Strategic Professional – Options

Advanced Taxation – Irish (ATX – IRL)

Tuesday 3 December 2019

ATX IRL ACCA EN

Time allowed: 3 hours 15 minutes

This question paper is divided into two sections:

Section A – BOTH questions are compulsory and MUST be attempted

Section B – BOTH questions are compulsory and MUST be attempted

Tax rates and allowances are on pages 2–8

Do NOT open this question paper until instructed by the supervisor.

This question paper must not be removed from the examination hall.

ATX – IRL

Think Ahead ACCA

The Association of Chartered Certified Accountants

SUPPLEMENTARY INSTRUCTIONS

1. You should assume that the tax rates and credits shown below, for the Finance Act 2017, will continue to apply for the foreseeable future.
2. Calculations and workings need only be made to the nearest Euro.
3. All time apportionments should be made to the nearest month.
4. All workings should be shown.

TAX REFERENCE MATERIAL

The following rates, credits, formulae and allowances are based on the Finance Act 2017 and are to be used for all questions in this paper.

Income tax rates

	Tax €
Single/widow(er)/surviving civil partner without qualifying children	
€34,550 at 20%	6,910
Balance at 40%	
Married or in a civil partnership (one income)	
€43,550 at 20%	8,710
Balance at 40%	
Married or in a civil partnership (dual income)	
€43,550 at 20%	8,710
€25,550 at 20%	5,110
Balance at 40%	
Single/widow(er)/surviving civil partner qualifying for single person child carer credit	
€38,550 at 20%	7,710
Balance at 40%	

Tax credits

	€
Single person's credit	1,650
Married person's/civil partner's credit	3,300
Widowed person or surviving civil partner's credit (without dependent children)	2,190
Home carer credit (maximum)	1,200
Single person child carer credit	1,650
Incapacitated child credit	3,300
Dependent relative credit	70
Age credit – single/widowed/surviving civil partner	245
– married or in a civil partnership	490
Employee/PAYE credit	1,650
Earned income tax credit	1,150
Third level tuition fees	Upper limit €7,000
Full-time qualifying courses	First €3,000 is ignored
Part-time qualifying courses	First €1,500 is ignored

Rates of PRSI
Self-employed – Class S

Rate 4%

Where income is above €5,000 the rate is 4% of reckonable earnings or €500, whichever is greater.

No PRSI where income is below €5,000 per annum.

Rates of PRSI

Employee – Class A

Rate	4%

No PRSI on earnings of €352 or less per week

Employee – Class K

Rate	4%

Rates of PRSI

Employer (for employees – Class A1)

Rate	10·85%

Universal social charge (USC) for all taxpayers

On the first €12,012	0·5%
On the next €7,360	2%
On the next €50,672	4·75%
On the balance	8%

For individuals, a surcharge of 3% applies in respect of relevant (non-PAYE) income that exceeds €100,000 per annum regardless of age.

For individuals aged 70 and over, and individuals who hold a medical card regardless of age, if aggregate income for the year is €60,000 or less, the maximum rate is 2%

Exemptions:
– Individuals whose income does not exceed €13,000 per annum
– All social welfare payments and income subject to DIRT

Retirement annuities

Age	**Percentage of net relevant earnings**
Up to 30 years	15%
30 years but less than 40 years	20%
40 years but less than 50 years	25%
50 years but less than 55 years	30%
55 years but less than 60 years	35%
60 years and over	40%

Cap on net relevant earnings of €115,000

Corporation tax

Standard rate	12·5%
Higher rate	25%

Value added tax (VAT)

Registration limits	
Turnover from the supply of goods	€75,000
Turnover from the supply of services	€37,500
Rates	
Standard rate	23%
Reduced rate	13·5%
Second reduced rate	9%

Capital gains tax (CGT)

Rate	
From 6 December 2012 to date	33%
From 7 December 2011 to 5 December 2012	30%
From 8 April 2009 to 6 December 2011	25%
From 15 October 2008 to 7 April 2009	22%
From 1 December 1999 to 14 October 2008	20%
Annual exemption	€1,270
Entrepreneur relief	
Rate for disposals on or after 1 January 2017	10%
Lifetime limit on gains	€1,000,000

Motor cars – limits on capital costs

Carbon emissions table:

Category A	Category B/C	Category D/E	Category F/G
0–120g/km	121–155g/km	156–190g/km	191g/km +

Category A/B/C vehicles – capital allowances/leasing charges are based on the specified amount of €24,000 regardless of the cost of the car.

Category D/E vehicles – capital allowances/leasing charges are based on 50% of either €24,000 or the cost of the car, whichever is lower.

Category F/G vehicles – do not qualify for capital allowances/leasing charges.

Benefits in kind
Motor cars

Business travel lower limit Kilometres	Business travel upper limit Kilometres	Percentage of original market value of car
0	24,000	30%
24,001	32,000	24%
32,001	40,000	18%
40,001	48,000	12%
48,001	Upwards	6%

Preferential loan rates

Loans used to fund the cost/repair of the employee's principal private residence	4%
All other loans	13·5%

Local property tax
Tax bands for valuation purposes

€	€
0–100,000	550,001–600,000
100,001–150,000	600,001–650,000
150,001–200,000	650,001–700,000
200,001–250,000	700,001–750,000
250,001–300,000	750,001–800,000
300,001–350,000	800,001–850,000
350,001–400,000	850,001–900,000
400,001–450,000	900,001–950,000
450,001–500,000	950,001–1,000,000
500,001–550,000	

Properties worth up to and including a value of €1 million will be assessed at a rate of 0·18%.

Properties worth more than €1 million will be assessed on their actual value at 0·18% on the first €1 million and at 0·25% of their actual value on the portion above €1 million.

Indexation factors for capital gains tax

Year expenditure incurred	Multipliers for disposals in the year ending 31 December 2004 *et seq*	Year expenditure incurred	Multipliers for disposals in the year ending 31 December 2004 *et seq*
1974-75	7.528	*1989-90*	1.503
1975-76	6.080	*1990-91*	1.442
1976-77	5.238	*1991-92*	1.406
1977-78	4.490	*1992-93*	1.356
1978-79	4.148	*1993-94*	1.331
1979-80	3.742	*1994-95*	1.309
1980-81	3.240	*1995-96*	1.277
1981-82	2.678	*1996-97*	1.251
1982-83	2.253	*1997-98*	1.232
1983-84	2.003	*1998-99*	1.212
1984-85	1.819	*1999-2000*	1.193
1985-86	1.713	*2000-2001*	1.144
1986-87	1.637	*2001*	1.087
1987-88	1.583	*2002*	1.049
1988-89	1.553	*2003 et seq*	1.000

Capital acquisitions tax

Class thresholds (with effect from 12 October 2016)

		€
Class 1:	Child or minor child of deceased child (or inheritance taken by parent):	310,000
Class 2:	Lineal ancestor (other than inheritance taken by parent) Lineal descendant (other than a child or a minor child of a deceased child) Brother, sister, child of brother or sister	32,500
Class 3:	Any other person	16,250
Rate		33%

Life interest tables for capital acquisitions tax

Years of age	Joint factor	Value of an interest in a capital of €1 for a male life aged as in column 1	Value of an interest in a capital of €1 for a female life aged as in column 1
0	·99	·9519	·9624
1	·99	·9767	·9817
2	·99	·9767	·9819
3	·99	·9762	·9817
4	·99	·9753	·9811
5	·99	·9742	·9805
6	·99	·9730	·9797
7	·99	·9717	·9787
8	·99	·9703	·9777
9	·99	·9688	·9765
10	·99	·9671	·9753
11	·98	·9653	·9740
12	·98	·9634	·9726
13	·98	·9614	·9710
14	·98	·9592	·9693
15	·98	·9569	·9676
16	·98	·9546	·9657
17	·98	·9522	·9638
18	·98	·9497	·9617
19	·98	·9471	·9596
20	·97	·9444	·9572
21	·97	·9416	·9547
22	·97	·9387	·9521
23	·97	·9356	·9493
24	·97	·9323	·9464
25	·97	·9288	·9432
26	·97	·9250	·9399
27	·97	·9209	·9364
28	·97	·9165	·9328
29	·97	·9119	·9289
30	·96	·9068	·9248
31	·96	·9015	·9205

Years of age	Joint factor	Value of an interest in a capital of €1 for a male life aged as in column 1	Value of an interest in a capital of €1 for a female life aged as in column 1
50	·92	·7287	·7791
51	·91	·7156	·7683
52	·90	·7024	·7572
53	·89	·6887	·7456
54	·89	·6745	·7335
55	·88	·6598	·7206
56	·88	·6445	·7069
57	·88	·6288	·6926
58	·87	·6129	·6778
59	·86	·5969	·6628
60	·86	·5809	·6475
61	·86	·5650	·6320
62	·86	·5492	·6162
63	·85	·5332	·6000
64	·85	·5171	·5830
65	·85	·5007	·5650
66	·85	·4841	·5462
67	·84	·4673	·5266
68	·84	·4506	·5070
69	·84	·4339	·4873
70	·83	·4173	·4679
71	·83	·4009	·4488
72	·82	·3846	·4301
73	·82	·3683	·4114
74	·81	·3519	·3928
75	·80	·3352	·3743
76	·79	·3181	·3559
77	·78	·3009	·3377
78	·76	·2838	·3198
79	·74	·2671	·3023
80	·72	·2509	·2855
81	·71	·2353	·2693

Years of age	Joint factor	Value of an interest in a capital of €1 for a male life aged as in column 1	Value of an interest in a capital of €1 for a female life aged as in column 1
32	·96	·8958	·9159
33	·96	·8899	·9111
34	·96	·8836	·9059
35	·96	·8770	·9005
36	·96	·8699	·8947
37	·96	·8626	·8886
38	·95	·8549	·8821
39	·95	·8469	·8753
40	·95	·8384	·8683
41	·95	·8296	·8610
42	·95	·8204	·8534
43	·95	·8107	·8454
44	·94	·8005	·8370
45	·94	·7897	·8283
46	·94	·7783	·8192
47	·94	·7663	·8096
48	·93	·7541	·7997
49	·93	·7415	·7896

Years of age	Joint factor	Value of an interest in a capital of €1 for a male life aged as in column 1	Value of an interest in a capital of €1 for a female life aged as in column 1
82	·70	·2203	·2538
83	·69	·2057	·2387
84	·68	·1916	·2242
85	·67	·1783	·2104
86	·66	·1657	·1973
87	·65	·1537	·1849
88	·64	·1423	·1730
89	·62	·1315	·1616
90	·60	·1212	·1509
91	·58	·1116	·1407
92	·56	·1025	·1310
93	·54	·0939	·1218
94	·52	·0858	·1132
95	·50	·0781	·1050
96	·49	·0710	·0972
97	·48	·0642	·0898
98	·47	·0578	·0828
99	·45	·0517	·0762
100 or over	·43	·0458	·0698

Interest for a period certain

This table is used to determine a figure on the value of an interest in property for a period certain.

Number of years	Value	Number of years	Value
1	·0654	26	·8263
2	·1265	27	·8375
3	·1836	28	·8480
4	·2370	29	·8578
5	·2869	30	·8669
6	·3335	31	·8754
7	·3770	32	·8834
8	·4177	33	·8908
9	·4557	34	·8978
10	·4913	35	·9043
11	·5245	36	·9100
12	·5555	37	·9165
13	·5845	38	·9230
14	·6116	39	·9295
15	·6369	40	·9360
16	·6605	41	·9425
17	·6826	42	·9490
18	·7032	43	·9555
19	·7225	44	·9620
20	·7405	45	·9685
21	·7574	46	·9750
22	·7731	47	·9815
23	·7878	48	·9880
24	·8015	49	·9945
25	·8144	50 and over	1·0000

Stamp duty

Non-residential property (regardless of value)	6%
Residential property: Owner occupiers and investors	
First €1,000,000	1%
Excess over €1,000,000	2%

NB: Where applicable value added tax (VAT) should be excluded from the chargeable consideration.

Stocks and marketable securities	
Where the aggregate consideration is no more than €1,000	0%
Where the aggregate consideration exceeds €1,000	1%

Revenue audits

Schedule of tax geared penalties

Category of tax default	Penalty as a % of tax underpaid	Net penalty after reduction where there is: Cooperation only	Cooperation AND a prompted qualifying disclosure	Cooperation AND an unprompted qualifying disclosure
Deliberate behaviour	100%	75%	50%	10%
Careless behaviour with significant consequences	40%	30%	20%	5%
Other careless behaviour	20%	15%	10%	3%

Note: The mitigation (reduction) of penalties in the above table is available to taxpayers on their first default. In the case of a second or third default, if a taxpayer deliberately or carelessly makes incorrect returns within a five-year period of the first default they may not avail of full mitigation.

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Question 1 begins on page 10.

[P.T.O.

Section A – BOTH questions are compulsory and MUST be attempted

1 You should assume that today's date is 5 November 2019.

You are a tax senior and recently attended a client meeting with Mark Smyth, along with your tax manager, and you took the following notes:

– Mark Smyth is the managing director and sole shareholder in Red Ltd.

– Red Ltd has a retail shop in Cork, Ireland which sells electronic equipment.

– The company prepares its annual accounts to 31 December and has recently diversified into insurance broking services.

– The value added tax (VAT) rate applicable to the electronic equipment is 23%, but the insurance broking is an exempt activity.

– The projected annual turnover (excluding VAT) over the next two years of trading is expected to be approximately €1,000,000, of which €850,000 will relate to sales of electronic equipment and €150,000 will relate to insurance broking.

Mark wants our advice in relation to the following matters:

(i) Red Ltd bought a new building in Cork for €600,000 (plus 13·5% VAT) on 30 November 2018. Initially, the company recovered all of the VAT on acquisition as it had intended to use the entire building for its retail trade.

As the building now includes an insurance broking department, Mark understands that the new recovery rate is likely to be 85%. Mark needs to know the VAT implications of this change on the assumption that the 85% recovery rate is correct.

(ii) In August 2019, Red Ltd bought ten tablet computers for use by its electronic equipment sales staff at a total cost of €4,920 (VAT inclusive). The company reclaimed the VAT in full.

In October 2019, two of the tablet computers were transferred to the insurance broking department for use there, and a third tablet computer was given to Louise Smyth (Mark's wife) for her private use. Louise does not work in the business.

Mark wants us to confirm the appropriate tax treatment of these transfers.

(iii) The company is currently experiencing delays of up to three months in receiving payment from certain large customers. Consequently, VAT on these sales is payable before Red Ltd receives the money from the customers.

Apart from sending out more reminders to customers, Mark is curious to know if the company can take any other action(s) to improve this situation.

(iv) Red Ltd plans to expand its business into France (EU). To achieve this, Mark believes it will be necessary to rent and equip shop premises in France and to employ five new local staff. Financial projections indicate that the French business will incur losses for the first two years, and is then expected to make substantial profits from the third year onwards.

Mark is unsure as to whether the French business should be operated as a branch, or a subsidiary, of Red Ltd.

(v) Red Ltd has decided to terminate the employment of its Irish office manager, Bill Williams, on 30 November 2019. Mark requires advice on the amount of tax which should be deducted from the severance payments to Bill.

Bill is single and commenced employment with Red Ltd on 1 April 1993. Bill's severance package will comprise:

– an *ex-gratia* payment of €60,000;
– pay in lieu of notice of €4,000;
– a company car with a market value of €20,000; and
– statutory redundancy of €41,000.

In addition, Bill will be entitled to a tax-free pension lump sum which has a present value of €10,500.

Mark has confirmed that the pay in lieu of notice was not provided for in Bill's contract of employment.

Details of Bill's historic salary and benefits in kind (BIK) are as follows:

Year ended	Salary	BIK
	€	€
Year ended 31 December 2016	34,000	5,000
Year ended 31 December 2017	35,000	5,000
Year ended 31 December 2018	37,000	6,000
11 months ended 30 November 2019 (expected)	40,000	5,000

(vi) Mark bought 50 acres of agricultural land in January 2012 for €350,000. In March 2015, he spent €130,000 on agricultural works on the 50 acres, which included fencing, a drainage system, an access roadway and pipes under the land to provide drinking water to cattle.

Mark, who has never been registered for VAT, has continued to farm the land thereafter but plans to sell 20 acres of the land in December 2019 for €200,000. The value of the remaining 30 acres of land on the day of sale is expected to be €230,000.

Mark requires our help in calculating any chargeable gain arising on the sale, and in understanding the VAT implications of the sale.

Required:

Write a memorandum to your tax manager in which you:

(i) Explain the consequences to Red Ltd of the expected change in the value added tax (VAT) recovery rate to 85% in respect of the building in Cork, Ireland. (4 marks)

(ii) Explain the VARIOUS tax consequences of the transfer of the three tablet computers for both Red Ltd and Louise Smyth. (6 marks)

(iii) Suggest what action(s) could be taken to improve Red Ltd's cash flow position in relation to VAT payable by some large customers. (2 marks)

(iv) Compare the taxation implications of the TWO suggested alternative trading structures (branch and subsidiary) in respect of the French office, and recommend the most appropriate structure for Red Ltd to use.

Note: You should assume that the OECD model tax treaty provisions apply to France and that the rate of corporation tax in France is 28%. (10 marks)

(v) Advise on and calculate which taxes should be deducted by Red Ltd from Bill's severance package in November 2019. (5 marks)

(vi) Explain whether VAT will apply to the proposed sale of agricultural land by Mark Smyth, and calculate the capital gains tax (CGT) payable (if any) on the sale. (4 marks)

Professional marks will be awarded for the presentation of the memorandum, the extent to which the calculations are approached in a logical manner and the effectiveness with which the information is communicated. (4 marks)

(35 marks)

2 You should assume that today's date is 5 September 2019.

Your client, Anne Lynch (single, aged 45), is a sole trader, whose business 'Ocean Salt' operates as a wholesale supplier to the catering trade in Dublin, Ireland. The business was set up on 1 November 2017 by Anne, who works full time in the business. The business has been profitable to date.

Anne has sought advice in relation to the following two issues:

(i) Proposal to incorporate the business

Anne is so concerned about her unlimited liability status that she plans to incorporate the business as soon as possible by forming a company called 'Ocean Salt Ltd' and transferring the relevant assets and liabilities into that company. Her chosen date for the transfer is at start of business on 1 November 2019 (the day after her next accounting year end). She has informed you that under no circumstances will she postpone the incorporation of the business.

The business' projected net assets as at 31 October 2019 are as follows:

	€	€
Non-current assets		
Property	300,000	
Equipment	80,000	380,000
Current assets		
Inventory	46,000	
Trade receivables	50,000	
Cash at bank	49,000	
	145,000	
Current liabilities		
Trade payables	(74,000)	71,000
		451,000

Notes:

1. The business property was bought new in October 2017 and cost €300,000 (net of VAT). It has a current market value of €420,000.
2. The equipment originally cost €190,000 and has a current market value of €85,000. Its tax written down value was €70,000 at 31 October 2018.
3. The value of goodwill has been agreed at €200,000.
4. The market value of inventory and receivables is the same as the book value.

It is proposed that Anne will transfer all the assets (excluding cash) to the company for the following consideration:

– the company will owe Anne €60,000 in the form of a director's loan,
– the company will take over the liabilities of the business, and
– the balance of the consideration will be satisfied by the issue of shares.

However, Anne is having second thoughts about transferring the property to the company and wants advice on this issue.

(ii) Inheritance

Anne's father, David, a widower, died in January 2010 and left his house to Anne subject to a right of residence granted to her sister, Marion, who was aged 55 at the time.

In May 2019, Marion died at the age of 64. Valuations of the house were performed by an independent auctioneer and are as follows:

	January 2010	May 2019
	€	€
Value of the house	1,000,000	1,500,000
Gross annual value of the house	40,000	60,000
Gross annual value of the right of residence	18,000	25,000

Required:

(a) **Advise Anne Lynch on the various tax consequences for both herself and the new company of incorporating the business 'Ocean Salt' on 1 November 2019, and the tax effect if Anne were not to transfer the property to the company.**

You should prepare a summary of the taxes payable under both options (transferring the property or not transferring the property) and recommend (stating your reasons) which course of action Anne should choose.

Notes:

1. Your advice should refer to capital gains and to all other relevant taxes.
2. You should support the advice for this part with relevant calculations but may ignore the annual exemption for capital gains tax. (20 marks)

(b) **Calculate the taxable value in January 2010 and May 2019 of the inheritance(s) of their father's house for both Marion and Anne.**

Note: You are NOT required to calculate the capital acquisitions tax (CAT) payable. (5 marks)

(25 marks)

Section B – BOTH questions are compulsory and MUST be attempted

3 Tablet Ltd is a pharmaceutical company based in Limerick, Ireland. The finance director requires advice in respect of the following issues:

(1) Specified intangible assets

Tablet Ltd acquired patents relating to certain pharmaceutical products in January 2018 at a cost of €4,000,000. The acquisition was partly financed by a bank loan, on which interest of €130,000 was paid in the year ended 31 December 2018. In the statement of profit or loss, the company's accountant has amortised these patents over a ten-year period on a straight-line basis, with a full year's amortisation in the year of acquisition.

Tablet Ltd's Case I income for the year ended 31 December 2018 is €610,000, comprising:

– €450,000 from the trade of managing patents (after adding back the amortisation but before deduction of any capital allowances or related interest relief), and

– €160,000 from other trading activities.

(2) Employee shares

The company's senior management has identified nine key members of staff whom they wish to retain and reward. They do not want to reward all the company's employees.

The nine key members of staff all earn over €75,000 per annum and the senior management proposal is to award shares valued at €15,000 to each of them.

Required:

(a) (i) Explain the tax reliefs available to Tablet Ltd in relation to the patents. Include a description of the expenditure which may be relieved, the restrictions on the relief, and any clawback provisions.
(7 marks)

(ii) Calculate the taxable income of Tablet Ltd for the year ended 31 December 2018 on the basis that the company wishes to write off the cost of the patents for tax purposes as quickly as possible. Clearly identify the intangible asset reliefs available and any unutilised amounts. (4 marks)

(b) (i) Explain the tax implications of the proposed share awards for both Tablet Ltd (as employer) and the nine key employees, including the tax implications of the subsequent disposal of the shares at a gain by the employees. (5 marks)

(ii) Explain how the tax arising on the proposed share awards may be reduced and the conditions which must be adhered to by both Tablet Ltd (as employer) and the employees in order to achieve this reduction.
(4 marks)

(20 marks)

4 **(a)** Aladdin Ltd is an Irish resident company, whose shares are held as follows:

Major Ltd	40%
Change Ltd	20%
Space Ltd	16%
Diamond Ltd	24%

Change Ltd is resident in Canada (non-EU) but all the remaining shareholder companies are resident in Ireland.

In the year to 31 December 2018, the five companies had the following results:

	Case I profit/(loss)	Case V profit
	€	€
Aladdin Ltd	(500,000)	40,000
Major Ltd	100,000	
Change Ltd	150,000	
Space Ltd	(32,000)	
Diamond Ltd	2,000,000	

Required:

(i) Identify and explain the loss relief available to Aladdin Ltd and its shareholders for the year ended 31 December 2018. (4 marks)

(ii) Calculate the corporation tax payable for 2018 by Aladdin Ltd, Major Ltd, Space Ltd and Diamond Ltd, making maximum use of any available reliefs. Give explanations of the basis for your calculations and the treatment of any unused losses. (7 marks)

(b) James Delaney died intestate (without making a will) on 5 August 2019, and was survived by his wife, Sharon (aged 67), and their daughter, Julie. The family home, valued at €500,000, was in joint names and Sharon inherited her husband's share directly as the joint tenant of the property.

The residue of James' estate was valued at €150,000 and, under the rules of intestacy, Sharon is entitled to a two-thirds share and Julie is entitled to the remaining one-third share.

Sharon had received an inheritance of €18,000 from her brother, Jack, in 2013 and received an inheritance of €8,000 from her cousin, Zelda, in 2014. Sharon's income is insufficient for her needs.

Julie has not received any prior gifts or inheritances. Unlike her mother, she has sufficient income for her needs and she understands that the bank interest for cash on deposit is only 1% per annum. Accordingly, Julie has agreed in principle to give her share of the residue of her father's estate to her mother either directly as a gift or in the form of a loan.

Required:

(i) Calculate the capital acquisitions tax (CAT) payable (if any) by Sharon in relation to the following alternatives:

- **A gift of €50,000 from Julie; or**
- **An interest free loan of €50,000 from Julie to Sharon, with no specified repayment date.**

(4 marks)

(ii) Recommend an alternative tax efficient proposal. (2 marks)

(c) Certain nephews/nieces will be treated as 'favoured' nephews/nieces for capital acquisitions tax (CAT) and accordingly will be treated, in certain circumstances, as sons/daughters, qualifying for the Class 1 tax free threshold.

Required:

List the requirements for this CAT relief to apply. (3 marks)

(20 marks)

End of Question Paper