

(Ensure this number matches your candidate number on your desk label and on your candidate attendance letter)



**Chartered
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Taxation**

Excellence in Taxation

(pm) Date of Examination

Tick box if you have answered in accordance with Scots Law

Tick box if you have answered in accordance with Northern Ireland Law

Please tick which Advisory Paper you have attempted (if not already ticked below)

Taxation of Owner-Managed Businesses

Taxation of Individuals

VAT on UK Domestic Transactions, IPT & SDLT

VAT on Cross-Border Transactions & Customs Duties

Inheritance Tax, Trusts & Estates

Advanced Corporation Tax

Human Capital Taxes

Please tick here if you have used an extra answer booklet (ensure you attach your second answer booklet to the first using a treasury tag which will be provided).

Advisory

You must ensure that the Advisory Papers chosen are not the same as the corresponding Awareness Modules you have sat or will be sitting.

- For those candidates on the Indirect Tax Route you must sit the VAT on UK Domestic Transactions, IPT & SDLT Advisory Paper.
- For those candidates on the Indirect Tax Route you must sit the VAT on Cross-Border Transactions & Customs Duties Advisory Paper.

Instructions

Your script will be scanned electronically. Failure to comply with these instructions may lead to your script not being marked. You must:

- Complete the details on this page and in the booklet using BLACK or BLUE ballpoint pen only.
- Write on both sides of the page.
- Not write in the margin areas indicated.
- Start a new page for each question you answer and indicate the question number in the box provided at the top of each page.
- Not remove any pages from this answer booklet or damage it in any way.

Please do all of the above before the end of the examination.

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1		6	
2		7	
3		8	
4		9	
5		10	

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QUESTION NUMBER

5

Simon IT Comp 2016/17

	NSI	SAY	DIV	TOT.
Salary (w1)	160,000 176,000			
Benefits (w2)	2,230			
Total income				
Deductible payments (w7) (-)				
UK Dividends			9,000	
VCT Dividends (w8)			1,000	
Bank Interest		2,000		
Total income	162,230 178,230	2,000	10,000	174,230 190,230
Deductible payments (w7)	(3,700)			
Net income	158,530 174,530	2,000	10,000	170,530 186,530
P.A - reduced to nil	-			
Taxable	158,530	2,000	10,000	170,530

	£	£
£33,000 x 20% (w14)	6,600	dedn @ source - PAYE (58,000)
118,000	47,200	owed 14/15 £1,500
£75,530 x 40%	30,212	VCT reducer (w10) (3,000)
£8,530 x 45%	3,839	Tax payable 944
£2,000 x 45% (w14)	900	
£5,000 x 0%	-	
£5,000 x 38.1%	1,905	
Liability	60,444	

cont'd.

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(w1)	<u>Salary/Employment</u>		
		£	
	Salary	135,000	
	Car allow	6,000	
	Commission	35,000	
		176,000	
	less pension contrs	(16,000)	(occupational scheme)
		<u>160,000</u>	
(w2)	<u>Benefits:</u>		£
	medical ins	750	
	Child-care - not taxable	-	(£25 p.w. tax free for AR payers)
	Golf club membership	450	
	Int free loan (w3)	180	
	Flight allow	1,000	
	deduction for travel	(950)	expenses incurred
	Use of asset (w4)	50	
	Tfr of asset (w5)	750	
		<u>2,230</u>	

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(w3) Loan Benefit

£

Loan @ 6-10-16 15,000

Loan @ 5-4-17 9,000

24,000

average 12,000

$$£12,000 \times 3\% = £360 \times \frac{6}{12} = £180$$

(w4) Use of asset

$$£1,000 \times 20\% = £200 \quad (\text{mv when 1st provided to ee})$$

$$£200 \times \frac{3}{12} = £50$$

(w5) Tr of asset

higher of mv when 1st provided less benefits assessed
OR mv @ gift.

$$£1,000 - £200 (15/16) - £50 (16/17) = £750 \quad \therefore \text{used.}$$

OR £200

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(W6)	<u>Mileage.</u>		
		£	
	allowable	45p x 10,000	4,500
		£25p x 2,000	500
			<u>5,000</u>
	paid by ER	15p x 12,000	(1,800)
	allowable dedn.		<u>3,200</u>
(W7)	<u>deductible payments.</u>		
		£	
	mileage (W6)	3,200	
	prof subscription	<u>500</u>	(approved body)
		3,700	
(W8)	<u>VCT Dividends</u>		
	1st £200k p.a. of VCT divs tax free.		
		£	
	£250k investment	5,000	
	£200k tax free	(5,000) $(5,000 \times \frac{200}{250})$	(4,000)
	taxable	1,000	

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(w9) Gift aidgross up $\pounds 800 \times 100/80 = \pounds 1,000$ (w10) ~~Pension contrs~~ ~~$\pounds 20,000 \times$~~ (w10) VCT investment $\pounds 10,000 \times 30\% = \pounds 3,000$ IT reducer.(w11) Threshold income

Net income 170,530

less pers pens contrs —

170,530 (> $\pounds 110k$)(w12) Adj net income

Net income 170,530

+ ee pens contrs 16,000

+ er pens contrs 20,000

206,530 (> $\pounds 150k$ so liable to annualall'ce chg) - tapered to $\pounds 10k$ FOR EXAMINER
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(W13) annual all'ce charge.

tapered to £10k

£

allowance 10,000

ee conts (16,000)

er conts (20,000)

excess 26,000

 $£26,000 \times 45\% = £11,700$ (top slice)(W14) Extension of bands.

£

 $£32,000 + £1,000 (W9)$ 33,000 $£150,000 + £1,000 (W9)$ 151,000

∴ no savings all'ce

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Training NotesThe fundamental approach of the GAAR

The GAAR was designed to ensure that all tax-payers pay their fair contribution.

Previous court decisions have been based on the premise that an individual can arrange his tax affairs in any ^{legitimate} way that enables him to pay the least amount of tax.

However, this approach has now been rejected by the introduction of the GAAR legislation.

The target of the GAAR

The primary objective of the GAAR is to deter tax payers from entering into abusive arrangements.

If a tax-payer is un-deterred and continues with an abusive arrangement, then the GAAR operates to counteract the abusive tax advantage that the tax payer hopes to achieve.

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The GAAR legislation permits a tax adjustment that is just and reasonable in the circumstances.

The adjustment will not necessarily be the one that raises the most tax.

What the GAAR is not targeted at.

The GAAR is not aiming to catch people who are using genuine tax planning arrangements in order to save themselves tax. Only those using abusive arrangements will fall under the scope of the GAAR.

How to identify abusive arrangements.

The GAAR only comes into effect when a course of action taken by the tax payer aims to achieve a favourable tax result that Parliament did not anticipate when it introduced the tax rules in question and when the course of action cannot reasonably be regarded as reasonable.

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Tax-payer safeguards

The tax payer is given the benefit of any reasonable doubt when determining whether arrangements are abusive.

(1) HMRC are required to establish that the arrangements are indeed abusive as opposed to the tax payer trying to prove they are not.

(2) A double reasonableness test must be applied.

The double reasonableness test asks whether it would be reasonable to hold the view that the arrangement was a reasonable course of action.

It will allow the court/tribunal to take into account any relevant material & whether the arrangement in question had become established practice at that time.

HMRC must also obtain the opinion of an independent advisory panel before they can apply the GAAR.

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Self-assessment

The GAAR operates under self assessment and so each tax payer must take the provisions of the GAAR into account when completing their Returns.

We, as advisers, must ensure we consider this when completing returns and advising clients of appropriate courses of action.

Penalties

As the GAAR comes under self assessment, penalties can be imposed if a tax-payer has failed to take reasonable care.

Disclosure

If a tax payer is uncertain whether an arrangement falls under the scope of the GAAR, they may wish to make a white space disclosure on their Return.

Clearance

There is no clearance system for the GAAR.

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Timing

The GAAR has effect on any arrangements entered into on or after 17 July 2013.

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Firm Address

Client Address

7 November 2017

Dear Andrew

Annual tax charge on UK property + rental income advice

Thankyou for your recent enquiry into the tax consequences of owning a UK property in a Utopian company and the change of rules surrounding rental expenses on furnished properties.

Annual tax on enveloped dwellings.

When a company owns a UK dwelling property with a value of more than £500k, there is an annual tax charge based on the market value of the property.

For a property with a value of £1.5m, the annual charge is £7,000 per year, payable 30 April. In the first year of purchase, the charge is pro-rated

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so for the first year it will be ~~£2,333~~ (£7,000 × $\frac{1}{12}$)
This will be payable within ~~90~~³⁰ days of you
purchasing the property. i.e. 28 February 2017.

Each year, you will then pay £7,000 on 30 April
that falls within your accounting period.

A Return (ATED Return) will be due alongside payment.
Penalties can be imposed for non-filing of a return
& for ~~not~~ not making payment on time.

The tax charge is based on the value of the
property when first purchased, but is re-valued
every 5 years.

The charge would not be payable if the property
was owned for genuine commercial reasons or if
an employee (but not a shareholder) lived in the
property.

As your nephew is not an employee, you will fall
under the ATED charge if the property is purchased
via the company.

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Disposal of Property

When a property that falls under ATED is disposed of, the company pays capital gains tax on the disposal at 28% rather than corporation tax.

The company will be non-resident but as a shareholder, if you own a significant shareholding, you can be assessed on the company gain personally.

Alternative ownership

If the property was held in joint names by you and your siblings instead, there would be no ATED.

Any rent received from your nephew will be subject to UK income tax. When the property is sold, you will pay capital gains tax on your share of the gain less your annual allowance.

The rate will be at ~~18%~~ ~~or~~ 28% due to you being a higher rate tax payer.

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The rent received by your siblings would be caught under non-resident landlords and so 20% tax would need to be withheld and paid to HMRC quarterly.

Alternatively, they can register for the non-resident landlords scheme (NRLS) whereby rent can be received gross provided they have a clean tax record & agree to self assess.

Any gain made on the property by your siblings would also be chargeable to UK capital gains tax as it is the disposal of a UK residential property.

Change in rules for rental expenses.

I understand you have several rental properties and would like to understand the tax changes that have taken effect this year and how they will affect you.

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2015/16

In 2015/16 you were able to claim a wear & tear (W+T) allowance of 10% as a flat rate deduction of your rents less utilities ~~and~~ against your rental income. instead of the cost of new furniture.

2016/17

W+T allowance no longer exists. You can claim general repairs to property and white goods, however you cannot claim for the initial cost of furniture & white goods.

If you need to replace an item, you can claim replacement of domestic items relief.

This is allowable if the replacement is substantially the same as the old one & the old one is no longer usable.

If the new asset is not substantially the same - i.e. an upgraded version, then only the cost that would have been incurred on a similar asset is allowable.

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Tax implications

I have put together some calculations in an appendix to this letter to ~~the~~ illustrate how these changes have affected your rental profits.

If you want to discuss anything further, please don't hesitate to contact me.

Yours Sincerely

Tax Adviser.

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<u>Appendix</u>	
<u>2015/16.</u>	
	£
Rents receivable	43,056
LESS:	
utilities	(3,056)
W+T $(43,056 - 3,056) \times 10\%$	(4,000)
Insurance	(695)
	35,305
<u>2016/17</u>	
	£
Rents	43,056
Loss	
Utilities	(3,056)
Repairs $(500 + 700)$	(1,200)
replacement dom items	(500)
Insurance	(695)
	38,805

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Briefing Note

To: Tax Manager

From: Tax Adviser

Date: 7 November 2017

Subject: Mr Balt.

Mr Balt is a non-dom, UK resident therefore he is assessable on his UK income on an arising basis and on his overseas income on an arising or remittance basis (RB)

He has never claimed remittance basis before and so does have the option of electing to use his losses the first year he claims RB but this is irrevocable and can waste future losses, against UK gains. (162A election TCGA 92)

As Mr Balt has been UK resident for the previous 13 years, he will be liable to a remittance basis charge (RBC) of £60k.

To assess whether beneficial to make a claim

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For RB to apply, I have included some calculations in an appendix.

If Mr Balt does claim for RB, he will lose his entitlement to a personal allowance and annual allowance.

Remittances have been made from two separate accounts, one containing a mixed fund as includes several sources of income over many tax years.

Account number 2 consists of a capital gain and is therefore a clean fund.

When Mr Balt pays his UK mortgage from his overseas account, this is a remittance. He would be chargeable to that UK gain of £50k, in 2017/18

If he wants to make use of his overseas losses for 2017/18, ~~if he plans to~~ he would need to claim the RB for that year, and make a 16ZA election.

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As his unremitted income and gains for 2017/18 are under £2,000 for 17/18, the RB will apply automatically and he will not lose his personal allowance or annual exemption.

However the 162A election must be made in the first year RB is claimed and therefore if he decides to use RB is 16/17 as this appears more tax efficient, he must make the 162A election then.

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Appendix 1.				
No remittance basis claim:				
IT computation	NSI	SAV	DIV	TOT
Employment (£2,000 x 12)	24,000			
Interest (£100 + £220 + £240)		560		
Foreign div (£500,000 x 100/145)			526,316	
Total Income.	24,000	560	526,316	550,876
P.A. - reduced to nil (> £100).	-			
Taxable income	24,000	560	526,316	550,876
	£			
£24,000 x 20%	4,800			
£ 560 x 20%	112			
£5,000 x 0%	-			
£2,440 x 7.5%	1,830			
£118,000 x 32.5%	38,350			
£400,876 x 38.1%	167,974			
Liability	213,066			
DTR (wi)	(26,316)			
IF payable	186,750			
C&T payable	3,780			
Total tax	190,530			

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	NON-ER	RES-PROP.
<u>CGT computation</u>		
overseas prop- assumed residential		50,000
overseas quoted co	20,000	
losses on overseas co. + (EIS/ZA election)		(40,000)
Chargeable gains	20,000	10,000
A.E.	(1,100)	(10,000)
taxable	18,900	-
CGT @ 20%	3,780	

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(w1) Double taxation relief.

lower of: - UK tax on dividend (w2), £210,466

- foreign tax on dividend, £26,316 ✓

(w2) To calculate UK tax on div'd remove from computation.

	NSI	SAV
Employment	24,000	
Interest		560
Total income	24,000	560
P.A	(11,000)	
Taxable	13,000	560
	£	
13,000 x 20%	2,600	
£ 560 x 0%	-	
Liability	2,600	

compare with div (213,066)

∴ tax on div 210,466

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3625

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(iv) remittance of funds.

From account no 1: £20,000 @ 22/12/16.

Account no 1 - mixed fund rules 5809L

£

Balance - ~~£250,000~~ inheritance ~~9515~~

@ 22-12-16.

20,000

employment UK 15/16

18,000

+

16/17

(9 x £2,000)

~~200~~

Interest. (220 + 240)

500,000

dividend (tax suffered)

(225,000)

fr'd.

(20,000)

remittance.

employment income deemed to be remitted 1st which has already been taxed, therefore no extra remittance.

(v2) From account no 2: £50,000 CGT gain used to repay UK mortgage. (17/16).

(v3) From account no 2: £

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Firm Address

Client Address.

7 November 2017

Dear Frank

Tax enquiry

Thankyou for your recent letter, I'm sorry to hear you are the subject of a HMRC enquiry. I would be pleased to act on your behalf in this timely matter.

Errors on Returns

It is a tax-payers responsibility to ensure the information included on their Returns is complete and correct.

HMRC have notified you of an error and therefore any disclosure you make is a propted disclosure.

There is a penalty for errors on Returns depending

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on whether the error was deliberate but not concealed, deliberate and concealed or careless.

It appears that your error was due to careless behaviour rather than deliberate action therefore the penalty will be 30% of the lost revenue

As you are a higher rate tax payer, the additional tax + therefore lost revenue to HMRC would be £4,000 ($£10,000 \times 40\%$). Therefore your potential penalty is £1,200 ($£4,000 \times 30\%$)

If you provide HMRC with the relevant information, in a timely matter, this penalty could be reduced to 15% for a prompted disclosure so £600 ($£4,000 \times 15\%$).

Please can you let us have copies of the bank statements and records so that we may now respond to HMRC and amend your 15/16 Tax Return.

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As we are within the DM of the filing date we are still able to do this,

We will notify HMRC of the amendment & explain the circumstances of the change and hope that we can obtain a reduced penalty.

In addition to the penalty, you will pay interest on the late payment being 3%.

As the payment was due by 31 January 2017 ~~at~~ if you pay within November 2017 then the interest will be approx £30. ($£120 \times 3\% \times \frac{1}{12}$)

There will be an additional penalty of 5% of the unpaid tax as it is more than 30 days late therefore £200 and a further 5% as it is more than 6 months late. If you fail to pay by 31-1-18 and it is more than 12 months late, another £200 (5% will be imposed).

Interest will keep accruing on the overdue tax until payment is made.

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As time is of the essence here, please can you email me copies of the relevant records so that I can respond to HMRC within the time frame.

I would also suggest you make payment as soon as possible

~~If you require anything further, please contact me~~

I look forward to hearing from you

Yours Sincerely

Tax Adviser

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Briefing Note.

To: Tax Partner

From: Tax Adviser

Date: 7 November 2017

Subject: Meeting with Ben & Amanda Hacker.

Ben and Amanda have recently become UK resident after being non-resident for 3 tax years. Prior to being non resident, Amanda was only UK resident for 3 years and as such does not fall under temporary non-resident rules for CGT.

Ben, however ~~has~~ does fall under temporary non residence as he sold assets within the period he was overseas and was non-resident less than 5 years.

Shares in unquoted trading co

Ben sold his entire shareholding in an unquoted trading co of which he was a director.

He will be able to claim entrepreneurs relief on his sale as he was an ee, ~~in~~ disposing of

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more than 5% of a trading co, owned for one year.

Antique Painting.

The painting comes under chattels rules. As proceeds were over £6,000 but cost under £6,000 the gain is restricted by $\frac{5}{3}$ of proceeds less £6,000. ~~of the cost~~

Residential Property.

Although Amanda does not fall under temp non residence & so no CGT on her disposal of quoted shares, she ~~will~~ would have been liable to NRCGT on the sale of the residential property.

The amount chargeable is the element of the gain accruing from 5 Apr 2015. This should have been paid & reported to HMRC within 30 days of disposal.

We need to find out whether this was reported. Failure to make return would result in a penalty. If Amanda was already in the system to make self assessment returns then the tax isn't payable.

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until 31 January 2018. We would need to check this.

Joint Property

The property that they purchased jointly overseas was purchased after they left the UK ~~but~~ and sold before Ben became UK resident again in 16/17 therefore no CGT will be payable on this.

I have put together CGT calculations of the above.

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Ben,

CGT computation 2016/17

	ER-gains	NON-ER
Quoted shares (w1)	450,000	
Painting (w2)		3,667
total total gains	450,000	3,667
A.E	(7,433)	(3,667)
taxable gains	442,567	-
CGT @ 10%	44,257	

Amanda.

NRCGT due.

	RES-PROP.	
Res Property (w3)	20,000	
A.E	(11,100)	(UK dom)
taxable	8,900	
13,000 ^{8,900} (w4) x 18%	1,602	

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(W1)	Quoted shares	
		£
	Proceeds	750,000
	Cost	<u>(300,000)</u>
	gain	450,000
(W2)	Painting	
		£
	Proceeds	8,200
	cost	<u>(3,126)</u>
	gain	5,074
	gain restricted	$-(£8,200 - £6,000) \times \frac{5}{3} = £3,667$
(W3)	NRC&T gain	
	3 methods - default - gain from 6/4/15	
	- time apportion - pro rata gain	
	- full - use full gain	
	<u>Default</u>	£
	Proceeds	340,000
	mv @ 5/4/15	<u>(320,000)</u>
	gain	20,000

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~~Time apportion~~Full

£

Proceeds	340,000
less cost	(190,000)
gain	150,000

Time apportioned

£

gain (as above)	150,000
-----------------	---------

since 5-4-15 .

Total ownership

 $150,000 \times \frac{13}{66}$

£29,545.

66 months.

Therefore Amanda would use the default method.

(24) BR band - Amanda

Income 30,000

less P.A (11,000)

taxable 19,000

BR £32,000 - £19,000 = £13,000

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NEW