Examiner's report

P6 Advanced Taxation (IRL)
June 2010

General Comments

The examination consisted of two compulsory questions, question one for 34 marks and question two for 30 marks. Section B consisted of three optional questions of 18 marks each of which candidates must attempt two. All candidates attempted the compulsory questions and questions three and four proved most popular in the optional questions. While some very good answers were presented by candidates, the performance of candidates overall was disappointing. Question five was poorly answered with candidates displaying a limited knowledge of Revenue Audit.

The format of answers and schedules were satisfactory. There was no evidence that candidates were rushed or had difficulty in completing the paper within the timeframe available.

Candidates are reminded to use the following guidelines in approaching the paper:
- Make use of the pre-exam 15 minutes reading and planning time to read all of the questions
- Give careful consideration to the requirements in each question and the marks offered for each part of the requirements.
- Pay particular attention to the required layout of the answer e.g. memorandum, letter etc. so as to best achieve the available the professional marks in question one and two.
- Ensure that your knowledge of Irish tax system is up to date and candidates sitting the exam in 2010 must familiarise themselves with the changes introduced by the Finance Act 2009.
- Revise the core areas covered at F6 level to enhance your proficiency in tax computation and understanding of the fundamental rules in preparation for the exam.

Specific Comments

Question One

This 34-mark case study compulsory question tested candidates' ability to deal with the cessation rules and terminal loss relief arising on cessation of a sole trade, share schemes and capital taxes issues arising on gifts to children. Overall the question was reasonably well answered. Candidates set out their answers in memo format and utilised schedules to show their workings.

Some general comments on the answers:

- Most answers correctly calculated the final and penultimate year assessments under the cessation of trade rules. However very few candidates referred to the ring fencing of losses relating to dealing in residential land.
- In relation to the free shares issued to an employee, many candidates who had studied this section achieved high marks. However many answers incorrectly referred to Capital Acquisitions Tax (CAT). Where candidates suggested appropriate alterative share schemes, marks were allocated accordingly. Most answers recognised the Capital Gains Tax (CGT) issue for George.
- Part (iii) was generally well answered with many candidates dealing well with the CAT implications. A large number applied the First Time Buyers exemption for Stamp Duty. Many identified the CGT exemption on the transfer of a site to a child for construction of a main residence. However, some applied this exemption to CAT also.

Question Two

This compulsory question dealt with group restructuring and the sale of capital assets. The answers were set out in memorandum format as requested.

In part (a) (i) most candidates correctly identified that a group structure existed, applied CGT relief on the transfer of the assets and dealt with the VAT and Stamp Duty exemptions. However, very few dealt with the relief for the shareholders. Many noted that the trading losses in Quilty Ltd could only be offset against future profits arising in the same trade.

In relation to the sale of the factory, while many candidates identified that there would be a capital loss, few identified that the loss should be divided between the pre and post-entry element.
Part (a)(iii) was generally well answered, with most answers recognising that a CGT charge would arise and many discussed the Participation Exemption. A number of candidates also identified the clawback of CGT relief previously given.

Part B of the question was poorly answered with few candidates recognising that the transfer of property from Borrow Ltd is a stock item and not a capital item and hence CGT group relief was not available.

Question Three
This optional question examined the tax issues arising from the disposal of branch assets and the issue of a permanent establishment.
In Part (a) most candidates referred to the CGT on the disposal of the factory and the fact that the machinery would be exempt. However, very few mentioned the VAT implications or the tax clearance requirements.
Part (b) (i) was answered well by many candidates. The majority of answers correctly identified that Paul would likely be considered a permanent establishment in Ireland and thus the profits would be liable to Irish corporation tax. In part (b) (ii) many answers recognised that the deposit interest would not be taxable in Ireland and a large number discussed the operation of DIRT.
In Part (c) most answers identified that Paul was an employee and that BIK would arise on the car. However, few recognised the obligation of Techfit to register for PAYE in Ireland . A number of answers incorrectly concluded that Paul should be taxed under the self assessment system.

Question Four
This was the most popular optional question and was, in general, well answered. Most candidates referred to retirement relief and agricultural relief and displayed a good knowledge of the various reliefs and the conditions which applied to same. The favourite nephew requirements, stamp duty and consanguinity relief was noted by most candidates. Many noted the clawback of agricultural relief but mainly due to the land being sold and not due to Joseph ceasing residency. The offset of the CGT suffered by Simon against Joseph's CAT liability was frequently missed.
In the other sections, most candidates correctly applied CAT to the gift of cash to David. However, very few applied Agricultural Relief. Candidates correctly concluded that Joseph would be liable to CGT on the sale of the field to David although some also incorrectly stated that David would have a CAT liability on this transaction.

Question Five
This was the least popular optional question. In part (a) many candidates noted that the supply of meals to staff would give rise to a BIK and that a self-supply would occur. Most recognised that lettings are exempt with an option to tax the commercial letting. VAT adjustment for free meals on a 'cost' basis caused confusion for some students.
Many students correctly recognised the adjustment arising to VAT on the letting of the property but not the requirement to review after 12 months and adjust the VAT return accordingly. Some students were confused between the composite rule for VAT purposes and the package rule with some students suggesting the 2/3 rule review.
Part (b) of the question was very poorly answered with few points being picked up by candidates demonstrating a very poor knowledge of Revenue Audit.