

THE CHARTERED INSTITUTE OF TAXATION

APPLICATION AND PROFESSIONAL SKILLS

Human Capital Taxes

May 2022

TIME ALLOWED

3 HOURS 30 MINUTES

- In order to secure a pass in this exam, you will be required to demonstrate competence in each of three skills.

You will be assessed across your answer as a whole for Structure. A pass or fail grade will be awarded.

You will be assessed for competence in a number of broad topics for the following skills:

- Identification and Application
- Relevant Advice and Substantiated Conclusions

For each topic for each of these two skills, a grade will be awarded. The grades for those topics will be weighted and averaged to produce a final grade for each skill of 0, 1, 2, 3 or 4. A grade of 3 or 4 is required to demonstrate competence.

- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.
- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should indicate this where relevant.
- Scots law candidates may provide answers referring to Land and Buildings Transaction Tax rather than Stamp Duty Land Tax.
- Unless otherwise indicated by the provision of additional information in the question, you may assume that 2021/22 legislation (including rates and allowances) continues to apply for 2022/23 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.
- You must type your answer in the space on the screen as indicated by the Exam4 guidance.

You are an employment tax manager in F&C LLP, a firm of Chartered Tax Advisers.

You have received an email (**EXHIBIT A**) from Milly Coule, the HR Manager of your client Cable plc. Cable plc is a Bristol-based cabling manufacturer. Milly would like some advice about Tom Crip, who is Head of Sales for their Irish subsidiary, Eirepipe Ltd.

Tom is a UK national who is employed in Ireland. He came to the UK in December 2020 for personal reasons. He now wishes to stay permanently. Milly has sent you some information from Tom about his personal situation (**EXHIBIT B**). She has also sent information from Doug O'Shear, the Managing Director of Eirepipe Ltd (**EXHIBIT C**).

You should assume that the double tax treaty with Ireland follows the OECD Model Convention.

The following exhibits are provided to assist you:

EXHIBIT A: Email from Milly Coule

EXHIBIT B: Email from Tom Crip

EXHIBIT C: Details provided by Doug O'Shear

EXHIBIT D: Pre-seen information

Requirement:

Prepare a draft report to Milly discussing and making recommendations in relation to Tom working in the UK.

Continued

EXHIBIT A

Email from Milly Coule

To: Employment tax manager, F&C LLP
From: Milly Coule
Date: 2 May 2022
Subject: Tom Crip working in the UK

Dear Manager

I would like your advice in relation to Tom Crip, an employee of our Irish subsidiary, Eirepipe Ltd.

We acquired Eirepipe Ltd in 2017 to enable us to expand into the Irish market. It designs and manufactures new environmentally friendly products. Historically, Eirepipe Ltd's clients have been outside the UK.

Tom Crip is Head of Sales and has an Irish-based sales team. Tom and his team sell all Eirepipe Ltd's products but there is a particular focus on increasing sales for a new range of innovative new "ecopipes" used in industrial ground source heat pumps.

Tom has been in the UK since December 2020 for personal reasons and would like to remain here. I attach an email he's sent to me about his personal situation (**EXHIBIT B**). Also attached is Doug's information on Tom's package and on potential UK sales of ecopipes (**EXHIBIT C**).

Tom has started to develop relationships with some UK-based companies which could result in significant sales of ecopipes. Through Tom's activities in the UK, we think that we can develop a combined client base for some of our complementary products. As a result, in about a year we are planning to restructure so some of Eirepipe Ltd's divisions would be subsumed within Cable plc.

As Tom is integral to this, we are happy to facilitate him remaining in the UK. Doug is happy for Tom to work here permanently and has asked us to pay him through our UK payroll until the restructure goes ahead. In principle I'm happy to pay Tom as I'm expecting all costs will be charged back to Eirepipe Ltd.

However, it's led me to consider whether we should think about taking on Tom as a Cable plc employee now or have him officially seconded to us to help sell our products. Of course, Doug would need to agree this. Also, I'm a bit concerned about the past as Tom has been here for over a year already.

I hope this is helpful and I look forward to receiving your recommendations in relation to Tom.

Many thanks

Milly

Continued

EXHIBIT B

Email from Tom Crip

To: Milly Coule
From: Tom Crip
Date: 1 May 2022
Subject: Move to the UK

Hi Milly

As discussed with Doug, please find below information regarding my time in the UK.

I'm a UK national and lived in the UK until 10 March 2018 when I moved to Ireland and started work for Eirepipe Ltd. Since then, I've been non-UK tax resident and paid tax and social security in Ireland.

I was married to Anna until we separated in March 2018. We have two young children who live with Anna in Cheltenham: Archie is eight and Freya is six. Anna was awarded our family home in our divorce settlement so I no longer own any property in the UK.

From April 2018 to December 2020, I returned to the UK for one weekend every month plus two weeks' holiday to see my family. I stayed with my parents in Gloucester when I came to the UK. Archie and Freya stayed with me there or we went on holiday in the UK.

I came to the UK on 20 December 2020 for a holiday, but whilst here my father fell seriously ill and I needed to stay at my parents' home to look after him and my mother. As a result, Doug allowed me to work remotely from the UK so I've remained here since then. Although my Dad is much better now, I've realised that my parents need me to be closer to help out. I've also had more time with Archie and Freya and it's made me realise how much they need me and how much I've been missing them! I also see that it would help Anna for me to be around more too. Therefore, my aim is to stay permanently in the UK working remotely for Eirepipe Ltd. I assume I can stay on the same package.

Since being in the UK, I've been able to make the job work and have developed relationships with potential new UK customers hopefully resulting in future UK sales.

I'm planning to rent a UK house (Doug agreed to an allowance for the first 12 months). I'm looking forward to having a base here so the children can stay with me more often.

I rent a small apartment in Dublin which I plan to give up when I rent a UK house. I haven't returned to Ireland since December 2020.

I hope this is helpful but let me know if you have any additional questions.

Best regards

Tom

Continued

EXHIBIT C

Details provided by Doug O'Shear

Details of Tom's current salary and benefits (converted to £)

Name

Tom Crip

Employer

Eirepipe Ltd, 1 Grafham Street, Dublin

Start Date

15 March 2018

Position

Sales Director

Holiday

10 public holidays and 30 days' annual leave.

Health Days

Entitlement to four "health" days per year. Under Irish law we have to provide this.

Salary

£174,500 per annum from 1 April 2022.

His current level of net pay is £8,070 per month after all deductions.

Previous salary levels:

£162,000 from April 2021

£156,000 from April 2020

Bonus

Based on company and personal performance

Bonuses paid in recent years (relating to previous calendar year):

February 2020 £12,250

February 2021 £43,750

February 2022 £67,250 (net received after all deductions £32,323).

Company car

Audi A5 Coupe 1.9l petrol

List price when new in June 2020 £45,250.

The CO₂ for this car is 145g/km.

Tom travels 20,000 plus business miles per year so we pay for all his fuel.

This is considered an essential use car and is therefore not liable to Irish tax.

Tom took his car with him to the UK.

He continues to claim all fuel back through expenses.

Medical insurance

£2,400 per year insurance premium (cost to company).

Pension

Tom opted out of our pension scheme so we pay him an additional 5% of his salary as a tax-free cash allowance of £727 per month.

Lunch allowance

Tom is provided with a £40 per workday round sum lunch allowance when visiting clients. This is not subject to Irish tax or social security and receipts do not need to be provided. He would expect to spend 50% of his time visiting clients.

Continued

Continuation

Shared workspace

We have hired an office in a shared workspace in Gloucester for Tom to work from since 1 April 2021. The cost of this is £500 per week.

Housing allowance

We have offered Tom a housing allowance of £1,500 per month for 12 months to help towards him getting a UK home.

Irish Tax and Social Security

PRSI is the Irish social security system payable on employment income. The employee's rate is 4% (uncapped) and the employer's rate is 11.05% (uncapped).

Income tax is deducted at source together with employee PRSI. These amounts together with employer PRSI must be paid monthly to the Irish Revenue.

Tom had Irish tax and social security deducted from him. It's been confirmed that he will no longer be considered Irish tax resident from 1 January 2021.

The rate of Irish Corporation Tax is 12.5%.

UK sales opportunity information for Eirepipe Ltd

Since December 2020, Tom initially concentrated his work on his non-UK customers and only started having discussions with UK-based companies from 1 February 2022. Tom has identified potential UK sales of £4.5m, but no contracts have been signed yet. If any of these potential opportunities progressed, Tom would handle the negotiations without input from any of the management team at Eirepipe Ltd. The legal contracts for sales will be drawn-up in Dublin by Tom's sales team and would be signed-off by the Finance Director of Eirepipe Ltd.

Any invoices to UK companies would be in Euros and paid into Eirepipe Ltd's Irish bank account.

Typically, sales of ecopipes have a 40% profit margin.

Continued

EXHIBIT D

Pre-seen information

Client name

Cable plc

Services provided to client

They are a tax consultancy client. Audit and compliance services are provided by a large international firm of accountants.

Date of incorporation

7 November 1958

Board of Directors

Fred Drayter (Managing Director)
Emmanuele Le Stange (Finance Director)
Jennifer Finnerton (Operations Director)
Michelle Handleton (HR Director)

HR Manager

Milly Coule

Client Background

Cable plc is a UK trading company and is also the parent company of an international group. The group manufactures a wide range of cabling for domestic homes and the IT and power generation industries.

Cable plc group is one of the largest businesses in this field and has invested significantly in robotics and advanced technologies to improve manufacturing processes.

Due to the diversity of their products and award-winning innovations on eco-friendly products, they have been highly successful. Cable plc was listed on the London Stock Exchange in 1990 and its share price has increased steadily since then.

As well as its own trading activities, Cable plc provides head office services to its subsidiaries and also undertakes much of the design work for the group. Cable plc has 758 employees in the UK.

All subsidiaries are wholly owned.

Continued

SubsidiariesIndian Cable and Pipe Pvt Ltd

<u>Location</u>	<u>Date of Incorporation</u>	<u>Date of acquisition</u>	<u>Specialism or function</u>	<u>Number of employees</u>
Bangalore, India	12 September 1987	From incorporation	Manufacture and sale of industrial and power products.	215

Cable Inc

<u>Location</u>	<u>Date of Incorporation</u>	<u>Date of acquisition</u>	<u>Specialism or function</u>	<u>Number of employees</u>
Pittsburg, USA	4 October 1994	From incorporation	Manufacture and sale of industrial products connected to the steel industry.	389

Lille Electrical Cable SA

<u>Location</u>	<u>Date of Incorporation</u>	<u>Date of acquisition</u>	<u>Specialism or function</u>	<u>Number of employees</u>
Lille, France	17 January 1999	12 August 2006	Manufacture and sale of mainly IT and data cabling.	241

Cable Company GmbH

<u>Location</u>	<u>Date of Incorporation</u>	<u>Date of acquisition</u>	<u>Specialism or function</u>	<u>Number of employees</u>
Frankfurt, Germany	19 March 2001	From incorporation	Design, manufacture and sale of mainly IT and data cabling.	139

Cable & Pipe LLC

<u>Location</u>	<u>Date of Incorporation</u>	<u>Date of acquisition</u>	<u>Specialism or function</u>	<u>Number of employees</u>
Beijing, China	7 August 2001	From incorporation	Manufacture of wide variety of domestic and industrial power products.	220

Eirepipe Ltd

<u>Location</u>	<u>Date of Incorporation</u>	<u>Date of acquisition</u>	<u>Specialism or function</u>	<u>Number of employees</u>
Dublin, Ireland	18 November 1977	7 November 2017	Design, manufacture and sale of civil and industrial products.	203

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Group Consolidated Profit and Loss Accounts to 31 December 2021

	<u>2021</u>	<u>2020</u>
	£ million	£ million
Turnover	14,779	14,540
Cost of sales & administrative expenses	<u>(11,884)</u>	<u>(11,760)</u>
Operating profit/(loss)	2,895	2,780
Interest expense	<u>(813)</u>	<u>(1,026)</u>
Profit/(loss) before taxation	2,082	1,754
Taxation	<u>(437)</u>	<u>(368)</u>
Profit/(loss) after taxation	<u>£1,645</u>	<u>£1,386</u>

Consolidated Balance Sheet on 31 December 2021

	<u>2021</u>	<u>2020</u>
	£ million	£ million
<u>Fixed Assets</u>		
Land & buildings	42,042	39,925
Plant & machinery	9,589	9,221
Intangibles	5,647	8,693
Net current assets	8,537	6,301
Current liabilities	<u>(387)</u>	<u>(408)</u>
Long term creditors	<u>(914)</u>	<u>(793)</u>
Net Assets	<u>£64,514</u>	<u>£62,939</u>
<u>Equity</u>		
Share Capital	60,000	60,000
Reserves	<u>4,514</u>	<u>2,939</u>
	<u>£64,514</u>	<u>£62,939</u>