Strategic Professional – Options

Advanced Taxation – Irish (ATX – IRL)

Tuesday 4 December 2018

ATX IRL ACCA

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 – TWO questions ONLY to 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 2016, 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 2016 and are to be used for all questions in this paper.

Income tax rates

	Tax €
Single/widow(er)/surviving civil partner without qualifying children	
€33,800 at 20%	6,760
Balance at 40%	
Married or in a civil partnership (one income)	
€42,800 at 20%	8,560
Balance at 40%	
Married or in a civil partnership (dual income)	
€42,800 at 20%	8,560
€24,800 at 20%	4,960
Balance at 40%	
Single/widow(er)/surviving civil partner qualifying for single person child carer credit	
€37,800 at 20%	7,560
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)	1,100
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	950

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	10·75%

Universal social charge (USC) for all taxpayers

On the first €12,012	0·5%
On the next €6,760	2·5%
On the next €51,272	5%
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 2·5%.

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	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	50	·92	·7287	·7791
1	·99	·9767	·9817	51	·91	·7156	·7683
2	·99	·9767	·9819	52	·90	·7024	·7572
3	·99	·9762	·9817	53	·89	·6887	·7456
4	·99	·9753	·9811	54	·89	·6745	·7335
5	·99	·9742	·9805	55	·88	·6598	·7206
6	·99	·9730	·9797	56	·88	·6445	·7069
7	·99	·9717	·9787	57	·88	·6288	·6926
8	·99	·9703	·9777	58	·87	·6129	·6778
9	·99	·9688	·9765	59	·86	·5969	·6628
10	·99	·9671	·9753	60	·86	·5809	·6475
11	·98	·9653	·9740	61	·86	·5650	·6320
12	·98	·9634	·9726	62	·86	·5492	·6162
13	·98	·9614	·9710	63	·85	·5332	·6000
14	·98	·9592	·9693	64	·85	·5171	·5830
15	·98	·9569	·9676	65	·85	·5007	·5650
16	·98	·9546	·9657	66	·85	·4841	·5462
17	·98	·9522	·9638	67	·84	·4673	·5266
18	·98	·9497	·9617	68	·84	·4506	·5070
19	·98	·9471	·9596	69	·84	·4339	·4873
20	·97	·9444	·9572	70	·83	·4173	·4679
21	·97	·9416	·9547	71	·83	·4009	·4488
22	·97	·9387	·9521	72	·82	·3846	·4301
23	·97	·9356	·9493	73	·82	·3683	·4114
24	·97	·9323	·9464	74	·81	·3519	·3928
25	·97	·9288	·9432	75	·80	·3352	·3743
26	·97	·9250	·9399	76	·79	·3181	·3559
27	·97	·9209	·9364	77	·78	·3009	·3377
28	·97	·9165	·9328	78	·76	·2838	·3198
29	·97	·9119	·9289	79	·74	·2671	·3023
30	·96	·9068	·9248	80	·72	·2509	·2855
31	·96	·9015	·9205	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)	2%
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 less than €1,000	0%
Where the aggregate consideration exceeds €1,000	1%

Revenue audits

Schedule of tax geared penalties

		Net penalty after reduction where there is:		
Category of tax default	**Penalty as a % of tax underpaid**	**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.

Section A – BOTH questions are compulsory and MUST be attempted

1 For the purposes of this question you should assume that today's date is 4 November 2018

You have received the following memorandum from your tax manager:

To:	Tax senior
From:	Tax manager
Date:	1 November 2018
Subject:	Joe Smith

Our client, Joe Smith (aged 59), is Irish resident and domiciled and widowed with no surviving children. He has sought our advice on the following issues:

Corporate structure

Joe owns the entire share capital of two companies, both of which are based in Dublin:

Fargo Ltd operates a travel agency. His shareholding cost €10,000 in May 2009 and has a current market value of €20,000.

Trubuild Ltd is a medium-sized building contractor. His shareholding cost €40,000 in October 2009 and has a current market value of €100,000.

Both companies have been profitable to date. However, financial projections indicate that over the next three years, Fargo Ltd will incur losses whereas the profitability of Trubuild Ltd will increase. Joe is concerned that the current structure may not optimise the ability to use the future trading losses of Fargo Ltd. He has asked you to investigate the tax consequences of setting up a new 'Smith' group whereby a holding company (H Ltd) under Joe's control would own both companies.

Investment programme

Trubuild Ltd has decided to make a significant investment in new machinery. The machinery will have an eight-year life and a scrap value of nil. The company can finance the acquisition through a five-year lease (previously called a finance lease) with five equal annual lease rentals or, alternatively, it can take out a five-year loan for the full cost and make five equal annual loan repayments. The same annual percentage interest rate will apply to both the lease and the loan.

Joe requires advice on the tax implications of both options.

Disposal of premises

Joe has received an offer of €175,000 for office premises in Co Mayo which he owns personally. Joe was the first owner of the office premises, which were newly constructed when he bought them for €75,000 (excluding value added tax (VAT)) on 1 June 2011.

Joe has rented the premises to a business tenant (which has 100% VAT deductibility) since the date he bought them. Joe prepares his rental accounts on a December year end basis. The single option to tax the letting for VAT purposes was availed of.

Joe spent €25,000 (excluding VAT) on a small extension to the premises in August 2013. In May 2015, this 2013 extension was demolished and a new extension was constructed at a cost of €60,000 (excluding VAT). VAT was reclaimed on the cost of both extensions. Joe has no borrowings outstanding in relation to these premises.

If the offer is accepted, the prospective purchaser of the premises (who is VAT registered) requires contracts to be signed before 31 December 2018. Joe has been advised that his solicitor will charge a fee of €1,000 plus VAT for handling the sale of the premises. Joe will sell the premises if his after tax proceeds will exceed €155,000.

Pension fund options

Joe has contributed to a personal pension scheme throughout his working life and the value of the fund is expected to be €1,200,000 when he reaches his planned date of retirement of 65. He has been advised that he can take up to 25% of the fund as a tax-free lump sum and then buy an annuity with the remainder of the fund. However, he would like advice on the alternative option available to him with regard to the use of his pension fund.

Planned dispositions

Joe also owns the following other assets and investments on 1 November 2018:

	Current market value	Cost	Date of acquisition
	€	€	
Quoted shares	120,000	40,000	February 2015
Government securities	160,000	145,000	April 2014
Cash at bank	20,000	n/a	n/a
Private residence	320,000	50,000	January 1987

Joe wishes to make provision for his grandson, Thomas O Leary, who will become 17 on 30 November 2018. Thomas is the son of Joe's deceased daughter, Deborah. Joe wants to transfer his holding of quoted shares to Thomas at sometime within the next two years and leave the remainder of his other assets and investments (as listed above, but NOT including the pension fund or the shares in H Ltd) to Thomas on his death.

Thomas currently resides with his father in Cork, he is Irish resident and domiciled and has received no prior gifts or inheritances.

Required:

Write a memorandum to your tax manager in which you:

(i) **Outline the procedure Joe should adopt in order to set up the new 'Smith' group, explain the capital gains tax (CGT), stamp duty and future corporation tax consequences of doing so and calculate the base cost of the shares in the proposed holding company (H Ltd) in the event of a future disposal by Joe.** (8 marks)

(ii) **Compare the value added tax (VAT) and corporation tax implications for Trubuild Ltd of leasing or buying the new machinery and recommend your preferred option.** (5 marks)

(iii) **Explain the VAT and CGT implications of Joe selling the Mayo office premises and calculate the amount of after tax proceeds which will be available to him.**

Note: You should ignore the annual exemption for CGT. (5 marks)

(iv) **Identify the alternative option available to Joe with regard to his pension fund, together with the tax implications and benefits of choosing this option as compared to taking a 25% lump sum.** (5 marks)

Note: In parts (v), (vi) and (vii) you should ignore the annual exemption for CGT and the small gifts exemption for capital acquisitions tax (CAT).

(v) **Calculate the taxes payable by both parties in the event that Joe transfers the quoted shares by way of gift to Thomas in the year 2019.** (3 marks)

(vi) **Identify TWO ways in which Joe could make provision for his grandson, Thomas, which would be more tax efficient than the proposed transfer of the quoted shares (as in (v)) and quantify the potential tax saving in each case.** (3 marks)

(vii) **On the assumption that the measures identified in (vi) are implemented, outline the potential tax liabilities expected to arise on Joe's death as a result of the transfer of his remaining other assets and investments (NOT including the pension fund or the shares in H Ltd) to Thomas.**

Note: You may assume that the value of the remaining other assets and investments at the valuation date of the inheritance is the same as their current value. (2 marks)

Professional marks will be awarded in question 1 for the appropriateness of the format and presentation of the letter and the effectiveness with which the information is communicated. (4 marks)

(35 marks)

2 For the purposes of this question, you should assume that today's date is 31 October 2018

Your client, Blue Ltd, is an Irish incorporated and resident trading company, which prepares accounts to 31 December each year. Blue Ltd has an issued share capital of 20,000 ordinary shares of €1 each, all of which were issued at par in April 1995. There is no share premium account. The shareholders of the company and their shareholdings are as follows:

	Number of shares
Bill Davis	9,000
Pauline Chambers	5,000
Miles Evans	5,000
Janet Cobb	1,000
	20,000

Bill Davis and Pauline Chambers are the original founders of the company and have held their shares since April 1995.

Miles Evans (aged 57) was a full-time sales manager with the company from 1 January 2014 to 31 August 2017 when he retired from employment. He has been a non-executive director of the company, attending board meetings once every two months, from 1 September 2017 to date. Miles acquired his shareholding as a gift from his wife, Mary, on 1 January 2014. The value of the shareholding on that date was €60,000. Mary had bought the shareholding from Bill Davis on 1 July 2013 for €50,000.

Janet Cobb (aged 56) was a long-serving employee who commenced working full time for the company in May 1995. She bought her 1,000 shares from Pauline Chambers on 1 November 2014 for €10,000.

The relationship between the founders of the company, and both Miles Evans and Janet Cobb has become strained in recent years. This feud has reached a point where it has become a distraction to management in the running of the company and is causing delays in decision making. In addition, customers are becoming aware of the problem.

Miles Evans (who previously had always been resident in Ireland) emigrated to the United States on 1 March 2018. Janet Cobb ceased employment with Blue Ltd on 31 August 2018 and is now self-employed.

An agreement has been reached whereby Blue Ltd will buy back all of the shares from the two dissident shareholders (Miles Evans and Janet Cobb) on 30 November 2018. Miles Evans will also resign from the board on that date. The buyback price will be the expected market value on 30 November 2018 of €25 per share. Consequently, Miles Evans will be paid €125,000 in respect of his shares and Janet Cobb €25,000 in respect of her shares.

Miles Evans is also owed €100,000 in respect of a loan which he provided to Blue Ltd on 1 January 2018 and this will be repaid, together with interest of €11,000, in respect of the 11 months to the date of repayment on 30 November 2018. There are no other loans from directors to the company in the current financial year.

The purchase of the shares and the repayment of the loan and interest will be financed from Blue Ltd's cash deposits. On 31 October 2018, the company had distributable reserves of €180,000.

Required:

(a) Set out the conditions which must be satisfied to avail of capital gains tax treatment in the event of a purchase by a company of its own shares. (4 marks)

(b) Explain the tax implications for Miles Evans, Janet Cobb and Blue Ltd in relation to the proposed share buybacks and calculate the tax payable in each case.

Notes:
1. You may assume that both Miles Evans and Janet Cobb have a marginal income tax rate (including PRSI and USC) of 52%.
2. You should state any other assumptions which you consider it necessary to make. (13 marks)

(c) Explain the tax implications for Blue Ltd and Miles Evans in relation to the repayment of the loan and interest. State when any tax payable by Blue Ltd will be due. (6 marks)

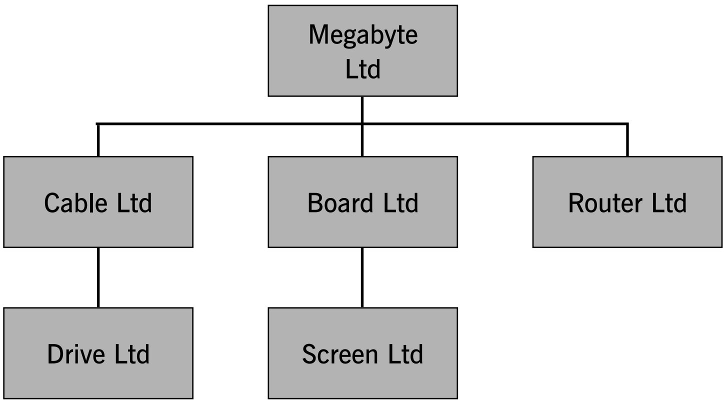
(d) Briefly identify any other issues that Blue Ltd will need to consider with regard to the proposed payments to Miles Evans and Janet Cobb. (2 marks)

(25 marks)

Section B – TWO questions ONLY to be attempted

3 For the purposes of this question, you should assume that today's date is 31 August 2018

The Megabyte group is structured as follows:



Megabyte Ltd owns:

– 95% of the share capital of Cable Ltd;
– 75% of the share capital of Board Ltd; and
– 80% of the share capital of Router Ltd.

Cable Ltd owns 75% of the share capital of Drive Ltd.

Board Ltd owns 80% of the share capital of Screen Ltd.

The shareholding in Router Ltd was acquired by Megabyte Ltd on 1 April 2018. The remaining shareholdings were all acquired prior to 1 January 2017.

All six group companies are resident in Ireland and derive the majority of their turnover from the manufacture and sale of computer components.

During the year ended 30 June 2018, the six group companies had the following trading results:

– Megabyte Ltd had a (Schedule D) Case I loss of €400,000.

– Cable Ltd had a Case I profit of €250,000. The company also had Case I losses of €120,000 brought forward.

– Drive Ltd had a Case I profit of €40,000, and a capital gain of €80,000. The company paid patent royalties of €8,000 on 30 June 2018 and had accrued further royalties of €3,000 as at 31 August 2018.

– Board Ltd had a Case I profit of €35,000 during the year. The company also had capital losses brought forward of €20,000.

– Screen Ltd had a Case I profit of €8,000 and a Case V profit of €10,000.

– Router Ltd had a Case I profit of €180,000.

In the year ending 30 June 2019, Board Ltd sold its entire shareholding in Screen Ltd to an unconnected third party on 31 July 2018 and realised a chargeable gain on the disposal of €500,000. On the date of sale, Screen Ltd's assets comprised goodwill with a market value of €350,000 and a building with a market value of €250,000; and the company's total liabilities amounted to €50,000.

The building, which had originally been bought by Board Ltd in April 2007 for €60,000, had been transferred to Screen Ltd in August 2013 when it was worth €180,000. No improvements or changes were made to the building between April 2007 and 31 July 2018. The building has no development potential.

Required:

(a) State the main condition for membership of a loss group for corporation tax purposes and list the members of the loss group(s) comprised within the Megabyte group of companies. (3 marks)

(b) State the main condition for membership of a capital gains group for corporation tax purposes and list the members of the capital gains group(s) comprised within the Megabyte group of companies. (2 marks)

(c) Calculate the corporation tax liability of each of the six Megabyte group companies for the year ended 30 June 2018, on the assumption that all claims and elections are made to minimise the overall tax position of the group. Prepare the relevant loss memoranda to identify any losses carried forward to 2019. (8 marks)

(d) Advise on the corporation tax, value added tax and stamp duty implications (if any) for Board Ltd and Screen Ltd of the sale by Board Ltd of its shareholding in Screen Ltd.

Note: You are NOT required to consider balancing charges/allowances. (7 marks)

Note: You are NOT required to comment on any of the tax filing or payment deadlines.

(20 marks)

4 (a) Paul was born in Ireland in 1970. In 1986 he moved to London, and he has lived there ever since. Paul set up a restaurant business as a sole trader called 'Paul's Bistro' in London ten years ago and has a portfolio of UK investments. Paul is treated as tax resident in the UK by the UK tax authorities.

From 1986 to 2015, Paul visited Ireland on holidays for approximately 25 days each year. In 2016, he bought a house in Ireland and his wife and family moved to live in this house permanently. Paul continues to live in the former family home in London from Monday to Friday but returns to Ireland each weekend. Paul spent 110 days in Ireland during 2016 and 180 days in Ireland during 2017.

In January 2017, Paul bought a 25% stake in and was appointed to the board of directors of an Irish company, Tango Ltd.

Paul's income for 2017 was as follows:

	€
Profits from Paul's Bistro (UK)	125,000
Dividend income from UK companies	9,500
Director's fees from Tango Ltd (Ireland)	45,000
Deposit interest from an Irish bank	6,000

Paul has signed a non-resident declaration with the Irish bank, so that DIRT has not been withheld from the interest paid. He has now become concerned that he could be regarded as resident in Ireland and has sought your advice.

Required:

(i) Briefly explain the Irish taxation rules governing the determination of the residence of individuals for tax purposes. (2 marks)

(ii) List the rules in the Irish/UK double taxation treaty in relation to the determination of the residence of individuals where both countries claim that an individual is resident in their jurisdiction.

Note: You may alternatively provide your answer in accordance with the OECD model agreement. (5 marks)

(iii) Advise Paul in relation to where he is resident for tax purposes in 2017. (4 marks)

(iv) Identify the amount of Paul's income which is and is not subject to Irish income tax in 2017 if he is (1) UK tax resident and (2) Irish tax resident in that year. (3 marks)

(b) Your client, Mary (single, aged 45), was made redundant on 1 April 2017 and received a lump sum payment on termination of €100,000. Mary set up a new manufacturing company, Cog Ltd, and invested all of the €100,000 in that company, by buying 100,000 ordinary shares at €1 each. This investment qualifies for relief under the start-up refunds for entrepreneurs (SURE) scheme (previously known as the seed capital investment scheme).

Details of Mary's income and tax paid in previous years are as follows:

	2016	2015	2014	2013
	€	€	€	€
Salary	75,000	73,000	69,000	65,000
Other income	2,000	1,800	1,500	1,000
Tax paid	20,740	19,860	18,340	16,540

Mary has asked you for advice on the income tax implications of the above.

Your practice is registered for value added tax (VAT) and your fee for this tax advice will be €200 excluding VAT. As she has a cash flow problem, Mary has offered to give you a holiday voucher for €200 in lieu of the fee.

Required:

(i) Explain the requirements of the SURE scheme in relation to:

- **Mary's role in Cog Ltd; and**
- **the source(s) of income earned by Mary in previous years of assessment.** (2 marks)

(ii) Calculate the tax refund due to Mary arising from her investment in Cog Ltd. (2 marks)

(iii) Explain how you should deal with Mary's offer of the holiday voucher in lieu of the fee, from your own tax perspective.

Note: You should assume that the voucher is acceptable to you as a means of payment. (2 marks)

(20 marks)

5 Peter Green (aged 73) owns 80% of the share capital of Mac Ltd. Mac Ltd is a successful unquoted retail company, with branches throughout Ireland. Peter has never worked for, and never will work for, Mac Ltd.

Peter inherited his shareholding in Mac Ltd from his late wife, Christine, on 25 May 2012 and the value of her shareholding at that date was €7·5 million. Christine had previously inherited the shareholding from her father, Lindsay, on 5 January 1988 and the value of the shareholding on that date was €4 million. Mac Ltd has recently been valued at €10 million. Mac Ltd does not hold any investments or investment properties and consequently all of its assets are business assets.

Peter has one child, Laura (aged 44), who is single and has no children. Laura has worked full time for Mac Ltd for the last seven years and has not received any prior gifts or inheritances.

Peter is in the process of making his will. He would like your advice in relation to the tax consequences (for both himself and Laura) of the following three options:

1. Peter would gift his shares in Mac Ltd to Laura during his lifetime.
2. Peter would leave his shares in Mac Ltd to Laura in his will.
3. Peter would set up a discretionary trust with the direction that it be for the benefit of Laura, with the intention of deferring the payment of capital acquisitions tax. He would transfer his shareholding in Mac Ltd into the trust as soon as possible but any appointment of assets to Laura would not take place until after his death.

Note: In relation to options (2) and (3) respectively, it may be assumed that the value of the shares at the date of Peter's death and when they are eventually appointed to Laura is the same as their current value.

Peter would prefer to transfer the assets to Laura as soon as possible, provided the tax cost of doing so is not prohibitive.

Required:

(a) Determine the current value of Peter's shareholding in Mac Ltd, explain the various tax consequences of each of the options (1) to (3) (as above) with reference to supporting calculations and evaluate the options, recommending (giving reasons) which is likely to be the best option for Peter to adopt.

Note: You should ignore the small gifts exemption for capital acquisitions tax (CAT) and the annual exemption for capital gains tax (CGT). (18 marks)

(b) Explain the tax implications of a discretionary trust receiving dividend income from an Irish resident company and then distributing all of that dividend income to the sole beneficiary from the viewpoint of both the trust and the beneficiary. (2 marks)

(20 marks)

End of Question Paper