Answers

1 *This question tested knowledge of the commencement and cessation provisions for a trade/profession in the Taxes Consolidation Act 1997, as well as income tax computational liabilities and knowledge of tax payment and tax return/filing dates.*

(a) Peter

Income assessable 2003

		€
(i)	Convenience store – basis period year ended 30 April 2003	35,000
(ii)	Business consultant Basis period 1 January 2003 to 31 December 2003 €44,000 x $^4/_{12}$ + $^8/_{12}$ x €60,000	54,667

Income assessable 2004

		€
(i)	Convenience store Original assessment period – year ended 30 April 2004	30,000
	Actual profits – 1 January 2004 to 31 December 2004 €30,000 x $^4/_{12}$ + $^8/_{14}$ x (€56,000) = €10,000 + (€32,000) No review of this year	(22,000)
(ii)	Business consultancy* Basis period year ended 30 April 2004	60,000
	*2003 Actual profits – 1 January 2003 to 31 December 2003 €44,000 x $^4/_{11}$ + $^8/_{12}$ + €60,000 = €16,000 + €40,000 No excess profits reduction in 2004	56,000

Income assessable 2005

		€
(i)	Convenience store Basis period 1 January 2005 to 30 June 2005 (€56,000) x $^6/_{14}$	(24,000)
(ii)	Business consultant Basis period year ended 30 April 2005	90,000

Income assessable 2006

		€
(i)	Business consultancy Basis period year ended 30 April 2006	102,000

Summary before loss relief:

	2003	2004	2005	2006
	€	€	€	€
Convenience store	35,000	30,000	–	
Business consultancy	54,667	60,000	90,000	102,000

Loss relief (Section 381 Taxes Consolidation Act 1997)

– Set-off €24,000 (i.e. $^6/_{14}$ x €56,000) against business consultancy income for 2005.
– Set-off €22,000* against commercial store income for 2004.

* Actual loss incurred in 2004 is computed as follows:
€30,000 x $^4/_{12}$ + $^8/_{14}$ x (€56,000) = €22,000

This means that €10,000 cannot be relieved under Section 381 Taxes Consolidation Act 1997. However, one then looks at terminal loss relief.

Terminal loss relief

The maximum losses available under terminal loss relief are computed as follows:

	€
€56,000 x 12/14	48,000
Less: losses utilised under Section 381 Taxes Consolidation Act 1997	(46,000)
Balance unutilised	2,000

Terminal loss relief is set-off, initially, against income from the same trade for the latest possible year (i.e. in this case 2004).

Note: Candidates were also awarded marks where they claimed loss relief under Section 381 Taxes Consolidation Act 1997 for 2005 (i.e. €24,000) and terminal loss relief for 2004 (i.e. €24,000).

Final summary:

	2003	**2004**		**2005**		**2006**
	€	€		€		€
Convenience store	35,000	6,000	(i)	–		–
Business consultancy	54,667	60,000		66,000	(ii)	102,000

		€
(i)		30,000
	Less: Section 381 loss	(22,000)
	Terminal loss	(2,000)
		6,000
(ii)		90,000
	Less: Section 381 loss	(24,000)
		66,000

(b) **Peter**

Income tax/PRSI/levies computation for 2006

	Notes	€	€	€
Business consultancy		102,000		
Contribution to Revenue approved pension scheme	(1)	(20,400)		81,600
Rental income	(2)		83,000	
Deposit interest	(3)		500	83,500
				165,100
Less: Maintenance payments to wife	(4)			(18,000)
Permanent health contributions				(1,000)
Health expenses				(8,875)
				137,225

Income tax payable:		€	€
€			
500 at 20%		100	
36,000 at 20%		7,200	
100,725 at 42%		42,305	
137,225			
			49,605
Less: Single person credit			(1,630)
Single parent credit			(1,630)
Dependant relative			(80)
Income tax payable			46,265
Plus: PRSI	(5)		5,565
Levies	(6)		3,350
Total income tax/PRSI/levies payable			55,180

(c) The due date for the payment of preliminary tax for the income tax year 2006 was 31 October 2006. The latest filing date for the 2006 income tax year was 31 October 2007.

Notes:

(1) Maximum allowable:
€102,000 x 20% = €20,400. The balance €600 (i.e. €21,000 – €20,400) is carried forward and can, subject to the overall limits, be allowed in subsequent year(s).

(2) As the Section 23 property was sold the Section 23 relief granted is clawed back and treated as rental income arising in 2006.

(3) €400 x 100/80 = €500.

(4) The annual maintenance payments paid to Emma are allowable. However, the payments for the children's maintenance are not allowable.

(5) **PRSI:**
3% x (€102,000 + 83,000 + 500)
= 3% x €185,500 = €5,565.

(6) **Levies:**
2% x (€185,500 – 18,000) = €3,350.

Maintenance under a legally enforceable maintenance agreement is an allowable deduction for levies but not for PRSI.

2 *This question tested candidates' corporation tax computational abilities, as well as knowledge of the tax rules pertaining to group company members, what constitutes a permanent establishment under the Republic of Ireland/UK double tax treaty and the favourable holding company regime.*

(a) (i)

Alpha Ltd
Corporation tax for year ended 31 December 2006

	Notes	€
Net trading profit per accounts		700,000
Add:		
Depreciation		22,000
Extension to the warehouse in Dublin	(1)	105,000
Motor expenses	(2)	615
Legal and professional fees	(3)	18,000
		845,615
Less: Capital allowances	(4)	(54,283)
Trading profits as adjusted for corporation tax		791,332
UK deposit interest	(5)	10,000
Profits subject to corporation tax		801,332

Corporation tax payable:

€		
10,000 x 25%		2,500
791,332 x 12·5%		98,917
801,332		101,417

Notes:

(1) The extension to the warehouse in Dublin is capital expenditure.

(2) Leasing charges:

	€
05 XX 9250:	
$9{,}000 \times \dfrac{24{,}000 - 23{,}000}{24{,}000}$	375
06 XX 10650:	
$3{,}000 \times \dfrac{25{,}000 - 23{,}000}{25{,}000}$	240
Total add back	615

(3) Legal expenses in connection with capital expenditure (i.e. acquisition of the warehouse in Cork and the failed take-over bid) are classified as capital.

(4)

	Furniture and equipment		Motor car 04 XX 8210		Total
	€		€		€
Written down value (WDV) 31 December 2005	150,000	(i)	16,500	(ii)	
Less: Disposal at WDV	–		(16,500)		
	150,000		–		
Less: Wear and tear	(25,000)	(iii)	–		25,000
Written down value 31 December 2006	125,000		–		

Notes:

(i)

	€
Cost	200,000
Less: Wear and tear 2004	(25,000)
	175,000
Less: Wear and tear 2005	(25,000)
	150,000

(ii)

	€
Substituted cost	22,000
Less: Wear and tear 2004	(2,750)
	19,250
Less: Wear and tear 2005	(2,750)
Written down value 31 December 2005	16,500

(iii) 12·5% x €200,000	25,000	
(iv) Motor car sold	€	€
Written down value at date of sale	16,500	
Sale proceeds: $18{,}000 \times \frac{22{,}000}{23{,}000}$	(17,217)	
Balancing charge		(717)

	Factory premises	Factory premises extension	Total
	€	€	€
Cost	500,000	250,000	
IBAA (4%) 2006	20,000	10,000	30,000

Summary

Wear and tear	25,000
Balancing charge	(717)
IBAA	30,000
	54,283

(5) Under the double tax treaty entered into between the Republic of Ireland and the United Kingdom, this is taxable only in this country.

(ii) The due date(s) for the payment of the corporation tax liability are 21 November 2006 and 21 September 2007, which is also the filing date for the corporation tax return for the year ended 31 December 2006.

(b) (i)

	H Ltd	Notes	W Ltd
	€		€
Schedule D Case I income	80,000		–
Chargeable gains	–	(i)	–
Profits subject to corporation tax	80,000		–
Corporation tax payable:			
€80,000 at 12·5%	10,000		
Less: Group relief	(2,500)	(ii)	
Net corporation tax payable	7,500		

Notes:

(i) As this was an intra group transfer of assets the premises is deemed to be transferred at a consideration which gives rise to no gain/no loss.

(ii) As W Ltd was only a subsidiary from 1 September 2006 the maximum losses available for group relief are computed as follows:

€60,000 x $^{4}/_{12}$ = €20,000 – i.e. €20,000 x 12·5% = €2,500.

(ii) As the Northern Ireland premises will only be used as a storage facility, it will not be regarded under the Republic of Ireland/UK double tax treaty, as a permanent establishment in the UK. Therefore, there will be no UK corporation tax implications. The costs associated with the storage facility will be fully allowable in calculating the company's Case I income for Irish corporation tax purposes.

On the other hand, the retail outlet in London will be regarded as a permanent establishment under the Republic of Ireland/UK double tax treaty. Therefore, while the profits from this outlet will be subject to Irish corporation tax, they could also be subject to UK corporation tax. However, H Ltd will, in general, be entitled in computing its Irish corporation tax liability on these profits, to a credit for any UK corporation tax suffered.

(iii) H Ltd could qualify for the favourable holding company capital gains tax regime (i.e. the capital gains arising on the sale of its shareholding in this manufacturing subsidiary could be exempt from Irish capital gains tax).

The following conditions must be satisfied:

- The holding company owns at least 5% of the ordinary share capital in the company sold (the 'investee company').
- The investee company is resident in Ireland or a member State of the European Union (EU) or a country with which Ireland has a double tax agreement.
- The business of the investee company or the group as a whole must consist of the carrying on of a trade or trades.
- The shares in the investee company do not derive their value or the greater part of their value from land or buildings in the State.

3 *This question tested candidates' capital gains tax computational abilities, as well as knowledge of retirement relief and the capital gains tax rules relating to wasting chattels, compulsory purchase orders and put/call option arrangements.*

(a) (i)

Roderick
Sale of farm on 1 June 2006

	€	€
Sale consideration		525,000
Less: Incidental costs		(10,000)
		515,000
Market value as at 6 April 1974	30,000	
Indexation	7·528	(225,840)
Capital gain		289,160

Capital gains tax payable:

€	
289,160 at 20%	57,832

As capital gains tax retirement relief applies the capital gains tax liability is restricted to 50% x €(525,000 – 500,000) i.e. 50% x €25,000 = €12,500

Therefore, he is entitled to marginal relief of €45,332 (289,160 at 20% – 12,500).

Sale of premises on 10 October 2006

	€	€
Sale consideration		850,000
Less: Cost of sale		(12,000)
		838,000
Purchase price inclusive of incidental costs	83,500*	
Indexation (1984–85)	1·819	(151,887)
Capital gain		686,113

* The full cost is indexed as this was its current use value in 1984.

Compulsory purchase order

The date of acquisition/disposal of this rented retail outlet was the date the compulsory purchase order was exercised by the Local Authority (i.e. 10 February 2005). Therefore, the disposal was deemed to have been made in the income tax year 2005, notwithstanding that the compensation was received in the income tax year 2006.

Quad bicycle

As this is a wasting chattel which was used exclusively for private purposes, it is not a chargeable asset. Therefore, the loss arising on its disposal is not available for set off against the other capital gains.

Put/call option agreement

The grant of an option is treated as a disposal, separate from the asset to which it relates. However, if the option is exercised it ceases to be a separate transaction and becomes part of the overall transaction in which the asset is sold or acquired.

Therefore, while the grant of an option by Roderick was, technically, a disposal for capital gains tax purposes, the consideration was only €1 and, therefore, is ignored in computing the capital gains tax liability. The property itself will be treated as being disposed of if and when the option is exercised in 2008.

Capital gains tax liability 2006

	€	€
Farm		289,160
Premises		686,113
		975,273
Less: Personal allowance exemption (Note)		–
Capital gain		975,273
Capital gains tax payable:		
€		
975,273 at 20%	195,055	
Marginal relief:		
– Capital gains tax retirement relief	(45,332)	
Net capital gains tax payable		149,723

Note: This allowance is not applicable where the taxpayer qualifies for capital gains tax retirement relief.

(ii) The due date for the payment of the capital gains tax liability arising from the sale of the farm was 31 October 2006.

The due date for the payment of the capital gains tax liability arising from the sale of the premises was 31 January 2007.

(b) If Roderick was to sell the second farm to the unconnected third party, it would give rise to a capital gains tax exposure. In addition, there would be a clawback of the capital gains tax retirement relief which he received in respect of the farm sold in 2006.

On the other hand, if he sells the second farm to his son he will qualify for capital gains tax retirement relief. This is on the basis that he would be disposing of a qualifying asset for this purpose to a child and there is, unlike disposals to a non-child, no monetary limit for the purpose of this relief. In addition, the clawback of the relief on the farm sold in 2006 is not applicable.

4 *This question tested knowledge of the cash basis of accounting for VAT as well as VAT computational abilities.*

(a) Categories of persons who may apply to account for VAT on a cash basis:

– Persons engaged in the supply of services where at least 90% in value are supplied to non-registered persons.

– Persons engaged in the supply of taxable goods where at least 90% in value are supplied to non-registered persons.

– Persons whose turnover has not or is not likely to exceed €635,000 in any continuous period of twelve months.

(b) Cancellation of an authorisation to account for VAT on a cash basis.

The authorisation can be cancelled where:

– A taxable person on the cash basis so requests.

– A person, who is on the cash basis, no longer qualifies (i.e. the turnover to unregistered customers/clients falls below the 90% threshold and/or the €635,000 threshold is exceeded).

(c) **Cecily**

VAT liability January/February 2006	**Notes**	**€**
Fees received	(1)	6,074
Grant of 25 year lease	(2)	74,250
Input costs:		
Motoring expenses	(3)	(59)
Equipment	(4)	(0)
Accommodation	(5)	0
Premises	(6)	(59,471)
Net VAT payable		20,794

Notes:

(1) Fees — €

$$35{,}000 \times \frac{21}{121} = 6{,}074$$

Note: As Cecily is on the cash basis, the figure is by reference to the fees received rather than invoiced in this vatable period.

(2) The grant of a 25 year lease is a vatable supply i.e. €550,000 x 13·5% — € 74,250

(3) Motoring expenses — €

$$340 \times \frac{21}{121} = 59$$

The VAT element of the finance leasing charges for the motor cars is not an allowable input cost [section 12(3)(a)(iii) VAT Act 1972].

The VAT element of the petrol costs for car No. 1 is not an allowable input cost [section 12(3)(a)(iv) VAT Act 1972].

(4) Equipment:
Cecily was entitled to claim the VAT element of the purchase price for the November/December 2005 vatable period. While she is on the cash basis by reference to turnover (i.e. fees) she is entitled to a VAT credit/deduction by reference to the invoice received basis.

(5) Accommodation:
The VAT element of the hotel accommodation costs is not an allowable deduction [section 12(3)(a)(i) VAT Act 1972].

(6) Premises: — €

$$500{,}000 \times \frac{13{\cdot}5}{113{\cdot}5} = 59{,}471$$

The grant of a long lease is a taxable supply for VAT purposes.

5 *This question tested knowledge of the rules in relation to the utilisation of corporation tax losses.*

M Ltd
Corporation tax for the year ended 31 December 2004

	€	€
Schedule D Case I income	–	
Schedule D Case V income	10,000	
Less: Schedule D Case V capital allowances	(4,000)	6,000
Chargeable gains		15,000
		21,000

Corporation tax payable:

€		
6,000 at 25%	1,500	
15,000 at 12·5%	1,875	
21,000		3,375
Less: Credit for trading losses under section 396(2) Taxes Consolidation Act 1997 (Note)		(3,375)
		NIL

Note:

	€
$€6,000 \times \frac{25}{12 \cdot 5} = €12,000$ i.e. €12,000 x 12·5%	1,500
€15,000 at 12·5% =	1,875
	3,375

Unutilised losses available for carry forward:
i.e. €(40,000 – 27,000) = €13,000

Corporation tax for the year ended 31 December 2005

	€	€
Schedule D Case I income	35,000	
Less: Trading losses carried forward	(13,000)	22,000
Schedule D Case V income	7,500	
Less: Schedule D Case V capital allowances	(4,000)	3,500
		25,500

Corporation tax payable:

€		
3,500 at 25%	875	
22,000 at 12·5%	2,750	
25,500		3,625

Corporation tax for the year ended 31 December 2006

	€	Notes	€
Schedule D Case I income	–		
Schedule D Case V income	9,000		
Less: Schedule D Case V capital allowances	(4,000)		5,000
			5,000

Corporation tax payable:

€			
5,000 at 25%			1,250
Less: Credit for trading losses under s.396(2) Taxes Consolidation Act 1997		(i)	(1,250)
			–
Capital gains tax payable:			
€80,000 at 20%		(ii)	16,000

Notes:

		€
(i)	€5,000 x $\frac{25}{12{\cdot}5}$ x 12·5% = €10,000 i.e. €10,000 x 12·5%	1,250

The balance of the trading loss i.e €30,000 (€40,000 – €10,000) is carried forward as it is not possible to carry back this loss to 2005.

(ii) As the gain arose from the sale of development land, capital gains tax (not corporation tax) is applicable. Therefore, it is not possible to utilise the trading loss arising in this year to reduce the tax exposure on this gain.

This marking scheme is given as a guide to markers in the context of the suggested answer. Scope is given to markers to award marks for alternative approaches to a question, including relevant comment, and where well reasoned conclusions are provided. This is particularly the case for essay based questions where there will often be more than one definitive solution.

			Marks
1	**(a)**	2003:	
		– Convenience store	$^1/_2$
		– Business consultant	$1^1/_2$
		2004:	
		– Convenience store (original assessment)	$^1/_2$
		– No review of convenience store	$1^1/_2$
		– Business consultancy (original assessment)	$^1/_2$
		– No excess profits adjustment re business consultancy	$1^1/_2$
		2005:	
		– Convenience store (before loss set off)	$1^1/_2$
		– Business consultancy (original assessment)	$^1/_2$
		2006:	
		– Business consultancy	$^1/_2$
		– Loss set off against 2005 business consultant income	2
		– Loss set off against 2004 convenience store income	$1^1/_2$
		– Terminal loss relief	$^1/_2$
		– Final summary/post loss position	$^1/_2$
			13
	(b)	Maintenance payments – wife	1
		Contribution to pension scheme	1
		Rental income	2
		Deposit interest	1
		Permanent health contributions	$^1/_2$
		Health expenses	1
		Tax rates	1
		Personal tax credits	1
		PRSI	1
		Levies	$^1/_2$
			10
	(c)	Due date 31 October 2006	1
		Filing date 31 October 2007	1
			2
		Total	25

				Marks
2	**(a)**	**(i)**	Depreciation	½
			Warehouse	1
			Motor expenses	2
			Legal and professional fees	2
			Wear and tear	2½
			Balancing charge	1½
			IBAA	1
			Deposit interest	1½
			Corporation tax rates	1
				13
		(ii)	Due dates:	
			– 21 November 2006	1
			– 21 September 2007	1
			Filing date:	
			– 21 September 2007	1
				3
	(b)	**(i)**	Schedule D Case I income	½
			Intra group transfer no gain/no loss	1½
			Group relief	1½
			Net corporation tax payable	½
				4
		(ii)	Northern Ireland storage not a permanent establishment	1
			Retail outlet in London a permanent establishment	1
			Tax implications – retail outlet London	2
				4
		(iii)	Capital gains tax favourable holding company regime and its effect	1½
			Minimum 5% of the ordinary share capital	1
			Investee company resident in ROI or EU country	1
			Investee or group as a whole trading entity	1
			Investee company's shares do not derive value or greater part of their value from land in the ROI	1½
				6
			Total	30

				Marks
3	**(a)**	**(i)**	Disposal of farm:	
			– Incidental costs	$^1/_2$
			– Indexed market value	1
			– Marginal relief – capital gains tax retirement relief	$1^1/_2$
			Disposal of premises:	
			– Sale consideration	$^1/_2$
			– Incidental costs of sale	$^1/_2$
			– Indexed amount including incidental costs	2
			Compulsory purchase order	2
			Quad bicycle	1
			Put/call option agreement	2
			Computation of capital gains tax liability	1
				12
		(ii)	Farm – 31 October 2006	1
			Premises – 31 January 2007	1
				2
	(b)		Third party:	
			– Capital gains tax	1
			– Clawback of previous retirement relief	2
			Son	
			– Retirement relief	2
			– No clawback of previous retirement relief	1
				6
			Total	20
4	**(a)**		Services – 90% to non-registered VAT persons	1
			Goods – 90% to non-registered VAT persons	1
			Annual turnover not in excess of £635,000	1
				3
	(b)		Request	$^1/_2$
			Falls below 90% threshold	1
			In excess of £635,000	$^1/_2$
				2
	(c)		Fees received	1
			Grant of 25 year lease	$1^1/_2$
			Motoring expenses	3
			Equipment	2
			Accommodation	1
			Premises	$1^1/_2$
				10
			Total	15

		Marks
5	2004:	
	– Profits subject to corporation tax	$^1/_2$
	– Corporation tax payable at correct rates	$^1/_2$
	– Credit for trading losses	2
	– Trading loss carried forward	$^1/_2$
	2005:	
	– Profits subject to corporation tax	$2^1/_2$
	– Corporation tax payable at correct rates	$^1/_2$
	2006:	
	– Corporation tax payable	$^1/_2$
	– Credit for trading losses	1
	– Capital gains tax payable	$1^1/_2$
	– Losses available for carry forward	$^1/_2$
		10
	Total	10