



Association of Taxation Technicians

Examination

November 2007

PAPER 7

PRACTICE ADMINISTRATION & ETHICS

TIME ALLOWED – 3 HOURS
(for Part I and Part II)

- You are required to answer **all** questions in Part I (printed separately) and Part II.
- The maximum number of marks for each question in Part II is shown in brackets.
- For Part II, start each answer on a new sheet of paper.
- All workings should be shown and made to the nearest month and pound unless the question requires otherwise.
- Marks are specifically allocated for good presentation.

1. You are Tony Finch, tax adviser. You have recently received the following letter from Mr Byrd, the financial director of Sparrow Ltd. Sparrow Ltd is a profitable company which has been experiencing cash-flow difficulties and which has failed to fulfil some of its tax compliance obligations, due to its need to focus on cash management.

Sparrow Ltd
Address

Tony Finch
Address

Dear Tony

As you know, I have now concluded the sale of our old property, which will alleviate our cash-flow difficulties, although we will not receive the bulk of the cash until around the end of January, when the planning permission for the redevelopment of the site is expected to come through. I am trying to put together a new statement for our bank showing our various anticipated cash incomings and outgoings over the next 12 months or so. The bank is prepared to support us until we receive the balance of the cash, but we seem to be somewhat in arrears with our Corporation Tax payments.

I know we paid the Corporation Tax based on the December 2004 accounts a few weeks late and we then had to pay an interest charge so I wonder if you can explain to me when interest is charged on such late payments and whether any other penalties arise. I do not expect you to calculate any charges – I can do that if I understand the basis of the charges as your colleague has already sent me details of the rates at which interest has been charged over the last few years.

As far as I can see, we have paid the full tax charge based on the December 2005 accounts (also late), but have not paid any tax based on the December 2006 accounts. I know you advised us of the anticipated charge, but I thought I might wait until the tax computations were complete. On reflection I think I should perhaps make a payment now. What is the best way to do this? Also I assume we may have to pay tax in relation to the sale of property. When will that tax be due?

Thank you for your help.

B Byrd

A review of your file shows that the last set of accounts for which Corporation Tax computations and a Corporation Tax return were prepared was the year to 31 December 2005. The tax return for that year was lodged on 15 January 2007 but the tax due (approximately £30,000) was then paid over the next four months, as cash became available. The tax return for the year to 31 December 2004 was lodged on 4 July 2006. The tax (approximately £15,000) was paid just two weeks after the due date. Sparrow Ltd has recently prepared its next accounts to 31 December 2006. A Corporation Tax provision of £50,000 was included in those accounts and it is anticipated that this figure will be close to the final tax due, although as the accounts were only signed yesterday the final tax computations are not yet ready. Sparrow Ltd is a trading company and has no associated companies

You are required to write a letter to Mr Byrd:

- 1) Explaining when Corporation Tax payments are due and when Corporation Tax returns (CT600) must be lodged. (4)**
- 2) Advising on any interest charges and penalties arising on the late submission of Corporation Tax returns. (6)**
- 3) Confirming the methods for making payment of Corporation Tax and the dates on which the payments will be treated as received by HM Revenue & Customs. (3)**
- 4) Confirming when Corporation Tax will be due on the sale of the building. (2)**

Total (15)

2. You deal with the tax affairs of a client, Brian Stilton, who has extremely complex tax affairs. In June 2006, HM Revenue & Customs opened an enquiry into his tax return for the year to 5 April 2004. All the relevant questions were dealt with, but there is one outstanding technical point on which you have been unable to come to an agreement with the Inspector dealing with the enquiry. The Income Tax at stake is significant (approx £150,000), but despite putting forward several arguments, the enquiry remains open.

Today you have returned to the office from a week's holiday and have received the following email from the client contact partner:

To: L Wade
From: P Grant

Re: Brian Stilton

Larry

I was playing golf with Brian today and he's becoming a bit upset over the time it's taking to resolve the tax enquiry. I told him that these things take time – but, as you know, he can be very bullish and he wants to resolve the matter as soon as possible. Do you have to close the enquiry before requesting a hearing before the Special Commissioners? I remember you telling me that this particular point could only be decided by the Special rather than the General Commissioners because it is concerned with the construction and interpretation of the particular statute. Remind me of the general rules of interpreting statute, please.

Brian is quite sensitive about publicity, so how can we deal with that? I assume you would be happy to represent him, as you have experience with this, but let me know of any issues you have. He would definitely appeal the Commissioners' decision if they found against him, so certain is he that he will ultimately win the case.

Please drop me an email when you get back from holiday and we can then discuss this further.

Paul

You are required to prepare the email response from Larry to Paul. This email should include the following points:

- 1) **An explanation of the procedure necessary to advance to a hearing before the Special Commissioners.** (3)
- 2) **Advice as to who may represent a taxpayer before the Special Commissioners.** (2)
- 3) **A note of the main matters to be considered before deciding to take this case to the Special Commissioners, including comments addressing Paul's concern about publicity.** (4)
- 4) **An explanation of the information to be provided to the Special Commissioner in advance of the hearing and any powers they have to obtain further information.** (2)
- 5) **An explanation of how to appeal a decision made by the Special Commissioners.** (2)
- 6) **A reminder to Paul of the general rules of interpretation and construction of statutes.** (2)

Total (15)

3. You are an assistant working for a small accountancy practice. The tax manager has recently seen a potential new client and has provided you with the following information.

The potential new client is called Kate Matthews and she came to see the tax manager because a friend of hers thinks Kate may have a tax problem. Kate advised the tax manager that she has been receiving rental income on a second property for a number of years, but has never disclosed the income to HM Revenue & Customs or paid any tax on it. She says that she believed that she was not obliged to pay tax on the income because HM Revenue & Customs had never asked her to complete an income tax return or sent her a demand for any tax due.

You are required to:

- 1) **Draft a letter to Kate Matthews, explaining her position. Your letter should cover the following areas:**
 - (a) **Her general obligations under tax law to report untaxed income to HM Revenue & Customs.** (4)
 - (b) **Her possible exposure to an interest charge on this undisclosed income.** (3)
 - (c) **Whether penalties can be charged.** (4)
 - (d) **How many years in the past that HM Revenue & Customs can go in assessing this income.** (3)
- 2) **Draft a brief memo to the tax manager detailing the firm's obligations to make a report to the Serious Organised Crime Agency and the ethical position of the practice if Kate Matthews decides not to make a full disclosure of the rental income to HM Revenue & Customs.** (6)

Total (20)

4. You work for a medium-sized accountancy practice and have just received the following memo from the tax partner.

To: John Smith
From: Alan Barnes
Date: 1 November 2007
Subject: Betty Wilcox – deceased

John

As this case was finalised some months ago and all of the Inheritance Tax paid by the estate, I was in the process of authorising the files to be put into our archive. However, it would appear to me that we have inadvertently omitted to disclose a number of substantial lifetime gifts that Betty made and it looks like Inheritance Tax has therefore been underpaid.

For information, Betty Wilcox died on 1 May 2006 and I believe the omitted gifts are as follows:

- 1) Gift to a discretionary trust in favour of her two grandchildren on 1 January 2001 of £40,000. Her grandchildren are Mary and Sarah and were aged 22 and 16 at the date of the gift.
- 2) Gift to her son David on 1 July 2004.

I will get someone else to calculate the actual liabilities, but could you please look into this case for me and let me know when any additional Inheritance Tax should have been paid. In addition, do we have to declare this additional liability to either the personal representatives or HM Revenue & Customs?

Alan

You are required to write a memo to the tax partner and provide the following information:

- 1) **The due date for payment for both the Inheritance Tax due in respect of these lifetime transfers and at the date of death.** (2)
- 2) **State who is responsible for paying the Inheritance Tax liabilities due in part 1).** (2)
- 3) **Explain whether the accountancy practice has already breached any ethical rules detailed in the Association's Professional Rules and Practice Guidelines and whether it will be breaching any ethical rules if notification of the additional liability is not made to either the personal representatives or HM Revenue & Customs.** (6)

Total (10)