# Association of Taxation Technicians

# Examination

May 2007

## PAPER 6

## BUSINESS COMPLIANCE

ANSWERS
(without marking guide)

ATT Business Compliance
May 2007

Answers

Part 1

1

Emissions rounded down to nearest 5 = 195g/km

Percentage to apply = 15 + (195-140)*1 = 26%

Car Benefit = 26% of £15,000 = £3,900 x 8/12 = £2,600
Fuel Benefit = 26% of £14,400 = £3,744 x 8/12 = £2,496

Class 1A = 12.8% of (£2,600 + £2,496) = £652

2

| | | |
|---|---|---|
| | | £ |
| £420 @ 0% | = | - |
| £2,375 @ 11% | = | 261.25 |
| £2,205 @ 1% | = | 22.05 |
| | | 283.30 |

3

CIS deduction rate of 18% applied to labour element only

"Amount deducted" = 18% of £1,500 = £270

4

With a £60,000 annual salary, Alison is a higher rate tax payer.

Tax saved at 40% = 40% of £200 = £80

Net cost of donation = £200 - £80 = £120

5

Assume the official rate of interest for 2006/07 was 5%.

Average loan balance outstanding = (8,500 + (8,500 – 250 x 9 instalments paid in year))/2
= £7,375

Complete tax months loan in existence = 10

Taxable benefit of cheap loan = 10/12ths of 5% of £7,375 = £307

6

Deduction applied at 9% to salary above £15,000 per annum.

Student loan deduction = 9% of salary = 9% x (7/12ths of (£21,000-£15,000) = £315

7

| | £ |
|---|---|
| Personal allowance | 5,035 |
| Benefits | (858) |
| Unpaid tax £546 x 100/22 | (2,482) |
| Remaining allowance | 1,695 |

Apply remaining allowance to L suffix = 169L

8

| | £ |
|---|---|
| IR35 income | 45,000 |
| 5% deduction | (2,250) |
| Salary paid | (5,000) |
| Mileage expenses = employment expenses | (775) |
| Deemed employment payment plus employer's NIC | 36,975 |

Deemed employment payment = 100/112.8 x (£36,975 - £35 balance of personal allowance) = £32,748 +35 = £32,783

9

An annual limit of £1m cover is normally required for each and every claim.
However, where turnover is less than £400,000, the normal annual limit of indemnity will be 2.5 x gross fee income, subject to a minimum cover of £100,000.

10

a- 1 March (date of payment)
b- 10 March (date invoice issued as less than 14 days after date of delivery)
c- 31 March (invoice date, not payment date)
d- 1 March (invoice date, not payment date)

11
No VAT is charged on an exempt supply. Input tax incurred on the costs of making an exempt supply cannot be recovered.
On a zero-rated supply VAT is charged at 0%. Input tax incurred on the costs of making a zero-rated supply can be recovered.

Exempt supplies – e.g certain property transactions, banking, insurance, postal services, education etc
Zero-rated supplies – e.g books, food, children's clothes, certain property transactions, transport etc

12

Alpha Ltd

- Total bad debt outstanding £3,000 including VAT- the December payment is allocated to the £2,000 1 January invoice and £500 of the 1 March invoice.

- £3,000 including VAT has been outstanding for more than 6 months.
- BDR claim is £446.80 ( 7/47 * 3,000)

Bravo Ltd

- No claim can be made against 1 July invoice as it is less than 6 months old.
- BDR claim on the 1 January invoice is £223.40 (7/47 * 1,500)

13

Each company must be established or have a fixed establishment in the UK.
The companies must be under common control, i.e

One of them controls each of the others
One person (body corporate or individual) controls all of them; or
Two or more individuals carrying on business in partnership control all of them.

14

The bookkeeper is likely to be treated as en employee because:

1. The bookkeeper will be working as part of the accounts department team and so is controlled by the company.
2. The bookkeeper is paid an hourly rate rather than a fixed fee for completing a task.
3. Since this is the bookkeeper’s only work he/she will have no “trappings” of a business.
4. There is unlikely to be a possibility that the bookkeeper would be able to use a substitute to replace him/her for holidays or sickness.

15

The essential elements of a contract are:

- the parties intend to create legal relations.
- there is an agreement between the parties, signified by an offer and acceptance.
- unless the contract is made by deed, there must be consideration – i.e. something of value must normally be given by each party to the other.

***Scottish Law***

*Consideration is not required under Scottish law. However, a gratuitous promise can normally be constituted only by writing. An exception exists for a promise given in the course of a business, which may be oral.*

Part 2

Q1

Tax Advice
High Street
Newtown

19 July 2006

Mrs P Roberts
Trafford Sails Limited
Old Marina
Aberdeen

Dear Pauline

**Benefits in Kind & PAYE**

Following our recent conversation regarding the above, I have set out below the information requested.

**John Weston – 2006/07 Benefits in Kind**

The general rule when assessing employee benefits is that the value of the benefit provided is the actual expense incurred by the employer.

There are special rules relating to relocation expenses that allow up to £8,000 of certain expenses to be reimbursed to the employee without a benefit arising.

The benefits to be included on John's 2006/07 P11D are:

1. **Relocation expenses** – the type of expenses reimbursed to John meet the criteria to be included in the £8,000 "tax-free" benefit. Therefore, the benefit to John is the payment received in excess of £8,000, i.e. **£2,700.**

2. Using the general rule above, the **mooring fees** are assessable as a benefit based on the expense incurred by Trafford Sails Limited. So for 2006/07, the benefit is nine months at £50 per month, i.e. **£450.**

3. Club membership – the same rule applies as in (2) above. The benefit for 2006/07 being **£650.**

**John Weston – PAYE administration**

As John was self-employed, he will not have a P45 to pass to his new employer. A form P46 will need to be completed for John.

As his employment with Trafford Sails Limited will be his first employment in the 2006/07 tax year he should be given an emergency code of 503L on a cumulative basis (i.e. without "Month 1" treatment).

You will need to complete a Deduction Worksheet P11 for John and send the completed form P46 to HM Revenue & Customs on the first pay day, 31 July 2006.

**John Weston – Pay for Month 4 of 2006/07**

| | | | | |
|---|---|---|---|---|
| 1. | **Gross Monthly salary** – 1/12th of £65,000 | | | £5,416.67 |
| 2. | Income tax – 4 months of the cumulative personal allowance of £5,035 gives tax free pay of £1,678.33, leaving only £3,738.33 taxable in month. | | | |
| | **Income tax** = | 4/12th of £2,150 at 10% | £71.67 | |
| | | (3,738.33 – 716.70) at 22% | £664.76 | £736.43 |
| 3. | NI – as a director with cumulative calculation<br>For 9 month period, primary threshold<br>= 9/12th of £5,035 | | £3,776.25 | |
| | **Primary NI** = 11% of (£5,416.67 - £3,776.25) | | £180.45 | |
| | **Secondary NI** = 12.8% of (£5,416.67 - £3,776.25) | | | £209.97 |

**Barry Hall – Termination payment**

As Barry was contractually entitled to a notice period then the pay in lieu of notice is compensation for the loss of the notice period.

This compensation, together with the provision of the car, is taxable as a termination payment. However, such payments of £30,000 or less in total are exempt from tax. If the payment or benefit exceeds £30,000, only the excess is chargeable.

Therefore, the chargeable termination payment is £29,000 + £1,200 - £30,000 = £200

It is the responsibility of the employer to apply PAYE to termination payments.
Therefore, you will be required to deduct PAYE from the termination payment and include the PAYE deductions for Month 5 payable on 19 September 2006.

I hope the above information is sufficient to allow you to deal with these specific issues for the 2006/07 payroll.

Kind regards

Yours sincerely

H Marshall
Director

Q2

Yetty Limited

Memorandum

From: Tom Rolls, Tax Manager

To: Board of Directors
Date: 19 August 2006

Subject: Employee Share Schemes

**HM Revenue & Customs approved share schemes**

Share award schemes allow employers to give employees shares free or for less than their market value. The value of shares given to employees will be treated as employment income and therefore subject to tax and NI, unless the scheme qualifies as an HM Revenue & Customs approved plan (which will have restrictions and requirements to be met).

Share purchase schemes allow employees to buy shares, save money to buy shares & buy shares for a small deposit, paying the rest at a later date.

**Company Share Option Plan (CSOP)**

Employers can grant employees options on up to £30,000 worth of shares each. The share price, fixed on the day the option is granted, must not be lower than the share's market value on that day. Employees can exercise their options after a specified period at the fixed price.

Selling the shares at a profit results in no income tax or NICs if certain conditions are met. However, Capital Gains Tax may be payable if gains exceed the employee's annual allowance.

**Enterprise Management Incentives (EMI)**

Employers can grant options worth up to £100,000 per selected employee and up to £3 million in total. Employees must work a minimum 25 hours a week or 75 per cent of their working time. HMRC approval is not required but the Revenue must be notified within 92 days of the grant.

**Share Incentive Plans (SIP)**

This is the most tax efficient scheme and must be open to all eligible employees. There are three main types of plan:

- Employers can give staff up to £3,000 worth of free shares a year

- Each year, employees can buy a further £1,500 worth of shares from their gross salary

- Employers can give up to two matching shares for every share the employee buys

The shares are held in a trust. No income tax or NI is payable if the shares are held in the SIP for five years. Shares held for over five years in the trust are free of Capital Gains Tax as well.

**Save As You Earn (SAYE or Sharesave)**

Employees can save between £5 and £250 per month for three, five or seven years. Employees get a tax-free bonus if they complete the savings plan.

At the end of the period, employees choose either to:

- use the money saved, plus the bonus and interest, to buy shares in the company

- have their contributions returned

Neither the bonus nor any gains made on the shares are subject to income tax or NI. However, CGT may be payable on their sale. Every eligible employee must have the chance to participate.

The employer can get corporation tax relief for the costs of establishing and administering all the above schemes.

**Recommendation**

A SIP is the best scheme to meet the requirement to give a small number of shares free to all employees, as all the other alternatives require the employees to purchase the shares.

**Setting up the scheme**

1. Issue a prospectus outlining the financial situation of the business to the employees.
2. The distribution of shares must abide by the rules set down in the company's memorandum & articles of association, the Companies Act, the Financial Services and Markets Act and the listing rules of AIM.
3. Shares must be freely transferable between members - scheme members should be able to buy and sell between each other.
4. Draw up a subscriber's contract when you set up a scheme with the aid of a solicitor.
5. Obtain HM Revenue & Customs approval to operate an approved scheme.
6. Explain to staff the employee share ownership system and benefits and, in addition, the risks involved with investments.

**Employees leaving the company**

If employees leave the business before shares have been held in the SIP for five years, they:

- Must repay the saved income tax and NI

- May have to return the free shares they have received.

Q3

1. Takings exceeded the VAT registration threshold at the end of October 2006. For 2006/07 the threshold is £61,000 and cumulative takings at end of October were £76,000.
   He had 30 days to notify HMRC of this, therefore the application should have been submitted by 30 November 2006.
   HMRC will register Frank with effect from 1 December 2006.

2. HMRC may permit a business to recover pre-registration input VAT provided certain conditions are met:
   - It was incurred less than three years before registration.
   - The VAT invoice for the expenditure is held;
   - The goods are still owned at date of registration, either in their original state or incorporated into other goods.

   The VAT incurred on the shop fittings should meet these conditions and therefore it can be recovered.

3. Advantages of registering for VAT voluntarily include:
   - Input tax incurred on set up costs can be claimed at the time it is incurred;
   - VAT registration can make a new business look larger and more established than it is;
   - The business sets up its accounting systems to deal with VAT from the start, which avoids the costs of changing procedures later on;
   - As output VAT is incorporated into the price of supplies from the start, there is therefore no requirement to adjust pricing or profit margins when VAT registration becomes obligatory.
   - The business does not need to monitor its turnover to ensure that it does not miss the point at which its supplies exceed the threshold, and therefore avoids the possibility of incurring a penalty for late registration.

4. The information required on a VAT invoice is as follows:
   - An identifying number
   - Time of supply (tax point)
   - Date of the issue of the document
   - Name, address and registration number of the supplier
   - Name and address of the customer
   - Description of the goods/services supplied
   - For each description, the quantity of goods or the extent of the services, the rate of VAT and the net amount payable
   - Gross total amount payable
   - Rate of any cash discount offered
   - Total amount of VAT chargeable (expressed in sterling)
   - Unit price.

1)
There is no necessity for there to be a written contract.
A contract of employment may be oral, written or a mixture of both.

An employer is required by statute to give an employee a written statement setting out certain terms of the contract within two months of the commencement of employment.
Any changes must be notified within one month.

This statement must include:
- The names of the employer and employee
- The date the employment began and the date on which the employee's period of 'continuous employment' began
- Details of remuneration, including intervals at which paid

- Terms and conditions relating to hours of work

- Terms and conditions relating to holidays, holiday pay, sickness leave, sick pay, pensions and pension schemes

- The length of notice required on either side

- The period of employment (if not indefinite)

- The job title or description of the work the employee is employed to undertake

- The place of work

- Details of the currency in which remuneration will be paid, additional remuneration and any terms and conditions relating to return to the UK if the employee is requires to work outside the UK.

**2)**
**Tom Jones**

For an employee who is resident and ordinarily resident in the UK, the cost of travelling to and from the UK to work abroad is allowed as a deduction from earnings; although as the employer is paying for the trip, the deduction simply offsets the benefit charge.

Board and lodging costs abroad are an allowable expense if the employer pays for them directly or reimburses the employee. No deduction is allowed if the employee bears the cost himself.

The cost of the flat rental for the two weeks annual holiday is allowed as part of Tom's total period of employment.

As Tom will be abroad for more than 60 continuous days, the cost of travel for the visit of his wife and minor child is allowed, provided the costs are met or reimbursed by the employer.

However, the cost of the elder son (who is over 18) will be assessed as a benefit on Tom (£200).

**Roberto Romero**

The cost of travel from Mexico is allowed (ie no assessable benefit on Roberto).

Although Roberto's UK income is subject to UK income tax, he may not be due personal allowances unless specified under the terms of a double taxation agreement.

The cost of the flat rented by the company is not a benefit for the employee.