



Examiner's report

P6 Advanced Taxation (IRL)

June 2011

General Comments

The examination paper was consistent with previous sittings and comprised of two sections. Section A was made up of two compulsory questions; question one for 35 marks and question two for 25 marks. Section B consisted of three optional questions of 20 marks each, of which candidates had to attempt two.

The performance of candidates overall was consistent with previous sittings. Of those candidates who were successful in this exam, the average marks achieved were pleasing. All candidates attempted both compulsory questions and questions three and five proved most popular in the optional questions. Questions three and four was poorly answered with candidates displaying a limited knowledge of both close company surcharge and consortium relief.

The layout of answers was generally good with schedules being clearly linked with the reports, well laid out and, in the main, logically structured. In the majority of cases, high professional marks were achieved. There was no evidence that candidates were rushed or had difficulty in completing the paper within the timeframe available.

As always, 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 the Irish tax system is up to date. Candidates sitting the exam in 2012 must familiarise themselves with the changes introduced in the Finance Act(s) 2011,
- 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

Part (i) of the question dealt with the company buyback of shares versus the direct sale of shares. This part was, in general, well answered with candidates showing a good understanding of the tax consequences involved. Difficulties arose with the valuation of the company, most commonly the loan was ignored in arriving at the company share valuation. While most candidates recognised the application of retirement relief, many failed to apportion the consideration by chargeable business assets over chargeable assets and as a result applied marginal relief. A number of candidates attempted to separately calculate the capital gains tax (CGT) arising on the disposal of buildings, fixtures & fittings and goodwill. Many candidates recognised that financing would be required by the company for a share buyback, however, a number failed to consider if there would be interest relief on this financing.

The tax implications of a direct sale were largely dealt with well. Marks were lost where candidates failed to suggest other tax efficient options in relation to the exit package, i.e. termination payments and pension top-ups.

Part (ii) dealt with value added tax implications of either a sale or lease of a manufacturing unit. Most candidates identified that the sale of the unit was taxable and knew the tax consequences of entering into a 21 year lease.

The first section of part (iii) was answered well with candidates correctly identifying that principle private residence (PPR) relief was available to Jim. Many candidates had difficulty in identifying and valuing the capital acquisitions tax exposure for Julia while some candidates treated Julie as Jim's spouse and applied the associated reliefs/exemptions.

Question Two

This question was generally well attempted. In part (i) some candidates mistakenly thought that Donagh was gifting the principle residence to Molly and not the residential property. Otherwise most candidates answered this part of the question well. Stamp Duty not being payable as a result of first time buyer relief was poorly dealt with and many students applied consanguinity relief. A number of candidates did not suggest a more tax efficient option, such as dwelling house relief in the future. Those students who recognised the dwelling house relief did not consider the free use of property. In general the order of claiming the annual small gift exemption was poorly dealt with. Many candidates did not claim the small gift exemption at all while others used the threshold first, and the gift exemption afterwards, as a result reducing the tax free threshold going forward.

Part (ii) of the question was answered very well resulting in high marks for many candidates. However, a number of candidates suggested that retirement relief would be available to Donagh and spent time listing the conditions for this relief which attracted no marks. Very few suggested that Donagh should pass the farm to Katie in his Will to avoid CGT or the possibility of gifting her an equivalent value in cash subject to the condition that she invest the funds in agricultural property within two years.

Part (iii) was again well attempted with many candidates performing well in the computation part of this question. However, the majority of candidates missed out on the marks going for the restriction of the capital loss by the capital allowances previously claimed. Many students did not consider a more tax efficient option.

Part (iv) proved the most difficult for candidates. Most candidates recognised that the transaction gave rise to a CGT event but did not apply the part disposal rules resulting in an incorrect base cost. The recognition of exchange traded funds being an income tax event and not a capital gains tax event was correctly dealt with by only a minority of students.

Question Three

In part (a)(i) most candidates identified that a sale at undervalue would be a deemed distribution and that James would be liable to income tax on the deemed distribution. Very few followed through with the analysis to recognise that James would be liable to CAT on the undervalue from each shareholder and that the base cost of the shares would be reduced by the amount of the undervalue. Where the VAT and stamp duty issues were answered, good marks were achieved.

In part (a)(ii) many candidates concluded incorrectly that the payment of Brian's mortgage was an inducement payment and subject to tax under Schedule E. Difficulty was also experienced in identifying the gift tax consequences for Eoin on the repayment of the loan by Fergal.

Part (b) dealt with the close company surcharge. The order of deductions overall was somewhat confused with the treatment of charges poorly dealt with. Many students simply calculated the surcharge on the investment income and in doing so, ignored relief for charges completely.

Question Four

This question dealt with consortium relief and proved the least popular optional question. Part (a)(i) dealing with withholding tax on interest payments was poorly answered. Part (a)(ii) was better attempted with candidates more familiar with the conditions necessary to allow tax relief on interest payments.

Part (b) dealt with loss relief within the consortium. Overall, candidates did not demonstrate a good knowledge of the consortium loss rules and in general, the standard of the corporation tax computations themselves with regard to charges and loss relief were poor. In Harpers Ltd, most candidates failed to deduct the non-trade charges before allowing loss relief. In Gazette Ltd, few students recognised that this was an investment company and that management expenses were offset against investment income. Also very few recognised the restriction of director's fees. Also in Strings Ltd, few candidates restricted the loss relief to 10% of Harpers loss.

In utilising the loss, common errors included:

- not recognising that losses were deemed to be claimed over charges in determining the extent of loss relief used by Harper itself,
- not re-grossing the loss relief by virtue of the relevant income being taxed at 25%,
- Not recognising the restriction of loss relief for Gazette due to late filing.

Question Five

This was the most popular optional question and one in which good marks were achieved. Overall the question was well attempted. In part (a), most candidates structured their answers very well with candidates displaying a good knowledge of the residency rules and how Hugo would be taxed on income and capital in Ireland. However, common errors included failing to recognise split year relief for Italian employment income and the incorrect treatment of remittances from a mixed fund. The treatment of the scrip dividends was poorly dealt with, with many students considering CGT treatment and stating there were no income tax implications. Most candidates recognised that Hugo would not be subject to Irish CAT on the gift of the Naples property whereas others went on to incorrectly consider business relief in connection with it.

Part (b) of this question was reasonably well dealt with however many did not recognise that that the gift of the property directly did not result in CGT as there was no remittance. In calculating the value of the gift to Hugo's daughter, many did not deduct the CGT arising to determine net proceeds. A common error was to suggest a CGT offset against the CAT on the gift of the net proceeds.