



# Examiner's report

## P6 Advanced Taxation (IRL)

December 2010

### 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 33 marks and question two for 29 marks. Section B consisted of three optional questions of 19 marks each of which candidates had to attempt two.

The performance of candidates overall was satisfactory with some very good results being achieved. Most candidates attempted both compulsory questions and questions three and four proved most popular in the optional questions. Question five was poorly answered with candidates displaying a limited knowledge of both share options and VAT.

The layout of answers was good with schedules being clearly linked with the reports, well laid out and logically structured. 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 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 2011 must familiarise themselves with the changes introduced in the Finance Act 2010,
- 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 Research and Development (R&D) credit. This part was, in general well answered with candidates showing a good understanding of the R&D credit. The majority of candidates correctly calculated the 25% credit and applied the set-off of the credit as well as the excess repayment. Group relief was well attempted. Many students also noted the 35% rule for claiming R&D credit on a building. However few recognised that relief would not be available on the leased building.

Part (ii) dealt with the sale of a subsidiary and consequent clawback of capital gains tax relief on previous intergroup transfers. This section was largely well answered with the exception of the holding company relief. Few candidates recognised that the holding company exemption would apply and as a result spent time calculating the CGT exposure for Valens Lighting Limited. Those that knew of the holding company exemption were also aware of the relevant conditions and achieved full marks. Most candidates were aware of the CGT implications of transferring an asset to a group member and the exposure to a clawback of the relief but the actual CGT calculations were not correct. The most common error in most cases was the use of the incorrect base cost.

Part (iii) was poorly answered and many did not appear to be clear on the difference between the acquisition of the trade and the shares in the UK company. Very few mentioned that interest would be allowed as a non-trade charge on the acquisition of the shares.

#### Question Two

Part a(i) of this question required candidates to conclude on the tax saving of incorporation versus trading as a sole trader. All candidates mentioned the lower corporation tax rate and the majority made a good attempt at calculating the tax liability of both operating as a sole trader and as a company to demonstrate the tax saving.

However, few deducted the salary of €125,000 to arrive at the corporation tax liability. While many mentioned the exposure to close company surcharge on incorporation, few calculated the surcharge correctly. Part a(ii) was well attempted by candidates, with most identifying the CGT deferral on incorporation. Most candidates knew that all assets excluding cash had to be transferred in order to avail of the deferral. However, the calculation of the deferral was generally incorrectly done. VAT and stamp duty issues were, in the main, correctly answered. Part a(iii) was well attempted with high marks being achieved by candidates.

Part (b) was well answered in general, with many candidates identifying that retirement relief would be available and the conditions to be satisfied in respect of same. Most also noted that the period of ownership prior to incorporation would be regarded as a period as full-time director in order to satisfy the conditions. Few candidates noted that retirement relief would not be available unless Tom transferred the property on incorporation. Candidates generally concluded that Julie would be considered a child for retirement relief but there appeared to be confusion between retirement relief for CGT and business property relief for CAT purposes with the relevant conditions to qualify for the latter relief being frequently stated.

### **Question Three**

This was the most popular optional question. Part (a) was well answered with the majority of candidates recognising the ring-fenced losses on transfer of assets to the trust. In Part (b) most candidates identified that Martin and Tim would be liable to CAT on the life interest in the assets and the calculations were well performed. The majority of candidates mentioned that Jack was a minor. However, not all candidates concluded that Joanne would be taxable on the income as settlor. A common error was not recognising the correct group threshold for Tim as the couple were not married. Part (c) was poorly answered. While most candidates realised that Jack received the remainder interest in the equities from Joanne, few candidates identified the two charges to CAT.

### **Question Four**

This question also proved popular and candidates displayed a good knowledge of the residency rules. Most candidates scored well in section (a) correctly stated that Jim would be liable to Irish tax where the employment was carried on in Ireland and on foreign income remitted to Ireland. Where candidates were aware of the limited remittance basis they knew the conditions which applied and calculated the taxable income correctly. Many candidates referred to the split year basis. Part (b) was well attempted although some candidates failed to recognise the importance of considering both settler and beneficiary in determining the CAT liability. In part (c) most candidates noted that Jim would be liable to CGT on the remittance of the proceeds and therefore, should defer his return to Ireland. However, some advised that as only half of the proceeds were being remitted, Jim would only be liable to half of the gain rather than concluding that Revenue will deem the full chargeable gain to be remitted first.

### **Question Five**

This was the least popular question with few candidates attempting it. Most answers noted that seed capital relief should be available but few identified the conditions which must be satisfied to qualify for same. Many also noted that interest relief should be available but none noted that interest relief would not be available where seed capital relief has been claimed. In Part (b) while many correctly noted the income tax exemption on the exercise of the shares, the holding period of the shares and that key employees can be incentivised, the overall the knowledge displayed on this was poor. In many instances, candidates confused the various share schemes available. Part (c) was well answered while Part (d) was poorly answered. Issues included; not correctly recognising the operation of VAT on EU supplies; the accompanying criteria for zero rating; and not correctly recognising the zero rating of VAT on sales outside the EU.