CGT calculations. As a result, their recommendations to the client showed insufficient detail to understand the tax savings that could be achieved by following the advice given.

Taxation of Larger Companies and Groups

General comments

The question required candidates to write a report on how a compensation claim against a technology company owned by a consortium might be managed, including whether the company (Novic Ltd) might be sold. Candidates were asked to consider four options and to recommend how to proceed.

Only a minority of candidates submitted an answer which addressed all the issues and set out well-argued recommendations based on those issues. Many candidates failed to demonstrate a sound commercial understanding of the relative merits of the available options. Some candidates wasted time by either providing more detail than was required (for example, on compliance obligations in relation to the payment of royalties) or considering irrelevant issues that were not called for by the question (for example, many candidates discussed the availability of Scientific Research Allowance, often in purely theoretical terms in the absence of any relevant information in the question). A large number of candidates took the mention of a tax issue as a trigger to write all they knew about the subject regardless of relevance to the scenario.

As for the Advanced Technical paper, Joint Programme candidates performed substantially better than other candidates.

Structure

Nearly all candidates produced a report in a suitable format that was well structured and well sign posted. There was some variation in the use of the Executive Summary, either to discuss and weigh up the options or merely as a repetition of factual findings, and some candidates wrote a separate Recommendations section. Most candidates also avoided the use of tax-technical jargon.

Some candidates approached the question by discussing each of the four options separately, and the tax consequences of each one. Others adopted an issues-based approach of discussing specific areas, for example, funding methods, tax deductibility of the compensation payment, chargeable gains consequences, etc. Either approach was acceptable. But the best candidates tended to explore the commercial issues, including transaction structures, before launching into tax analyses.

Nearly all candidates passed on the Structure skill.

Identification and Application

Only a minority of candidates identified all the issues being tested. Many either completely overlooked issues or dealt with them far too superficially.

Commercial implications of different options

Most candidates, in the course of discussing the tax issues they had identified, also addressed the commercial issues of the impact of the different options and how they were to be funded, rather than addressing the commercial issues separately. This was an acceptable approach. In many instances, however, these commercial factors were mis-judged or were treated as less important than the tax issues. For example, some candidates recommended maximising consortium relief, while overlooking the fact that real commercial losses would be incurred to generate the losses. Similarly, there were numerous instances of proposals to disclaim losses already fully relieved by group relief so they could be sold as part of the share sale. Many candidates missed the concept of introducing capital, as debt or equity, and recovering it quickly through a sale of Novic Ltd. Overall, identification of the commercial issues and cash flows, and then a discussion of the tax implications produced the most balanced answers.

Whether and when damages awarded by court would be tax deductible

A significant minority of candidates completely overlooked this option. Where it was addressed, the tax deductibility of the potential litigation award was often ignored or decided incorrectly with little or no rationale. Only a small minority of candidates discussed the tax technical issues affecting the question of deductibility.

Whether and when a monetary settlement of the dispute would be tax deductible

The tax deductibility of a payment to settle the dispute was often ignored or decided incorrectly with little or no rationale.

How the Corporation Tax losses could be relieved

As a result of failing to address the deductibility of a court award or negotiated settlement, many candidates were unaware of the magnitude of potentially available losses. The treatment of losses (whether correctly calculated or otherwise) and the interaction between maximising relief through consortium relief and the uncertainty of relief in the new group was rarely addressed well, or with any consideration of the opportunity to maximise relief.

Capital gains implications of court case and of a sale

Most candidates did reasonably well on the chargeable gains implications of a sale. But only a minority of candidates identified that the chargeable gains outcome between selling at £300 million and £400 million could be made the same, by introducing £100 million capital to Novic Ltd as equity in the latter case. While some candidates correctly identified the *Marren v Ingles* very low value of losses to the purchaser, many candidates incorrectly included the full cash value of losses, or even their face value, in their chargeable gain proceeds, although the question made clear these would be paid for only after HMRC had agreed them.

Very few candidates addressed the capital gains implications of an adverse court finding including negligible value and/or winding-up

Relevant Advice and Substantiated Recommendations

Candidates were marked by reference to their demonstrated ability to weigh up all the options, recognise the uncertainties and propose sensible solutions. Those who addressed all advice areas and

who based their conclusions on a rounded, commercial approach scored well. Those who missed advice areas (such as the debt: equity question and the litigation area) or who simply analysed the numerical tax impacts (which were frequently incorrectly calculated) did less well.

Some candidates recognised the uncertainty surrounding the litigation and settlement (without selling) routes. They factored those uncertainties into their consideration of the options and came up with appropriately nuanced recommendations. However, most candidates, insofar as they came up with clear recommendations, based their conclusions entirely on their calculations of after-tax proceeds, which were frequently incorrect because of unsupported assumptions (for example, that the court case would be lost) and incorrect tax treatments as referred to in the preceding section.

Whether or not to allow the dispute to proceed to court

The litigation option was universally rejected by those candidates who actually addressed the issue, generally on the grounds of uncertainty and after-tax cost (although sometimes incorrectly calculated). Where cogent arguments were put forward, candidates scored well on this.

Advice on whether to agree to the settlement and timing thereof

Whether to settle or not was addressed by most candidates and a minority considered the question of timing to optimise the availability and rate of tax relief.

Advice on whether the settlement, if agreed, should be provided via debt or equity

Where this matter was addressed, it was frequently done so in the course of discussing commercial issues and due recognition was given in marking. However, the quality of discussion was generally poor with few candidates arriving at a definite recommendation based on a sound understanding of the concepts involved. However, innovative thinking was occasionally demonstrated. For example, a few candidates suggested that the funding of Novic Ltd could come, in part, from payments for consortium relief losses, and that a mixed equity/loan solution might be appropriate to meet the different profiles of the consortium members.

Advice on whether to sell now or later

All candidates addressed this option. Their conclusion tended to be based on a purely tax technical and arithmetical analysis of this option and the “settlement without selling” option, although some candidates did undertake a more nuanced discussion with reference to commercial implications of the different options.

VAT and Other Indirect Taxes

General comments

This question required candidates to advise Debbie, a mobile hairdresser aged 28, on how best to structure a new business venture with Joanne, her civil partner, a mobile beautician aged 26. Debbie wished to take a lease of premises comprising a personal care suite (hair salon, with two chairs, and a beauty treatment room) at a newly-constructed care home. Customers would be residents of the home. Merle, Joanne’s sister, aged 19, a hairdresser who recently lost her job, also expressed interest in working in the salon.

Among the issues to be addressed were: the appropriate business structures and their different tax treatments; VAT registration; the terms of the lease; and whether Merle should be employed or self-employed. Few candidates took on board that Debbie would inevitably share the advice with Joanne. They simply repeated the ‘usual disclaimer’ without adapting it in any way. Some finessed this by assuming – perhaps unrealistically – that all three parties had signed a single engagement letter. This comment may seem a quibble; however, it underlines the need for candidates always to keep in mind who is the client and the duty owed to them when giving their advice. Otherwise, candidates generally showed a good grasp of most of the technical issues raised.

Structure

If was disappointing that some candidates failed to display basic letter-writing skills. For example: not beginning “Dear Debbie”; not ending “Yours sincerely”; and writing a “Report” rather than a letter. Some scripts were riddled with grammar and spelling mistakes. Clearly, many candidates did not leave enough time to review and correct their scripts.

Some candidates wrote in a clear and straightforward style, which flowed well. This was pleasing. Unfortunately, other scripts were obscure, over-technical, or used colloquialisms which were inappropriate in a business letter.

In some cases, the body of the letter was not wholly consistent with the conclusions, leaving the reader unclear as to the thrust of the advice.

Application and interaction

Business structures: VAT

It was pleasing to see that most candidates correctly identified potential business structures and their VAT treatment. However, few candidates mentioned limited liability partnerships (LLPs) and some confused an LLP with a limited partnership. Some thought “the salon” was a legal entity in its own right separate from Debbie and Joanne. There was a variety of answers regarding VAT registration. The anti-avoidance rules were generally well-understood, except that a number of candidates misused the term ‘disaggregation’ (they said it was something HMRC directed, rather than an arrangement HMRC directed against by ‘aggregating’ the businesses). Candidates were strong on input VAT recovery (including pre-registration VAT) and interaction with the Flat Rate Scheme.

VAT: employment, self-employment and ‘chair rental’

Alerted by the pre-seen information, most candidates were well-prepared on the VAT issues arising for hairdressers, including the complexities of “chair rental”. The distinction between employed, independent contractor and self-employed were generally well-understood with a good explanation of their respective VAT treatments.

Taxes on income

Generally, candidates performed well in identifying the income tax and corporation tax treatments of the various business structures.

National Insurance

Candidates also performed well with the liability to, and rates of, NICs. A number of candidates also considered the possibility of reliefs in the form of employment allowance.

Tax issues raised by the lease

Most candidates correctly addressed issues raised by the proposed lease, namely, the risk of the landlord's contribution being regarded as consideration for a supply; capital allowances limited to the cost actually borne by Debbie; application of the 'nil' rate band for SDLT.

Commercial/compliance points

Most candidates mentioned the benefits of limited liability and the need to ensure relationships such as employment/self-employment were properly documented. Otherwise, this area was somewhat disappointing. Most candidates noted the potential impact of VAT registration on pricing, though failed to appreciate that, in practice, the care home offered a captive market. Weaker candidates were too ready to assume that contractual wording is conclusive and failed to analyse the commercial substance with sufficient rigour.

Advice and recommendations

Optimal business structure

In the case of the stronger candidates, advice and recommendations were generally clear, coherent and commercial. Weaker candidates were sometimes inconsistent in their advice about the timing of VAT registration. There was also a tendency to focus too much on saving tax, without regard to the client's stated objectives and commercial realities. This led many candidates to recommend a chair rental arrangement with Merle. Whilst technically correct, it must be doubted whether this was the best solution, given the risk of challenge by HMRC.

Taxes on income

It was pleasing to see that where candidates recommended use of a limited company, they recommended taking remuneration as a combination of salary and dividends.

National Insurance

Most candidates performed well recommending low salaries to avoid NICs.

The lease

Recommendations (regarding VAT mitigation, claiming capital allowances and avoiding the creation of an employment relationship with the landlord) were offered by most candidates.

Commercial/compliance points

Among the weaker candidates, advice and recommendations were lacking, or else too timid. Where (as here) a question raises multiple issues, candidates should focus on those of most concern to the client. Many candidates, however, included excessive detail on matters such as MTD, the mechanics of VAT-registration, company incorporation, SDLT compliance and the detailed rules for capital allowances. This was slightly premature until the appropriate business structure had been decided upon and could have been dealt with in less detail.