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☐ 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

☐ VAT on UK Domestic Transactions, IPT & SDLT

☐ Inheritance Tax, Trusts & Estates

☐ Human Capital Taxes

☐ Taxation of Individuals

☐ VAT on Cross-Border Transactions & Customs Duties

✓ Advanced Corporation Tax

☐ 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

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

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QUESTION NUMBER 2

51 past

## Memorandum

To: CFO
From: Tax Manager
Subject: Pink Properties
Date: 7/11/2017

### 1. Intra-group transfer

Blue Buildings Ltd (Blue), Pink Properties Ltd (Pink) and Purple Properties Ltd (Purple) form a capital gains group. This is because Blue is the common parent of both and holds $\geq 75\%$ of both companies.

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The transfer of the property was for a deemed cost of original cost plus accrued indexation - ie. a "no gain no loss" transfer.

~~However~~ No degrouping charge arises on sale of Pink, as Purple (the transferee) remains in the group.

See the Appendix for the base cost of the property that Purple inherits.

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2. Sale of Pink: ~~Capital~~ chargeable gains

Sale of the Pink Shares will be a disposal for chargeable gains purposes. The base cost is the subscription price (£100 million).

The consideration comprises two elements: (1) ~~Asce~~ Ascertainable consideration of £150m cash and £390m shares (this is ascertainable as we know the value upfront) (2) Unascertainable consideration of the future payment in 31/12/2020.

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As regards the ascertainable consideration, the cash consideration will trigger a gain that is immediately chargeable. The Substantial shareholding exemption (SSE) can sometimes exempt this gain. The conditions are that Blue held ≥10% of Pink's ordinary shares for 12 of the last 24 months, and that both companies are trading companies in the 12 months before sale and immediately afterwards. However, as

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Blue is not a trading Company.

SSE will be unavailable.

As regards the Share element of the ascertainable consideration: the share-for-share rules apply. This defers the gain until ultimate disposal of the Boutique shares. The Boutique shares inherit the same ownership Shares.

The base Cost is the pro rata share of the original Pink shares base Cost; split according to the

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relative market values of the consideration. The roll over effectively defers the chargeable gain, as the Boutique Shares will have a lower base cost.

As regards the 31/12/2020 payment, this is not ascertainable as we do not yet know how much will be paid out. Thus, the consideration for the Pink shares will be the ~~value of~~ the so-called "earn out" right to receive future

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Consideration (£60m). ~~On ultimate disposal~~ When the payment is ultimately received, the right is treated as disposed of. If the payment exceeds £60m then there will be an extra chargeable gain (but taxed in p/e 31/12/2020).

However, if the payment is under £60m then there will be a loss – but there is no way of carrying this loss back to use against the original gain.

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The chargeable gains are added to total taxable profits and taxed at 20%.

See the Appendix for the calculation.

Tax Adviser

Appendix

Purple's base cost in the property

| | £ |
|---|---|
| Original Cost ~~Sum~~ ~~A/c~~ | 5,000,000 |
| plus indexation: | |
| $\frac{267.5 - 258.9}{258.9} = 0.032$ (3dp) | |
| $0.032 \times 5,000,000 =$ | 160,000 |
| Base cost | 5,160,000 |

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This assumes the book value is total cost. The deemed market value proceeds rule is overridden

Disposal of Rink

| | £ |
|---|---|
| Cash | |
| Proceeds | 150,000,000 |
| less cost (total cost split according to relative market values of consideration: $\frac{150}{150+390+60} \times 100,000,000$) | (25,000,000) |
| ~~Chargeable gain~~ | ~~125,000,000~~ |
| ~~Chargeable now~~ | |
| less indexation: | |

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~~Sha~~

$\frac{267.5-249.7}{249.7} \times 25{,}000{,}000 =$ (1,782,138)

Gain chargeable now ~~1,232~~ 123,217,861

~~Shares~~

~~Proceeds 390,000,000~~

~~less Cost~~
~~(Split on relative market values of consideration:~~

~~$\frac{390}{150+390+60} \times 100{,}000{,}000$ (65,000,000)~~

~~less indexation~~

~~$\frac{267.5-249.7}{249.7} \times 65{,}000{,}000 =$ (4,633,560)~~

~~450,366,440~~

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This is deducted from the £390,000,000, but cannot fall below £nil. Thus the Boutique shares have £nil base cost.

~~No gain tiga~~

Earn-out right

| | £ |
|---|---|
| Proceeds | 60,000,000 |
| less cost (split using relative MVs) $\frac{60}{150+390+60} \times 100{,}000{,}000$ | (10,000,000) |

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less indexation

$$\frac{267.5 - 249.7}{249.7} \times 10,000,000 = (712,855)$$

Taxable now 49,287,104

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18 past

~~Joel Peters~~
Trustbuild LLP
My address

Joel Peters
My address

7/11/2017

Dear Joel

Factory Extension

Further to our meeting on 1/11/2017 ~~below~~, please see my comments below.

Capital Allowances

Capital allowances are available on plant and machinery on qualifying expenditure relating

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to a qualifying activity. The key Capital allowances are the annual investment allowance (AIA) of up to £200,000 per year, which gives relief at 100%. The other types are writing down allowances on the expenditure at 18% or 8% on a reducing balances basis. As Duckford is trading, it is carrying on a qualifying trading activity. Expenditure is allocated to a pool, depending on which allowances are available.

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Expenditure is incurred when there is an unconditional obligation to pay, which in this case is in period ended 30/9/2015.

taking each item in turn:

1. Concrete ceiling, walls and floor - no allowances available as they are expressly excluded as a part of the building.

2. Windows - as per the ceiling etc.

3. Electrical systems - these are integral features and go in the 8%.

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pool

3. Fixed Ceiling and wall lighting - as per the electrical system.

4. Heat and air con - as per the electrical system

5. Tables and chairs - this qualifies for the 18% pool. They are likely to have a life of less than 8 years, so a short life asset election should be made to put them in a separate pool. This accelerates the time at which

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balancing allowances will be available.

6. Loose rugs – allowances would be available on the basis of case law, as they create an "ambience". However, Duckford is in no need of creating an ambience (unlike eg. a pub). Thus, no allowances available.

7. Desk lamps – this is plant and machinery qualifying for the main rate (ie. (8%) pool.

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8. Moveable partition - while part of the building, this still gets allowances under a special rule, as it relates to Puckford's trade.

See the Appendix for a computation. The 8% pool expenditure is included in the AIA in priority.

Claiming allowances

Allowances are claimed in Puckfords tax return.

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It is possible to make a claim for a refund of overpaid tax within 4 years of the end of the period. This applies here, as by not claiming allowances you have paid too much tax.

However, the tax rules prohibit an overpayment claim in relation to unpaid capital allowances. Unfortunately, you are also out of time to amend your return, so the allowances

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are lost.

Property Sale

You will be able to claim Capital allowances on the fixtures. These are plant and machinery that has legally become part of the building.

The water systems would go in the 8% pool, the equipment in the 18% pool.

The pooling requirement must be met so you can claim allowances

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**QUESTION NUMBER** | 6

This requires the seller to have pooled the fixtures in its own ~~capital~~ tax computation.

Also, the fixed value requirement must be met. To meet this, an election under s.198 Capital Allowances Act must be entered into by you and the seller. This will fix the amount of the purchase price attributable to the fixtures for tax purposes. You will want as high

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an election as possible to maximise allowances. But the buyer will want as low a value as possible to maximise balancing allowances. There is therefore a commercial tension and it will need to be negotiated.

Yours sincerely,
Tax Adviser.

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**QUESTION NUMBER** 4.

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Total Taxable Profit

| | Circle £ | District £ | Jubilee £ | Oveg £ |
|---|---|---|---|---|
| Trading profit (W1) | | 1,178,000 | 1,892,000 | (621,080) |
| less Capital ~~(W1)~~ allowances ~~(W2)~~ (W2) | (305,280) | | | |
| Circle's add backs (W3) | 523,500 | | | |
| Non-trading loan relationship credits (W4) | | | 250,000 | |
| Total Investment Profits | (2,674,000) | | | |
| Chargeable Gains adjustment (W5) | 189,153 | | | |
| ~~EI less donations~~ | (2,266,627) | 1,178,000 | 2,142,000 | (621,080) |
| less donation | | (10,000) | | |
| TTP | Nil | 1,168,000 | 2,142,000 | Nil |

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QUESTION NUMBER 4

(W1) Adjusted trade profits:

| | ~~Gazelle~~ | District | Jubilee | Oveg |
|---|---|---|---|---|
| Accounting profit | ~~(2,621,000)~~ | 1,168,000 | 2,142,000 | (621,080) |
| Add: | | | | |
| ~~Depreciation~~ | ~~57,500~~ | | | |
| - Donation | | 10,000 | | |
| - Disallowed entertainment costs (see notes) | | | 18,000 | |
| ~~Legal fees (non-deductible as relate to a capital asset)~~ | ~~6,000~~ | | | |
| Deduct: NTLR | | | (250,000) | |
| ~~Deduct~~ | | | | |
| ~~Interest receivable (NTLR)~~ | ~~(200,000)~~ | | | |
| ~~- Profit on disposal (chargeable gain)~~ | ~~(12,500)~~ | | | |

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| | C | D | I | O |
|---|---|---|---|---|
| Total | ~~(2,364,000)~~ | ~~1,168,000~~ 1,178,000 | ~~2,160,000~~ 1,892,000 | (621,080) |

Notes:

~~Circle's admin expenses re repairs are deductible are revenue as they are revenue and wholly and exclusively for the purposes of the trade.~~

As regards entertaining costs, the staff meal is deductible as ~~the~~ per the repairs costs above. The pens are not deductible as they are worth more than £50 each. The client entertaining is non-deductible.

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It is assumed

(W3) Circle's Investment Profits

Circle does not trade, but is an management investment Company. Investment costs are deductible against total profit if they are revenue (Camas v Atkinson) and not for an unallowable (ie. non-business purpose).

Add backs: £

- Depreciation 517,500
- Legal fees (as they relate to a Capital item) 6,000

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| | £ |
|---|---|
| Total | 523,500 |

The repairs costs are allowable as they are not for the enduring benefit of the business and for a business purpose.

(W2) Capital Allowances

| | AIA | 8% pool | 18% pool | Allowances |
|---|---|---|---|---|
| TWDV b/f | | 220,000 | 350,000 | |
| Additions: | | | | |
| - Heating system | 200,000 | 70,000 | | |
| - Machinery | | | 106,000 | |
| | (200,000) | 290,000 | 456,000 | 200,000 |

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WDA @ 8% (23,200) 23,200
WDA @ 18% (82,080) 82,080

total allowances 305,280

8% expenditure allocated to pool in priority to 18% expenditure

(W4) NTLR credits

Interest receivable for Jubilee is a non-trading loan relationship

(W5) Circle's lease disposal

The lease is under 50 years, so the cost is restricted.

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% on acquisition: 95.457 (40 years)

% on disposal: 90.280 (32 years)

Allowable cost:

$$200{,}000 - 200{,}000 \times \frac{95.457 - 90.280}{95.457}$$

= £189,153

~~Thus on disposal:~~

Thus, the disallowed cost needs to be added back to total gains

**Loss Use**

Oleg is not in a group relief group, so its losses cannot

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be surrendered.

Circle's loss ~~can be cannot be surrendered as~~ can be surrendered to District and Jubilee as they are in a group relief group.

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12 past

The non-~~relations~~ trading loan relationship (NTLR) rules apply where one Company stands in the position of Creditor as respects a money debt arising from a transaction for the lending of money.

The 31/12/2015 loan and on-loan are NTLRs under this definition. But the £200,000 loan is not a NTLR as it does not arise

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from a transaction for the lending of money.

Even though Alpha only holds only 40% of Beta, Alpha still controls Beta as Alpha has the power to appoint Beta's board under the shareholders' Agreement. This gives Alpha the power to conduct Beta's affairs in accordance with its wishes.

However, Alpha does not control Finco as Alpha holds

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less than 50% and there is no shareholder's agreement in place.

Finco and Beta are unconnected with each other. Thus, ~~release of~~ impairment of the Finco to Beta debt will give rise to taxable debits in Finco and credits in Beta,

However, for Alpha the impairment relates to a debt with a Connected party, ie. Beta. But that doesn't change the

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fact that Alpha's loan relationship is still with Finco, who is ~~still a con~~ not a connected party. This will mean Alpha ~~Cat~~ has a debit of the full £10m. ~~For~~

The £200,000 trade loan write off would give rise to a trading deduction. Thus, s.479 CTA2009 applies to treat this write off as a connected ~~the~~ parties NTLR.

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**QUESTION NUMBER** | 1

Thus, there are no taxable debits or credits arising.

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QUESTION NUMBER 3

48 past

To: Tom.Smith@homespun.com
From: Bob.Jingle@CharteredTaxAdvisers.com
Date: 7 November 2017
Subject: Tax analysis on payments and receipts.

Hi Tom

Taking your points in turn.

1. Homespun is almost certainly not a small company for these purposes. Thus, specific rules exist to exempt the dividend from UK corporation tax. The relevant exemptions are the

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controlled companies exemption, which applies as Homespun controls the Finder Company as it holds 100% of the share capital.

The other relevant exemption is the non-redeemable ordinary shares exemption, which applies because Homespun holds shares in the Finder Company that fit that description.

This means that the dividend is exempt from UK tax.

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However, it will have suffered ~~Finden~~ deduction of Finden tax at source of 30%. Essentially, you are therefore paying Finden tax on the dividend. There is no tax treaty in place, so no claim for treaty relief can be made.

The only alternative is UK unilateral relief against the Finden tax. But this can't apply as the dividend is UK tax exempt. It is

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possible to disapply the exemption so the relief can be claimed. But that won't entirely help, as relief can only be claimed upto the amount of UK tax suffered (ie. 20%), which is lower than the 30% Finden rate. Thus, effectively 10% of the Finden tax cannot be relieved.

Unilateral relief is a credit against UK tax.

2. Royalties paid to UK resident individuals are subject to UK

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witholding tax. Income tax at the basic rate (20%) must be withheld from these payments and paid to HMRC. A quarterly system of accounting applies using form CT61. A set off against amounts due to HMRC in respect of withholding on amounts payable to Homespun, can be claimed. This is capped at the net amount of tax paid in the year to date, with any excess carried forward

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to the next quarter. Any excess at the end of the year is deducted from Homespun's total corporation tax liability.

As regards payments to the Malaysian based company, income tax must be similarly witheld. (If ~~Malaysian~~ the Malaysian company were resident in the EU, special rules would apply to allow payment without ~~holder~~ witholding).

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☐ VAT on UK Domestic Transactions, IPT & SDLT

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☐ Human Capital Taxes

☐ Taxation of Individuals

☐ VAT on Cross-Border Transactions & Customs Duties

☑ Advanced Corporation Tax

☐ 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).

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

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As there is a double tax treaty with Malaysian, a treaty claim can be made to reduce the rate of witholding from 20% to 15%. This must be claimed by Homespun from HMRC

As regards the sub-licensing, the subsidiaries will not have to withold tax as the recipient (Homespun) is a UK resident Company. As the royalties will be related

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to Homespun's trade, they will be taxable as trading income.

3. The Kugola subsidiary will be a company that is resident outside the UK but controlled by Homespun in the UK. ~~It~~ will therefore be within the "Controlled foreign company" (CFC) anti-avoidance rules aimed at diverting UK profits outside the UK tax net. However, there are a number of exemptions which can apply to exclude any

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attribution of profit to Homespun under the rules. Without knowing more about the Kugola Subsidiary it is difficult to say whether these rules will apply. We should review further.

The interest will be received net of Kugolan withholding tax at 15%. The loan is not for trade purposes so taxed as a non-trading loan relationship. Interest received is ~~all~~ taxed at

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20%.

Thin Capitalisation rules apply if the loan is ~~on~~ not on arm's length terms. The relevant factors here are, but for the fact that Homespun owns the Kugola Company:

- Would the same amount have been lent?
- Would the interest rate have been the same?
- Would the loan have

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been made at all?

If these tests are not met, the advantaged Company will have a transfer pricing ~~[illegible]~~ adjustment made. This will be Homespun if the interest is too low (ie. it doesn't pay enough UK tax).

An ATCA can be entered into.

A treaty relief claim can be made to reduce withholding to

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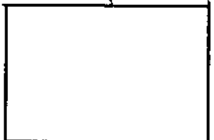
5% -

Many thanks,

Tax Adviser.



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15 past

# Memorandum

~~To: Bob Basset~~
To: Bob Bassett
From: Tax Manager
Date: 7/11/2017
Subject: Crankton Ltd

## 1. Disclosure of Tax Avoidance Schemes (DOTAS)

The main DOTAS legislative framework is in FA 2004. This says that ~~we need to look at~~ ~~certain~~ an arrangement is notifiable under DOTAS if it allows Crankton to obtain a tax advantage (ie. a tax

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savings) where the main benefit of the arrangement is to obtain that advantage.

Here, the loan was going to be made even without the special steps. However, the special steps have been specially inserted to obtain a £1 million tax deduction. They are therefore within the tests mentioned above.

Next, we need to look at the "hallmarks" for notifiable

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arrangements in the statutory instrument. At least one hallmark must be met. These are the hallmarks:

1. Where the promoter requires confidentiality.
2. Where confidentiality is otherwise required regarding the arrangement.
3. Where a premium fee is charged for the arrangement.
4. Where the arrangement is a standardised product.

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5. Schemes aimed at artificially creating losses.

6. Certain leasing arrangements.

7. Paying income through intermediaries.

It sounds like the arrangement is a standardised product ~~??~~ from Special Tax, so that hallmark is met. It will also artificially create a loss.

Thus, it is notifiable. The duty to notify is on Big Tax.

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2. Tax returns

Crankton should have notified HMRC of commencing to trade within 3 months of commencement – i.e. by 1/1/2016. It should also have notified HMRC of its chargeability within 1 year of commencement – i.e. by 1/10/2016.

The error is not deliberate or concealed as they did not knowingly fail to inform HMRC. It was ~~to~~ due to carelessness on their part. While no penalty is due if Crankton have

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a reasonable excuse, HMRC are unlikely to accept that relying on their previous advisers constitutes a reasonable excuse.

∴ The penalties are on potential lost revenue (PLR). The starting point is 30% of PLR. This is reduced to 0% if an unprompted disclosure is made within 12 months of the due date, or to 10% if the disclosure is after 12 months. For a

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prompted disclosure, this is reduced to 10% if made within 12 months; 20% otherwise. A penalty is unprompted if it is not brought about by HMRC's actions.

For late filing, the penalties are (return due by 1/7/2017):

1. £100 fixed

2. £900 as over 3 months late (£10 per day up to 90 days)

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3. Greater of £300 and

5% of PLR as over 6 months late

~~Greater of~~

The penalties are due within 30 days of assessment

They can be reduced if there is reasonable excuse. Similar reductions for disclosure apply.

Let me know if any questions.

Tax Adviser

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