

Examiner's report

P6 Advanced Taxation (UK)

December 2015



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 as well as they could were not sufficiently prepared in the following areas.

- They did not spend sufficient time carefully reading the question and thinking before they started writing. This meant that they produced an unstructured answer which did not include sufficient relevant points or wasted time providing information that had not been asked for.
- They did not have sufficient, precise knowledge of the tax rules within the syllabus, particularly some of the more fundamental rules contained in the F6 (UK) syllabus.

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 that may be examined.

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 demonstrate a professionally acceptable style and presentation, provide explanations and calculations that were clear and logical and adopt a methodical approach. On the whole, the performance of candidates in this area was reasonably satisfactory with the majority of candidates producing a document in a style that was easy to follow.

Specific Comments

Question One

Question 1 concerned an individual who was planning to subscribe for shares which qualified for either the enterprise investment scheme or the seed enterprise investment scheme. It also included close company issues and the transfer of assets to a discretionary trust. The question was in four main parts and much of it was done well by many candidates.

The first part of the question concerned the tax implications of purchasing the tax-efficient shares.

The question made it clear that the shares would qualify for the schemes, such that there was no need for candidates to set out the conditions that needed to be satisfied. However, many candidates wasted time writing everything they knew about the schemes generally rather than addressing the specific issues in the question.

Most candidates knew about the income tax reducer available in respect of these investments and were able to explain it reasonably well. However, very few recognised the need to claim to treat some of the investment as if it had been made in the previous year given the taxpayer's income tax liability was less than the income tax reducer available.

Candidates did not perform particularly well when it came to the capital gains tax reliefs that were also available – this included the capital gains tax relief available as a result of acquisition of the shares and the capital gains tax implications when the shares were sold.

Candidates were required to consider the implications of the shares being sold at a loss. Many candidates ignored this aspect of the requirement and considered the detailed implications of the shares being sold for more than cost.

The inheritance tax aspects of owning the shares were not dealt with particularly well. The issue here was that business property relief will be available because the shares are unquoted and the companies are trading. Many candidates lacked the confident, precise knowledge necessary to address this in a concise, accurate manner.

The second part of the question concerned the provision of a car to a shareholder in a close company. Although many candidates did reasonably well, there was some confusion as to the precise implications of the situation.



The first thing candidates needed to do was recognise that the company was a close company. Most did, but some were confused and thought that a company had to have no more than five shareholders in order to be close, whereas the rule is that the company must be controlled by five or fewer shareholders.

It is the fact that the company is close that causes the provision of a car to a shareholder (who is not an employee) to be a distribution. Candidates then simply needed to explain briefly the need to gross up the distribution, tax it at the appropriate rates and deduct the dividend tax credit.

The third part of the question concerned the transfer of assets to a discretionary trust.

The majority of candidates were able to describe the inheritance tax implications of the transfer in general terms, but many were less able to deal with the specifics of the question.

This was to be the client's first ever gift. Accordingly, because it was to be less than the nil rate band, no lifetime tax would be due. Most candidates identified this point but many then went on to say (incorrectly) that tax would be due if the donor were to die within seven years of the gift. This meant that they had stopped thinking about the scenario and were now expressing general rules rather than dealing with the specific situation in front of them. If the chargeable lifetime transfer is covered by the nil rate band, and this is the donor's first ever gift, then there will not be any tax on death either, because the gift will again be covered by the nil rate band on death.

Candidates who performed less well only dealt in generalities rather than specifics and described how the lifetime tax would be computed. This was a waste of time as no lifetime tax was due.

Candidates were also required to explain the inheritance tax charges payable by the trustees of the trust in the future. This was not a significant part of the question and these rules were not particularly well known.

The final part of the question concerned the failure of a client to declare interest income on his tax return. Candidates were required to explain the implications of this for both the client and the advising firm. This was done well by the majority of candidates. The one issue that caused a problem was that some candidates explained in detail that the income would be subject to tax despite this information being provided in the question. This was a waste of time. It was not asked for in the question and it meant that some candidates were unable to make as many relevant points as they may otherwise have been able to.

Question Two

Question 2 concerned the disincorporation of a company. It required a sound knowledge of the basics of income tax and national insurance contributions as well as specific knowledge of disincorporation relief and the transfer of a going concern for the purposes of value added tax (VAT). The question was in three parts.

The first part of the question required a comparison of the total tax payable if the business continued to trade as a company with the amount payable following a disincorporation. The majority of candidates attempted this part well by producing well-organised answers that covered most of the issues.

It was important to be able to deal with the post-tax profits of the company being paid as a dividend to the employee/shareholder if the business continued to trade as a company. This required a calculation of the dividend, which then had to be grossed up and taxed at the appropriate rates with the deduction of the tax credit. This aspect of the question was not handled particularly well by less well-prepared candidates.

There was also a need to identify the incidences of national insurance contributions in the two situations. This was not difficult but required thought and an attention to detail which was not exhibited by everyone. Somewhat surprisingly, a minority of candidates were unable to calculate national insurance contributions correctly.



One particular point which many candidates failed to deal with correctly was the taxable profit where the disincorporation had taken place. The point here is that the whole of the tax adjusted trading profits of the business would be subject to income tax. Many candidates based their calculations on the amount withdrawn from the business by the sole trader. This displayed a lack of fundamental knowledge on the taxation of sole traders.

The second part of the question concerned the immediate tax implications of carrying out a disincorporation and the rules relating to disincorporation relief.

Disincorporating a business requires each of the assets of the business to be sold by the company. This must be approached as a number of separate disposals, each with its own tax implications. Most candidates did not adopt this approach. Instead, they treated the sale of the business assets as a single disposal. This meant that they were unable to identify all of the implications of the disposal particularly in relation to capital allowances and the sale of goodwill.

In relation to disincorporation relief, candidates needed to know the conditions that needed to be satisfied in order for the relief to be available and implications of claiming the relief. Many candidates did not do very well here as they simply did not know the rules.

The final part of the question concerned VAT and the transfer of a going concern and was done well.

The majority of candidates were able to state the conditions which must be satisfied in order for the transfer of the assets of a business to be a transfer of a going concern for the purposes of VAT. However, the more challenging aspect of this part of the question concerning whether or not VAT would need to be charged on the transfer of the business premises was not answered particularly well.

Question Three

This question concerned the corporation tax implications of selling an intangible asset and carrying on a business overseas. It was in three main parts.

The first part concerned rollover relief in respect of intangible assets. In order to do well candidates needed to know the rules in relation to this relief. They also had to recognise that the two companies in the question were in a group, such that the profit on a disposal by one of the companies could be deferred by reference to the asset purchased by the other.

The main problem for the majority of candidates was that they either failed to pick up from the question that they were dealing with an intangible asset or they simply did not know the special rules for intangible assets. Whatever the reason, the majority of answers focussed on rollover relief as it applies to land and buildings (ie. tangible) rather than to intangible assets. Such candidates were still able to pick up marks because the two reliefs have some rules in common but it made it difficult for candidates to score well.

The second part of the question concerned the operation of a business outside the UK. Candidates had to explain the UK corporation tax implications of trading from a permanent establishment based outside the UK and consider whether it would be beneficial to elect to exempt the profits of the permanent establishment from UK corporation tax.

The requirement was relatively general which made it easier for candidates to score marks but also meant that candidates needed to think before writing in order to identify all of the points that needed to be made. Candidates



who failed to do this wrote too much about each individual point and did not always make a sufficient number of points.

Although almost all candidates were aware that double tax relief would be the lower of the UK tax on the overseas profits and the overseas tax on the overseas profits, very few were able to recognise that, because the overseas rate of tax exceeded the UK rate, there would be no UK corporation tax payable after the deduction of double tax relief. Again, it was necessary for candidates to stop and think in order to identify this point, and it was important as it meant that electing to exempt the profits from UK corporation tax would not result in a tax saving.

There were three particular implications of making the election that all candidates should have stated: 1) it would apply to losses as well as profits; 2) it would apply to all future permanent establishments; and 3) it is irrevocable. Many candidates did not make all three of these points but most probably knew them – they would have done better to slow down, think more and write less.

The final part of the question concerned the implications of selling the assets of the overseas permanent establishment to an overseas company. There were two elements to this part, neither of which was done particularly well.

The first element concerned the implications of selling the assets if no reliefs were claimed. This was not difficult but highlighted the problem that was also identified in relation to the second part of question 2. This is a tendency to group the sale of the assets of a business together as if there has been a sale of one composite asset. This is not correct and approaching the transaction in this way also makes it harder to identify all of the issues.

The correct way to approach questions of this type is to consider the sale of each individual asset separately. The sale of an asset can have chargeable gains implications (or may be exempt) and can also have implications for the calculation of capital allowances or trading profit.

The second element concerned a particular relief that is available in certain circumstances where an overseas permanent establishment is sold to a non-UK resident company. The majority of candidates were unable to recall the details of this particular relief.

Question Four

This question concerned the provision to an employee of assistance with home to work travel costs, the corporation tax implications of the purchase of a short lease and the value added tax implications of the sale of a warehouse. The question was in three main parts.

The first part required candidates to consider two possible ways in which an employer could provide financial assistance to an employee in respect of home to work travel and to advise on the most cost efficient method.

Although this was, arguably, very straightforward, it was not easy to get right. As always, those candidates who thought before writing did considerably better than those who simply wrote. In particular, they recognised the importance of national insurance contributions.

Most candidates identified the income tax and corporation tax implications of the two alternatives. The one point that many missed out on was the fact that the provision of a parking space is an exempt benefit.

The problems related to the national insurance position. Some candidates missed this out completely. Others were simply not orderly enough, such that they did not earn as many marks as they could have done.

Candidates needed to recognise that the provision of a motorcycle to an employee would result in a liability to Class 1A national insurance contributions for the employer but no liability to national insurance contributions for the employee. Whereas, making a payment towards an employee's driving costs would result in a liability to Class 1 national insurance contributions for both the employer and the employee.

Many candidates wrote about the statutory mileage rates, but these are only relevant where payments are in respect of journeys made when carrying out employment duties, which was not the case here.

The second part of the question concerned a premium paid in respect of a lease and the availability of rollover relief. This part was not done particularly well.

There were two distinct aspects to this part of the question.

The first concerned the tax deduction available in respect of the premium paid. Most candidates were able to make a start on this but very few made it to the end. The first task was to determine the amount of the premium that would be taxed on the landlord as income. This amount was then divided by the number of years of the lease in order to determine the annual deduction. The deduction in the current period was then 11/12 of the annual deduction because the lease was entered into when there were eleven months of the accounting period remaining.

The second part of the question concerned the availability of rollover relief. Most candidates knew the basics of rollover relief. However, they did not score as well as they could have done for two reasons:

- The asset sold had not been used for the purposes of the trade for the whole of the period of ownership. As a result, although rollover relief was available, only the business-use proportion of the gain could be relieved and only that proportion of the proceeds needed to be reinvested in qualifying business assets.
- They failed to realise that the lease was a depreciating asset for the purposes of rollover relief, such that the gain would be deferred until the earliest of the date of disposal of the lease, the date the leased building ceased to be used in the business and ten years after the acquisition of the lease.

The final part of the question concerned the capital goods scheme for VAT and was not done particularly well. The capital goods scheme is not easy to explain and many candidates were unable to organise their thoughts and provide a coherent explanation of the implications of the disposal of a building.

Candidates would help themselves if they told the story from the beginning.

- The first point to make was that the input tax on the purchase of the building would have been recovered in full.
- It was then necessary to recognise that the sale of the building would be an exempt supply.
- As a result of the exempt supply, there will be deemed to be 0% taxable use of the building for the remainder of the 10-year adjustment period resulting in a repayment of VAT to HMRC.

Question Five

This question concerned the tax implications of making contributions to a personal pension scheme, the receipt of a payment from a pension scheme and the inheritance tax implications of making lifetime gifts.

Part (a) required a calculation of an individual's income after the deduction of tax and pension contributions. In order to do this well, candidates had to pay attention to detail and to think before writing. This part of the question was done reasonably well.

The question highlighted the following technical issues.

- In order to determine any reduction in the level of the personal allowance, it is necessary to compare adjusted net income (income after deduction of qualifying pension contributions) with the £100,000 threshold.
- The basic and higher rate bands must be extended by the gross amount of the qualifying pension contributions.
- There were excess contributions made. This required consideration of the contributions made and the annual allowance for the current year and the three preceding years.

Well-prepared candidates dealt with all three of these issues accurately.

A final technical point, that was missed by the majority of candidates, was the need to consider relevant earnings in order to determine qualifying pension contributions.

Part (b)(i) required an explanation of the maximum possible lump sum received from a pension scheme. A minority of candidates produced an accurate explanation of the figure provided but most were unable to do so.

In order to reconcile the figure provided, candidates needed to be aware of the following:

- The maximum tax-free lump sum is 25% of the lifetime allowance of £1,250,000.
- The excess of the fund over the level of the lifetime allowance can be taken as a lump sum but is subject to a 55% tax charge.

Part (b)(ii), the final part of the question, required candidates to identify two inheritance tax exemptions that were relevant to the facts given (other than the annual exemption). This was not a difficult requirement, but most candidates did not perform as well as they could have done because they started to write before they had identified the two exemptions. Many candidates wrote about potentially exempt transfers and the fact that no tax would be due if the donor survived the gift for seven years, which is nothing to do with exemptions. However, there were some satisfactory answers to this part.

The two exemptions that candidates were expected to write about were the small gifts exemption and the exemption in respect of regular gifts out of income. These exemptions then needed to be addressed in relation to the particular gifts referred to in the question (cash or shares) and not to gifts generally. The conditions relating to the small gifts exemption are very easy to state but those relating to regular gifts out of income require more care if marks are to be maximised.