Answers

Marks

1 Keith and Niamh Hagan

(a) (i) For 2008 Niamh would have been entitled to the home carer's tax credit as she was jointly assessed and worked in the home caring for her dependent children. Even though Niamh did not have income in her own right, she would have been entitled to earn an income of €5,080 and still avail of this credit. — 0·5 / 1·0 / 0·5

In 2009 when Niamh returned to work, her income exceeded the qualifying limit of €6,880. However, she may still claim the tax credit as she had qualified for it in 2008, the immediately preceding tax year, and is therefore entitled to claim it again in 2009. — 0·5 / 0·5

3·0

(ii) Should Niamh claim the home carer's tax credit for 2009, she and Keith would be restricted to claiming the married couples tax band of €45,400 at 20% and may not increase this by the income of the second spouse. — 0·5 / 0·5

1·0

(b) (i) **Income tax computation for the year 2009**

		€	
Schedule D Case II		Nil	0·5
Schedule E Salary		10,000	0·5
Schedule D Case IV		8,000	0·5
Case IV (€10,750/0·75)		14,333	1·0
Case V		18,000	0·5
Gross income		50,333	
Less loss relief (S381) (10,000 + 2,000)		(12,000)	1·0
		38,333	
Less Reliefs			
Nursing home expenses (fully allowable)		(8,000)	1·0
Total income		30,333	
Tax			
Income excluding deposit interest: €8,000 at 20%	1,600		1·0
Deposit interest €22,333 at 25%	5,583		1·0
Total tax		7,183	
Less non-refundable tax credits:			
Married persons	3,660		0·5
PAYE	1,830		0·5
Trade union subscription	70		0·5
Donation to approved charity €500 at 20%	100		1·0
Home carers tax credit	900		0·5
Refuse charges €380 at 20%	76		0·5
DIRT	3,583	(10,219)	0·5
Net tax due		Nil	0·5
Refundable credit – Niamh's PAYE		€1,200	0·5
			12·0

Tutorial note:

1. *As Keith is self-employed and the donation to the school exceeds €250 he is able to obtain tax relief on the donation at his standard rate of tax.*
2. *Section 20 Finance Act 2005 provides that deposit interest received by individuals from lending institutions in other EU countries will be subject to tax at the same rate as deposit interest received by individuals from lending institutions in Ireland, provided that the tax on such interest is discharged by the return filing date for the year concerned.*

(ii) The non-refundable tax credits exceed the tax calculated by €3,036. It would therefore have been more tax efficient not to have increased the loss relief claim by the amount of the capital allowances. These could then have been carried forward to offset against Keith's Case II income in 2010. — 1·0 / 0·5 / 0·5

2·0

		Marks
(c)	The emergency basis of taxation is applied where an employer, in relation to a new employee, has not been given either:	
	A Certificate of Tax Credits and Standard Rate Cut-off Point (SRCOP) for the current year or	1·0
	A P45 with a PPS number.	1·0
		2·0
(d)	The employer loan would give rise to a benefit in kind (BIK).	0·5
	The specified interest rate for the tax year 2009 is 5·5%. Niamh is liable to a BIK on the difference between the nominal interest calculated using the 5·5% rate and the actual interest paid, i.e.	1·0
	€100,000 x (5·5% – 2%) = €3,500.	
	The €3,500 is taxed at Niamh's marginal rate of tax.	0·5
	The €3,500 will be liable to PRSI of 4% and Health contribution of 4% (after 1 May 2009). The additional income will also be liable to Income Levy.	1·0
	Both the income tax and the PRSI would have to be deducted by her employer.	0·5
	Niamh will not be entitled to any interest relief on the mortgage from 1 May 2009 as she is not classed as a first-time buyer as the mortgage is replacing a mortgage that is more than seven years old.	1·5
		5·0
		25

2 Clouds Ltd

(a) Adjusted Case I income for the period ended 31 December 2009

	Working	€	€	
Loss before tax			(22,600)	0·5
Add disallowed expenses				
Depreciation		40,000		0·5
Salaries and wages	(1)	8,000		1·0
Motor expenses	(2)	7,500		1·0
Repairs and maintenance		15,000		0·5
Legal and professional fees		6,000		1·0
Subscriptions and other expenditure		0		0·5
Interest charges	(3)	16,200	92,700	1·5
			70,100	
Less				
Capital element of lease payments	(4)		(34,000)	1·0
Other income			(81,000)	0·5
Case I loss before capital allowances			(44,900)	

The Case I loss before capital allowances is divided between the two accounting periods on a time basis.

	Period 1	Period 2	
	€	€	
€(44,900)/15 x 12	(35,920)		0·5
€(44,900)/15 x 3		(8,980)	0·5
Less capital allowances (working 5)	(7,000)	(2,219)	0·5
Case I loss	(42,920)	(11,199)	

Total profits before loss relief.

	Working	Year ended 30 September 2009	Period ended 31 December 2009	
		€	€	
Case I loss		0	0	0·5
Case III (dividends from UK company)		11,000	0	1·0
Dividends from Irish company (exempt)		0	0	0·5
Case V	(6)	77	4,556	0·5
Capital gain/loss		0	0	1·0
Total profits before loss relief		€11,077	€4,556	

Marks

Workings:

(1) The pension is relieved on the basis of the amount paid during the period:

	€
Opening accrual	10,000
Closing accrual	18,000
Increase in accrual	8,000
Charge for period	50,000
Pension contribution paid	42,000

The amount disallowed is therefore €8,000.

(2) The lease payment for the managing director's car amounted to €12,000. The car was leased after 1 July 2008 so the new regime for calculating leasing charges allowable based on CO_2 emission levels will apply. As it is a category D car the disallowance is:

$$€12{,}000 \times \frac{€32{,}000 - (€24{,}000 \times 50\%)}{€32{,}000} = €7{,}500 \text{ disallowed.}$$

(3) Interest charges

Disallowed items:

	€
Interest on late payment of corporation tax	3,200
Interest paid on loan for rented property	13,000
	16,200

(4) In addition to allowing relief for the interest paid on the leases, the company is also entitled to relief for the capital elements of these payments.

	€
Total payment under finance lease	45,000
Interest payment	(11,000)
Additional deduction	34,000

(5) The capital allowances have to be divided into capital allowances for the first accounting period of 12 months, namely 1 October 2008 to 30 September 2009 and capital allowances for the second accounting period from 1 October 2009 to 31 December 2009.

First accounting period to 30 September 2009

	Plant and machinery	Fixtures and fittings	Motor vehicles	
	€	€	€	
Cost 1 October 2008	20,000	12,000	0	1·0
Additions	0	0	24,000	1·0
	20,000	12,000	24,000	
TWDV 1 October 2008	15,000	7,500	24,000	
Wear and tear 12·5%	2,500	1,500	3,000	0·5
TWDV 30 September 2009	12,500	6,000	21,000	

Second accounting period to 31 December 2009

	Plant and machinery	Fixtures and fittings	Motor vehicles	
	€	€	€	
Cost 1 October 2009	20,000	12,000	24,000	
Additions	15,000	0	0	0·5
	35,000	12,000	24,000	
TWDV 1 October 2009	12,500	6,000	21,000	
Wear and tear 12·5% x 3/12	1,094	375	750	1·0
TWDV 31 December 2009	26,406	5,625	20,250	

		Marks
Summary of capital allowances for:	€	
Year ended 30 September 2009	7,000	
Period ended 31 December 2009	2,219	

(6) Rental income is accounted for on the basis of income earned:

	Period 1	Period 2	Total	
	€	€	€	
Schedule D, Case V rental income	11,429	8,571	20,000	1·0
Less				
Interest on loan (see below (i))	(4,727)	(3,546)	(8,273)	1·0
Letting expense	(6,000)		(6,000)	1·0
Wear and tear allowance (see below (ii))	(625)	(469)	(1,094)	1·0
	77	4,556	4,633	21·0

(i) Loan interest of €13,000 was paid in the period from 1 February to 31 December 2009. As the property was let only from 1 June, the allowable interest is €13,000 x 7/11 = €8,273 of which is divisible between the two periods in the ratio 4:3.

(ii) Expenditure on fixtures and fittings €15,000. Wear and tear at 12·5% is available for the first period for four months and for the second period for three months.

Tutorial notes:

1. *Legal and professional fees: the legal costs associated with the letting of the rented property is an expense associated with the rental income and not the trading income.*
2. *The dividends from the UK company were received on 1 August 2009, so are included in the first period as they are accounted for on the basis of income received.*
3. *Capital losses can only be offset against capital gains, so there is no deduction for the capital loss in 2009.*

(b) Corporation tax liability

	Year end 30 September 2008	Year end 30 September 2009	Period end 31 December 2009	
Case I income	28,000	0	0	0·5
Loss relief (S396A)	(28,000)	–	–	0·5
Case III	0	11,000	0	
Case V	0	77	4,556	
Capital gain adjusted	7,000	0	0	
Total profits	7,000	11,077	4,556	
Corporation tax at 12·5%	875	1,375	0	0·5
Corporation tax at 25%	0	19	1,139	0·5
Less loss relief year end 30 September 2008 (S396B) €3,766 x 12·5%	(471)			1·0
Less loss relief year end 30 September 2009 (S396B) €11,154 x 12·5%		(1,394)		1·0
Less loss relief period end 31 December 2009 (S396B) €9,112 x 12·5%			(1,139)	1·0
Corporation tax due	404	0	0	

Loss table for Case I loss incurred in year to September 2009:

	€	
Trading loss	42,920	
S396A claim 30 September 2008	(28,000)	0·5
Loss available for S396B relief	14,920	
S396B claim 30 September 2009, Case III	(11,000)	0·5
Case V (€77 x 2)	(154)	1·0
Loss available for carry back as S396B 2008	3,766	
S396B claim 30 September 2008	(3,766)	0·5
Loss unused	Nil	

		Marks
Loss table for Case I loss incurred in year end to December 2009:		
	€	
Trading loss	11,199	1·0
S396B claim 31 December 2009 Case V (€4,556 x 2)	(9,112)	0·5
Balance unused carried forward as S396(1)	2,087	9·0
		30

3 Emma Greene

(a) Disposal of shares:

		€	
1.	Sales proceeds 10,000 x €2·50	25,000	0·5
	Cost 10,000 x €8·50	(85,000)	0·5
	Loss (no indexation)	(60,000)	0·5
2.	Sales proceeds 6,000 x €1·60	9,600	0·5
	Cost 5,000 x €1·50	(7,500)	1·0
	1,000 x €4	(4,000)	0·5
	Loss (no indexation)	(1,900)	0·5

Tutorial note: Anti avoidance rules apply where shares are bought and sold within a four-week period. The FIFO rule for share identification purposes is set aside and the shares sold are deemed to come from the latest acquisition of shares.

Disposal of Emma's business:

On the disposal of the business assets by Emma to her daughter she will have no capital gains tax liability as she can avail of retirement relief. This relief is available for her chargeable business assets, being the premises in Kildare, the goodwill and fixtures and fittings. 1·0 1·5

Emma is entitled to retirement relief as she is aged 55 or over and she has been in this business for at least ten years. As Emma is disposing of the business assets to her daughter there is no upper limit on the relief that she can avail of. 0·5 0·5 1·0

On the disposal of the premises in Portlaoise to the local businessman, Emma can also avail of retirement relief. The relief is limited to proceeds below €750,000. As the expected selling price is above this limit the gain will be taxable, but with the possibility of marginal relief as the proceeds are €820,000. 0.5 0·5 0·5

Tutorial note: It is not necessary for the purchaser of this property to continue to use it for the purpose of the business for six years, this requirement only applies where the assets are disposed of to a son/daughter.

Emma's tax liability for 2009

Tax without marginal relief:

	€	
Sales proceeds	820,000	0·5
Cost €310,000 x 1·212	(375,720)	1·0
Gain	444,280	
Less: loss relief		
Share transaction 1	(60,000)	0·5
Share transaction 2	(1,900)	0·5
No annual exemption available	0	1·0
Taxable	382,380	
Tax at 25%	95,595	0·5

		Marks
Tax with marginal relief:		
	€	
Sales proceeds	820,000	0·5
Less limit	750,000	0·5
Excess	70,000	
Tax at 50%	35,000	0·5
Emma will avail of marginal relief.		0·5
		16·0

(b) Emma or her agent will be required to deduct 15% of the total sales proceeds from the payment made to the vendor as the sales proceeds exceed €500,000 and the asset being disposed of is a specified asset, in this case land or buildings, in the State. 0·5 0·5 0·5

The 15% withheld must be paid by the purchaser to the Revenue Commissioners within 30 days of the acquisition of the asset. 1·0

It is possible for a vendor to seek authorisation so that the deduction is not made from the sales proceeds. However, for such authorisation to be given the vendor usually needs to be (i) resident in the State; or (ii) not liable to capital gains tax (CGT) on the transaction; or (iii) have paid all of the CGT due. 1·5

4·0

20

4 **(a)** All companies incorporated in Ireland after 11 February 1999 are considered to be Irish tax resident unless: 1·0

- the company or a related company carries on a trade in Ireland and either company is controlled by persons resident in another treaty county or in the EU; or 1·0
- the company is or is related to a quoted company. 0·5

Companies not incorporated in Ireland or companies incorporated in Ireland prior to 11 February 1999 will be treated as Irish tax resident if the location of their management and control is deemed to be in Ireland. 1·0

In order to determine whether the management and control of a company is in Ireland factors to be considered will include:

(i) Where the directors' meetings are held. 0·5
(ii) Where the majority of directors reside. 0·5
(iii) Where the shareholders' meetings are held. 0·5
(iv) Where the head office is located. 0·5
(v) Where the books and records are kept. 0·5

6·0

(b) The following income will be taxable in Ireland:

- The trading income of €35,000 arising in Ireland. 1·0
- The profit on the sale of the investments of €20,000 arising in Ireland. 1·0

The French trading income does not arise in Ireland and so will not be taxed in Ireland. 0·5

The Irish source dividends need not be taxed in Ireland as long as the appropriate form (V2B) is completed. 0·5

The Irish trading income will be liable to Irish corporation tax and the sale of the investments liable to Irish capital gains tax. 0·5 0·5

4·0

(c) A company that is not a small company has the following obligations for the payment of corporation tax:

The first instalment is due on the 21st day of the sixth month of the accounting period. The payment should represent 50% of the tax liability for the previous year or 45% of the estimated liability of the current year. 1·0 0·5

The second instalment is due on the 21st day of the 11th month of the accounting period. The second instalment together with the first instalment must amount to at least 90% of the tax liability of the current year. 1·0 0·5

The company must pay the final 10% of the tax liability by the 21st day of the ninth month after the year end. 1·0

	Marks
The company must file its corporation tax return nine months after the end of the accounting period, and no later than on the 21st day of that month.	1·0
	5·0
	15

5 Cyril Rivers

(a) **Value added tax (VAT) return for the period November/December 2009**

	Working	€	
VAT on sales	(1)	9,733	1·0
VAT on purchases			
Diesel for own car	(2)	51	1·0
Petrol – not deductible		0	0·5
Repairs to own car	(3)	30	1·0
Purchase of car	(4)	920	1·5
Equipment	(5)	142	1·0
Computer – not allowed private use		0	1·0
		1,143	
Net VAT payable		8,590	7·0

Workings

(1) VAT is accounted for on the fees received rather than the fees invoiced: €55,000/1·215 x 0·215.

(2) VAT on the diesel is deductible but only to the extent that it is for business use: €360/1·215 x 0·215 x 0·8.

(3) As above VAT on the repairs is deductible only to the extent of the business use of the car: €320/1·135 x 0·135 x 0·8

(4) Up to 20% of the VAT on the purchase of a car may be reclaimed where the car is used at least 60% for business purposes: (€28,000 – €2,000)/1·215 x 0·215 x 0·2.

(5) VAT on the equipment is fully deductible: €800/1·215 x 0·215.

(b) Cyril's VAT return for November/December 2009 is due by 19 January 2010. 1·0

(c) VAT registered traders may account for VAT on the cash receipts basis where either:

– they sell at least 90% of their output to non-registered persons; or	1·0
– their turnover is less than €1 million per annum.	1·0
	2·0
	10