



Examiner's report

P6 (IRL) Advanced Taxation

December 2017

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.

There was little evidence of time pressure. Overall the paper was well answered, and the general standard of answers was quite good.

In general, presentation was good, although unclear handwriting was a feature of a small number of scripts which were consequently difficult to mark

The following is a summary of the main omissions and errors.

a) Omissions

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

- Entrepreneur relief
- Negligible loss claims.
- The Capital Gains Tax (CGT)/Capital Acquisitions Tax (CAT) offset
- Professional service company surcharge
- Specified intangible assets relief

b) There were some errors in the following areas:

- Use of development land losses for CGT
- Gross to net Value Added Tax (VAT) calculations
- Indexation factors for CGT (2001)
- In a number of instances (detailed below) candidates did not read the question requirements carefully enough.

Question One

This 35-mark question examined the tax planning issues in relation to the future sale of a company and its personally owned premises, together with various income tax and VAT issues. Answers to this question were generally satisfactory.

The main issues arising were as follows:

(i)

- Some candidates confused CAT Business relief with CGT Retirement relief.
- Many did not recognise the availability of Entrepreneur relief in relation to the sale of shares and some incorrectly applied it to the sale of the personally held premises.
- The VAT implications of the transactions were not addressed

- The existing loss on the sale of development land was either not recognised or not used. Many candidates did not correctly remember the rules in relation to the offset of development losses and non-development losses and incorrectly stated that development land losses can only be allocated against development gains. (One way to remember this rule is to go back to the rationale for it: “The Revenue wants people who make gains on the disposal of development land to pay tax” i.e. non-development losses are not allowed to shelter development gains.)

(ii)

- The potential negligible loss claim for shares in Descent Ltd was not recognised by many candidates.
- The importance of making any disposal/loss claims in the same year as the gain on the other transactions was overlooked, and many candidates did not explore the possibility of the sale and buyback of the Hopeful plc shares.
- Very few candidates mentioned the “bed and breakfast” rules.
- Parts (ii),(iv) and (v) required tax planning points for particular times and scenarios. Many candidates gave answers under the wrong question heading. e.g. addressing a point relevant to part (iv) as part of their answer to part (ii). Marks were awarded to these candidates, but please take care in future sessions to read the question requirement carefully.

(iii) The conditions of retirement relief were generally well answered. However many candidates did not consider the specific problem of the €750,000 limit being exceeded and overlooked the possibility of claiming entrepreneur relief, should that situation arise.

(iv),(v) In general, these parts were well answered.

(vi) VAT: While the reverse charge was recognised, the place of supply rule was not well dealt with.

(vii) Special Assignee Relief Programme (SARP) relief was generally well answered but many candidates applied the relief to total earnings and did not exclude benefit in kind (BIK).

Four professional marks were available and in general candidates scored well here, although some candidates did not optimise their marks.

Question Two

This 25 mark question mainly examined the taxation effects of transfers on a death versus lifetime transfers, and also examined the income tax and corporation tax effects of incorporation.

Many candidates were well prepared and achieved a good mark on this question. Well done!

The main issues arising were as follows:

- (a) CAT computations were generally well dealt with for each beneficiary. While marks were awarded for not claiming the various potential reliefs, very few candidates mentioned their possible applicability. The only issue which caused confusion in general was the class threshold which applied to Joe, Simon's nephew, but Elaine's nephew in-law.
- (b)
- Very few candidates dealt with the VAT implications of the gift.
 - Most but not all candidates dealt with the CGT/CAT offset.
 - Many candidates did not suggest that the painting could transfer to Ben by delivery for stamp duty purposes.
 - Basic mistakes were made with CGT indexation factors, particularly for the tax year 2001.
- (c) A number of candidates addressed the overall most efficient option of gift versus inheritance for the two beneficiaries but did not focus on the preferred option for Elaine and hence did not obtain full marks.
- (d) Dwelling House relief for Cecilia was generally well dealt with.
- (e) The question requirement asked for advice on the income tax and corporation tax issues relevant to the proposed incorporation.
- Unfortunately many candidates wasted time advising on CGT incorporation relief which reflected a poor reading of the question requirement.
 - While the benefits of IT rates versus CT rates were referred to, not many candidates suggested the benefits of a corporate pension scheme.
 - While a number of candidates recognised that a 'close company' existed, there was some confusion over the professional income surcharge versus the passive income surcharge.

Question Three:

This optional question examined:

- (a) Consortium relief and
- (b) Specified intangible assets relief

The question was the least popular of the optional questions, possibly because candidates had not prepared for part (b). The candidates who attempted the question generally performed well. The main issues arising were as follows:

(a) Consortium Relief:

- The question did not require a detailed explanation of the conditions of consortium relief, but unfortunately a number of candidates wasted time on this (again reflecting a poor reading of the question requirement).
- In error, some candidates reduced the overall loss claim after each entity claim rather than simply sharing the loss between the relevant entities in accordance with percentage shareholding.

- Also, some candidates incorrectly used the loss for Trees against other entity profits rather than recognising that the loss went back to Yellow Ltd.

(b) Specified intangible assets:

- Not referring to the rule in relation to assets with an infinite life
- Not referring to the claw-back rule
- Not claiming interest relief in priority over capital allowances
- Not 'capping' both interest and capital allowances claim against relevant income

Question Four

This question examined:

- (a) A proposed share award to specific employees (not available to all).
- (b) The foreign earnings deduction (FED)
- (c) Company residence and permanent establishment (PE).

The question was generally well answered. The following issues arose:

- (a)
 - (i) Some candidates suggested a revenue approved profit sharing scheme (APSS), despite the question clearly stating that the company senior management "do not want to award shares to all the company employees".

Very few candidates dealt with the arrangements for payment of the taxes.

- (ii) Most candidates suggested and dealt with the Restriction/Clog scheme very well but many omitted the details of the employer reporting requirements.
- (b) The FED was generally well dealt with, but not many candidates dealt with the restrictions for the relief.
There was clear confusion over what income the relief related to with many candidates including the BIK for the purposes of determining the relief.
- (c) The issue of how a PE could arise was generally well dealt with but most candidates did not consider the issue of potential Portuguese tax residence.

Question Five

This question examined the capital goods scheme (CGS) and various VAT on property and other VAT scenarios. In general candidates were well prepared for this question. Part (a) was well answered and the main issues arising in part (b) were:

- (i) Many candidates did not refer to the sale within 5 years
- (ii) The transfer of undertaking caused some confusion and some candidates simply stated that VAT did not apply on the transfer of equipment between VAT registered persons.
- (iii) The CGS revised annual reference amount was not addressed by many candidates together with the need for `subsequent annual reviews.
- (iv) Some candidates did not treat the invoice as VAT inclusive and had problems determining the

allowable VAT.

- (v) Very few candidates stated that the place of supply was Ireland and simply stated reverse charge would apply.