

Examiner's report

P6 Advanced Taxation (IRL)

December 2015

The ACCA logo is a black square with the letters 'ACCA' in white, bold, sans-serif font.

General Comments

The examination consisted of two sections. Section A contained two compulsory questions, question 1 for 35 marks and question 2 for 25 marks. Section B comprised three further questions of 20 marks each, and candidates were required to answer any two questions.

The vast majority of candidates attempted five questions, and there was little evidence of time pressure.

Where sections of questions were left unanswered by candidates, this appeared to be due to a lack of knowledge or poor exam technique, as opposed to time pressure.

The general standard of answers was satisfactory when compared to prior sessions.

However some basic errors continue to be made:

- Calculation of the VAT element of a gross figure ($\times 23/123$) (Q2 (b) (ii))
- Allowing the CGT annual exemption against CAT (Q5)
- Allowing the small gifts exemption against CAT on an inheritance (Q5)
- Stamp Duty calculations (wrong percentage)
- VAT or Stamp Duty calculations incorrect by a factor of 10 (e.g. VAT €750 instead of €75). In the “real world” this type of error has serious consequences. Candidates should reflect on their calculations for a moment. If the VAT figure is higher than the gross figure, they should see that there may be a problem.
- Not maximising the professional marks available in Question 1. (incorrect format, poor presentation, inclusion of detailed calculations in the main body of the letter)

The following areas of the syllabus were also not adequately addressed by many candidates:

- The Seed Capital Scheme
- Start-up companies exemption scheme

In general, presentation was good, although a minority of candidates continued new questions on the same pages as earlier questions. Please ensure that you start new questions on a new page.

Specific Comments

Please note that it is only a requirement of Question 1 that detailed calculations are included in an appendix. When answering the other questions it is preferable not to do this.

Question One

This 35-mark question covered a range of issues associated with an individual moving house and leaving an employment situation to start up a new company.

(a)(i) Principal Private Residence relief.

This was generally well dealt with, but the following points were noted:

A number of candidates recognised periods of employment elsewhere could be deemed occupation but did not address the condition that the individual must return to the house after the absence.



(a)(ii) In carrying out the PPR calculation many candidates did not use the last 12 months as deemed occupation.

(a)(iii) While many candidates suggested that Caroline return to her apartment to obtain deemed occupation, a number of candidates granted full exemption and did not restrict the periods when in Dublin and Amsterdam.

A minority of candidates addressed the potential loss for the sale of shares in Bigcorp plc but very few suggested the sale and buyback planning opportunity.

(b) CAT

A number of candidates did not recognise the territorial rule and simply stated that Isabel was exempt. Others suggested she pay tax but did not state why. Many, but not all, candidates suggested gift splitting to avail of annual small gift exemption.

(c) Seed Capital Relief

This section was either very well answered or very poorly answered. Some suggested EIS but did not recognise the shareholding restriction would have prohibited Caroline obtaining relief.

(d) Start up Relief

While most candidates recognised the €40,000 restriction, many stated (incorrectly) that it should be deducted from taxable profits. Many candidates did not deal with the PRSI restriction, either by not mentioning it at all or by not carrying out the calculations.

(e) This section was generally well answered.

(f) VAT: This section was generally well answered although some candidates stated that the sales were exempt from VAT, rather than zero-rated. This is an important distinction.

(g) Many candidates incorrectly stated that the professional services surcharge applied.

Four professional marks were available and in general, candidates scored well here. However, some candidates did not put their detailed computations in appendices (as required) and therefore did not optimise their marks. Please also note that long introductions (more than 1 paragraph) are not required in question 1 and this wastes valuable time.

Question Two

Part (a) of this question dealt with consortium relief.
In general this was well answered.

Part (b) examined VAT and various other taxation issues.

(i) VAT recovery rate on a change of use. This was generally answered well. The most common error was calculating the refund on a 1/20 basis and not refunding the full 20%.

(ii) Tablet transfers

The requirement to repay VAT on the self supplies was identified by most candidates. However many basic errors were made in the calculation of the VAT repayable. The other taxation issues regarding the distribution and the income tax liability were missed by many candidates.

(iii) VAT on materially altered building

The essential point here was that the building was adapted for a materially altered use. Many candidates applied the 25% test incorrectly.

A number of candidates suggested that residential premises were exempt from VAT, perhaps confusing it with residential lettings.

(iv) VAT and CGT on a land disposal.

VAT

Again, the key point was whether the land had been adapted for a materially altered use (and the 25% test was again irrelevant). A number of candidates simply stated that farmers were exempt.

CGT

Many candidates did not address the CGT implications of the disposal and thereby lost some relatively straight forward marks. Common errors included;

- not using the part-disposal formula
- not applying indexation and
- not allowing the enhancement expenditure

Question Three:

Part (a) of the question related to a company buyback of shares. Most candidates performed well on this part of the question. Well done!

(a)(i) required candidates to recall the conditions required for the buyback to be eligible for CGT treatment. This was answered well.

(a)(ii) The CGT computation was generally answered well, whereas some errors were made in relation to the stamp duty.

Part (b) of the question related to the acquisition of companies. In general it was adequately answered.

(b)(i) Share or Asset purchase

This was generally well answered, but the issue of VAT was ignored by many.

(b)(ii) Loss carry-forward

Candidates did not address the conditions by which losses may be carried forward well, nor did they consider the fact that the losses would be restricted to the trade of Outdoor Ltd.

Question Four

Part (a) of the question examined the concept of permanent establishment (PE)

In general this was answered well, but a number of candidates wasted time by dealing with the issue of branch versus subsidiary which was not requested.

Part (b) of the question related to residence and domicile and the application of Irish taxation to various income sources. This was generally answered poorly. In general, candidates were not familiar with the specific tax rules:

e.g. the requirement for tenants to deduct 20% tax from rents payable to non-residents, the issue of whether a PE applies, the taxation of deposit interest for non-residents, and what constitutes a specified asset for CGT purposes.

Question Five

This question required candidates to advise on three possible options available to an unmarried couple who wish to transfer a house to the next generation.

Most candidates attempted and performed well on this question.

Part (a) involved a calculation of the various taxes associated with each option. It was generally well answered.

Common errors in the various calculations were as follows:

- Stamp Duty at 2% and not 1%.
- Taking a deduction for the small gifts exemption in an inheritance situation.
- When preparing the children's CAT computations on a total basis to only allow one group threshold and not five. (This was a very common error)
- Using the restricted value of the right of residence for Jack, (i.e. after the age factor applied) when calculating the net value of the house for the children instead of the initial Right of Residence value of €50,000.

The issue of subsequent inheritances on Jack's death in options 1 and 3 was not dealt with by many candidates.

Part (d), the ethical issue, was generally adequately answered. However, this one mark question clearly exercised the imagination of some candidates, who inappropriately extended their ethical judgements to the couple themselves; this should be avoided.