

Examiner's report

P6 Advanced Taxation (UK)

December 2017

General Comments

The exam was in its standard format; section A consisting of the compulsory questions 1 and 2, worth 35 marks and 25 marks respectively, and section B where candidates were required to answer two out of the three questions worth 20 marks each.

In general terms, those candidates who did not perform well did not have sufficient precise knowledge of the subject and/or did not spend sufficient time carefully reading the question and thinking before they started writing. This meant that they did not include sufficient relevant points and/or they wasted time providing information that had not been asked for.

Candidates should pay particular attention to the following in order to maximise their chances of success in the exam in the future.

1. Know your stuff
 - Successful candidates are able to demonstrate sufficient, precise knowledge of the UK tax system.
 - This includes knowledge brought forward from the F6 UK syllabus.
2. Practise questions from past exams with the aim of adopting the style of the model answers. In particular, candidates should practise the often more intellectually demanding Section A style questions.
3. Address the requirement
 - Read the requirement carefully – in the Section A questions the detailed tasks that you are to perform will be set out in one of the documents. It may be helpful to tick off the tasks as you address them. Marks are awarded for satisfying the requirements and not for other information even if it is technically correct.
 - The requirements of each question are carefully worded in order to provide you with guidance as regards the style and content of your answers. You should note the command words (calculate, explain etc), any matters which are not to be covered, and the precise issues you have been asked to address.
 - You should also note any guidance given in the question or in any notes following the requirement regarding the approach you should take when answering the question.
 - Pay attention to the number of marks available – this provides you with a clear indication of the amount of time you should spend on each question part.
4. Don't provide general explanations or long introductions.
 - If you are asked to calculate, there is no need to explain what you are going to do before you do it; just get on with it – only provide explanations when you are asked to.
 - Think before you write. Then write whatever is necessary to satisfy the requirement.
 - Apply your knowledge to the facts by reference to the requirement.
5. Think before you start and manage your time
 - Ensure that you allow the correct amount of time for each question.
 - Before you start writing, think about the issues and identify all of the points you intend to address and/or any strategy you intend to adopt to satisfy the requirement.

If you are preparing to resit the exam, think about the number of additional marks you need and identify a strategy to earn them. For example:

- Identify those areas of the syllabus where you are weakest and work to improve your knowledge in those areas. This should include any technical areas brought forward from F6 where necessary.
- Practise past exam questions in order to familiarise yourself with the style of questions that you will have to deal with.



- Ask yourself whether you could improve the way you manage your time in the exam and whether you address all of the parts of all four questions or whether you waste time addressing issues which have not been asked for.
- Make sure that you earn the professional skills marks and that you are prepared to address the ethical issues which may be examined.

Finally, you should read the various non-technical articles aimed at improving performance in the P6 (UK) exam, which are on the website.

Marks available in respect of professional skills

Marks were available for professional skills in question 1. In order to earn these marks candidates had to take a sensible approach to solving the problems set in parts (ii) and (iii), provide explanations and calculations that were clear and logical, keep their answer specific rather than general, and adopt a professionally acceptable style. On the whole, the performance of candidates in this area was reasonably good.

Specific Comments

Question 1

This question concerned an individual who had recently moved to the UK and was about to develop a new business. It was in three parts.

In the first part candidates were asked to explain whether the individual was UK resident and the availability of the remittance basis. On the whole, candidates knew quite a bit about this area of the tax system. However, many candidates did not score particularly well and many others wrote too much because they did not focus sufficiently on the requirement and the facts of the question.

In respect of residence, the key point to make was that the individual would be in the UK for more than 183 days in the tax year, such that he was automatically UK resident. It was then simply necessary to point out that this resulted in his overseas income and gains being taxable in the UK. The only other point that could be made was that the individual would not be automatically non-resident due to the number of days in the UK. Based on the requirements and the facts there was nothing else to say, and, therefore, there were only three marks available.

In respect of the remittance basis, it was necessary to point out that it was available because the individual was not domiciled in the UK and that it would not be automatic due to the level of unremitted income. The individual was in receipt of overseas income and had realised an overseas chargeable gain; the taxation of both the income and the gain needed to be referred to. Finally, it was necessary to refer to the remittance basis charge and the loss of entitlement to both the income tax personal allowance and the CGT annual exemption.

Each point needed to be short and precise. There was no need to write about the ties or to prepare any calculations.

In order to score marks at an acceptable rate per sentence, candidates must focus on the facts and the requirement. They should not regard the question as being about a particular technical issue, such that they simply write about that issue. It's all about being specific.

The second part of the question concerned the CGT on the sale of an overseas building and the IHT in respect of overseas shares. Candidates were provided with some information in relation to a double tax treaty (DTT) between the UK and the overseas country.



The CGT element required candidates to explain the UK and overseas tax implications if the DTT applied and if it did not apply. This requirement highlighted a particular difference between scripts which score well (and at an acceptable rate per sentence) and those which do not, and it's all down to subheadings.

Scripts where the answer included subheadings along the lines of 'The treaty applies', 'The Treaty does not apply' scored more highly and more efficiently than other scripts. This is because the subheadings focussed the candidate's mind on what had been asked for and also because it reduced confusion. Candidates who did not use subheadings tried to answer everything at once, which is a lot more difficult and encourages long, more extensive answers than are necessary and which end up being general rather than specific.

On the whole, a lot of scripts would benefit from more subheadings.

The IHT element of part (ii) was straightforward and required knowledge of the fundamental rule regarding IHT and overseas assets. However, in order to score well, it was important to consider deemed domicile as well.

The final part of the question also had two elements to it.

The first element required an explanation of the relief available in respect of a trading loss realised by an unincorporated trader. The key here, as it is so often, was to think before writing. Most of the usual loss reliefs were not available to the taxpayer's recent arrival in the UK and his lack of taxable income. Candidates needed to think about the reliefs and then write about the one which was available, which was the relief against chargeable gains. Candidates who explained opening years loss relief were simply losing valuable time because the individual was not a UK taxpayer prior to the year of the loss, such that this relief was not available to him.

The second part required a calculation of the deemed employment payment under the IR 35 legislation in respect of personal service companies. Many candidates knew exactly how to do this and did very well.

Question 2

This question concerned the rules in relation to corporation tax and groups of companies and VAT and was in four parts.

The first part was a short and simple test of knowledge in relation to the tax relief available in respect of capital expenditure on goodwill, a trademark and an office building. The performance of many candidates was surprisingly poor with some candidates suggesting that the cost of the office building would qualify for capital allowances.

It seems unlikely that, if asked to calculate capital allowances candidates would include an office building as a capital addition. However, it is as if candidates wrote without thinking about tax relief for capital expenditure, such that they described capital allowances.

The second part outlined three alternative ownership structures of a loss-making company and required an explanation of the relief available in respect of the loss in respect of each structure. It also required consideration of group rollover relief.

The majority of candidates knew the rules in relation to the relief for the losses. In order to score well they simply needed to address all three structures, and all three potential shareholders. There were only six marks available; candidates needed to be concise and precise in their approach.

Answers which had a separate subheading for each structure tended to score marks in a more efficient manner.



The rollover relief element of this part was more difficult. Candidates needed to ensure they picked up the easy knowledge marks in relation to the need for there to be a capital gains group, the rollover relief time period and the restrictions in relation to non-business use and the failure to reinvest all of the proceeds. Many candidates spent too long copying out the numbers but, because they had not established the basic rules, they were unable to do anything useful with them and so scored very few marks.

The third part of the question concerned VAT and the capital goods scheme. Those candidates who knew the rules and had practised some questions did well.

The final part of the question concerned the matters to consider on becoming tax advisers to a new client, a subject which is examined frequently. However, the precise requirement was slightly unusual in that it asked for the knowledge required in relation to the principle of integrity as opposed to all of the knowledge required. Some candidates did not read the question sufficiently carefully and simply listed all of the knowledge which could possibly be required; almost all of which was irrelevant.

The final part also required a consideration of a conflict of interest. This element was handled well by many candidates.

Question 3

This question concerned the CGT and IHT implications of making lifetime gifts, or retaining assets until death. It was in three main parts.

The first part asked for an explanation of the CGT and IHT implications of disposing of paintings and shares. There were quite a few easy marks and a number which required more knowledge and thought.

In order to do well, candidates needed to be organised in their approach and, as already mentioned in relation to question 1, it was important to use subheadings, ideally the following:

CGT
Paintings
Shares

IHT
Paintings
Shares

These headings would have ensured that all of the obvious points were addressed briefly and, by using the time available efficiently, would have enabled candidates to spend some time thinking in order to identify some of the more difficult points.

The base cost of the painting required some thought because the paintings had already been the subject of a part disposal. Also, the gift was to a connected person, such that the use of the capital loss was restricted. This latter point was missed by the majority of candidates.

The sale of the shares would also give rise to a capital loss. Candidates were then expected to refer to the three year carryback which is available where a capital loss arises in the year of death. Again, this latter point was missed by the majority of candidates.

The IHT in respect of the paintings was more straightforward and was handled well. The only issue here was that, perhaps because they were on more comfortable ground, candidates spent too long making some very simple points which were only worth three marks.

The IHT in respect of the shares was even more straightforward; there were no IHT implications because the shares had been sold rather than gifted. However, due to lack of thought, many candidates simply repeated the points they had made in respect of the paintings thus wasting valuable time and earning no marks.

The second part of the question concerned CGT gift relief and entrepreneurs' relief and business property relief. Again, this part required knowledge and thought in order to do well.

Candidates needed a precise knowledge of the conditions relating to each of the reliefs. However, they did not need to write them down unless they were relevant. So, in relation to entrepreneurs' relief, the question stated that the owner of the shares did not work for the company, and therefore candidates simply needed to write that entrepreneurs' relief would not be available. There was no need to write down the other conditions.

Many candidates who knew the conditions relating to the reliefs still failed to score well because they did not focus their thoughts on the assets owned by the company. As a result, they missed the restrictions on both gift relief and business property relief due to the investments owned by the company.

Candidates must know the rules and then apply their knowledge to the facts of the question in order to satisfy the requirement. Writing down everything they know about a particular area is unlikely to be an efficient use of time and will result in missing the marks which are available for applying their knowledge to the facts.

The final part of the question required an explanation of whether it would be beneficial to make a lifetime gift of shares or to retain them until death. This required some thought and the consideration of both CGT and IHT. Unfortunately, many candidates wrote about the subject in general terms and only addressed IHT. The points they made were not relevant as, due to the facts of the question, the 'usual' IHT points did not apply.

In fact the IHT implications were the same regardless of when the ownership of the shares was transferred. The differences related to CGT; in particular, the fact that there is no CGT on death.

Candidates who did well in this question:

- knew the rules well
- applied their knowledge to the facts and thought before writing
- only wrote what was necessary in order to satisfy the requirement
- did not limit their answer to the final part to IHT.

Question 4

This question concerned controlled foreign companies (CFCs), the setting up of a permanent establishment and the VAT implications of exporting goods and purchasing services from overseas. It was in three main parts.

The first part concerned CFCs and was done well by many candidates who had a reasonable knowledge of the two exemptions from the CFC charge which were tested. However, candidates needed to apply the exemption rules to the facts of the question in order to maximise their marks. This part also tested the reason for there being a CFC charge and the calculation of the charge. Again, candidates had a reasonable knowledge of this area and were able to score well.

Candidates who did not perform well did not have a strong knowledge of the rules. In addition, some candidates wasted time on this part by writing about as many of the exemptions as possible as opposed to the two referred to in the requirement.

The second part of the question required a discussion of the election to exempt the profits of an overseas permanent establishment. Many candidates were well aware of the general advantages and disadvantages of the election but failed to apply their knowledge to the particular facts of the question. However, those candidates who kept their points brief were able to score well and in a time-efficient manner.

The final part of the question concerned VAT on exports and on the purchase of services from overseas. There were some easy marks here provided candidates knew their stuff. Candidates needed to realise that the purchase of the services from overseas resulted in the reverse charge procedure applying. This was not a problem for those who knew the rules.

This part also required candidates to set out the implications of the transactions on the VAT payable to HM Revenue and Customs. For example, where output tax had to be accounted for but could be recovered as input tax, there would be no net VAT payable to HM Revenue and Customs. Many candidates failed to address this element of the requirement.

Candidates who did well in this question:

- had a precise knowledge of the various detailed rules
- read the requirements carefully and ensured that they answered the question set
- did not simply write about the rules in general terms

Question 5

This question concerned employment benefits, the tax implications of a sale of a main residence and the implications of joining a share incentive plan (SIP). It was in two main parts.

The first part concerned the cost to an employer of providing a flat to an employee and the consideration of whether the employee should accept an additional amount of salary in place of the flat. In order to do well, candidates needed to focus on the particular tasks and be clear as to what they were trying to do.

Many candidates began by calculating the benefit in respect of the flat. This needed to be done in order to determine the class 1A NIC contributions due in respect of it, as this was part of the cost to the employer of providing the benefit. However, many candidates calculated the benefit simply because they had the information which enabled them to do so and not as part of a strategy aimed at satisfying the requirement of the question. Only a minority recognised the cost to the employer of the class 1A NIC.

Questions in the exam often require candidates to solve a problem using their technical knowledge and the facts provided. Candidates will find that they cannot solve the problem by simply calculating tax liabilities; they need to think about what they have been asked to do and identify how the task should be carried out.

When it came to comparing the receipt of the flat with an additional amount of salary candidates again lost sight of what they were trying to do. The flat simply resulted in income tax at 40%. There would of course be no employee's NIC payable. The salary on the other hand would result in tax and NIC together with additional out of pocket costs to the employee in respect of rent and travel costs. Many candidates struggled to consider both the tax and non-tax costs of this situation.

The second part of the question concerned the principal private residence (PPR) exemption and a SIP.

The PPR aspects of the question were difficult and were not done particularly well. It was vital that candidates worked their way through the basics of the issue and dealt with deemed occupation, the last 18 months and the relief in respect of letting. Credit was given for this even if there was confusion as to which of the properties was the PPR. Although this part was difficult, candidates should have been able to pass this



question by earning the straightforward marks which were available for the first part in respect of the employment arrangements.

The part of the question relating to the SIP was fine for those candidates who knew the rules. The one common error was that many candidates did not consider the tax implications of the provision of dividend shares.