Accounting Technicians Ireland

Advanced Taxation

Republic of Ireland

2nd Year Examination

May 2014

Exam Paper, Solutions & Examiner's Report

NOTES TO USERS ABOUT THESE SOLUTIONS

The solutions in this document are published by Accounting Technicians Ireland. They are intended to provide guidance to students and their teachers regarding possible answers to questions in our examinations.

Although they are published by us, we do not necessarily endorse these solutions or agree with the views expressed by their authors.

There are often many possible approaches to the solution of questions in professional examinations. It should not be assumed that the approach adopted in these solutions is the ideal or the one preferred by us. Alternative answers will be marked on their own merits.

This publication is intended to serve as an educational aid. For this reason, the published solutions will often be significantly longer than would be expected of a candidate in an examination. This will be particularly the case where discursive answers are involved.

Accounting Technicians Ireland

2nd Year Examination: Summer 2014 Paper

Paper: ADVANCED TAXATION (Republic of Ireland)

Thursday 15th May 2014 – 2.30 p.m. to 5.30 p.m.

INSTRUCTIONS TO CANDIDATES

PLEASE READ CAREFULLY

For candidates answering in accordance with the law and practice of the Republic of Ireland.

Candidates should answer the paper in accordance with the appropriate provisions up to and including the Finance Act, 2013. The provisions of the Finance (No 2) Act, 2013 should be ignored.

Allowances and rates of taxation, to be used by candidates, are set out in a separate booklet supplied with the examination paper.

Answer ALL THREE QUESTIONS in Section A, and ANY TWO of the FOUR questions in Section B. If more than TWO questions are answered in Section B, then only the first two questions, in the order filed, will be corrected.

Candidates should allocate their time carefully.

All workings should be shown.

All figures should be labelled as appropriate e.g. €s, units, etc.

Answers should be illustrated with examples, where appropriate.

Question 1 begins on Page 2 overleaf.

The following insert is included with this paper.

- **Tax Reference Material (ROI)**

SECTION A

Answer QUESTION 1 and QUESTION 2 and QUESTION 3 (*Compulsory*) **in this Section**

QUESTION 1 *(Compulsory)*

Stephen Quinn an engineer is single and aged 38 years, for the past ten years he has worked for Bridge Limited an engineering company.

He lives with Amy Jones who is also single and they have a son Ryan who is incapacitated. Stephen pays for Ryan's maintenance and Amy stays at home to look after him.

Details of Stephen's employment package are as follows:-

- Annual salary of €58,000, PAYE paid of €8,950.
- Stephen has a company car which he got new in 2011. The car had an original market value of €30,000 but is now only worth €22,000. The car has emissions of 140g/km and in 2013 Stephen travelled 36,000 business km. His employer pays for all expenses except for private petrol which Stephen pays for. This amounted to €3,000 in 2013.
- In 2010 when Ryan was four years old, the company lent Stephen €50,000 so he could make home improvements so their home would be more suitable for Ryan. The company charged Stephen no interest on the loan and no repayments will need to be made until 2015. Stephen does not qualify for mortgage interest relief.

Stephen's other income and outgoings are as follows:

		€
Dividend (net) received from an Irish company		400
Qualifying health expenses:	Self	180
	Ryan	2,500
	Amy	300
Retirement annuity		8,000

Stephen is not a member of the pension scheme in work.

Amy's only income is rental income from two properties she inherited from her father in 2009.

Property 1 (residential)
This property has been let to the same tenant for a number of years; it is registered with the PRTB. The monthly rent is €1,100 and the annual interest paid on the loan to purchase the property is €5,500. Amy also pays the property maintenance charge of €1,100.

Property 2 (commercial)
This property was let on a ten year lease at a yearly rent of €25,000. This lease expired on the 31st March 2013. The property was vacant until the 1st October 2013 when the property was re-let on a ten year six month lease at a yearly rent of €28,000 and a premium of €20,000.

The only outgoing is yearly interest of €10,000 on the purchase of the property.

Amy had the following outgoings for 2013:

- Nursing home fees of €8,000 for her mother Beth.
- Amy started a part-time degree course in an approved college and paid fees of €3,500 in 2013.

Required:

(a) Compute the Income tax and Universal Social Charge payable by Stephen for the tax year 2013.

10 Marks

(b) Compute the Income tax and PRSI payable by Amy for the tax year 2013.

10 Marks

Total 20 Marks

QUESTION 2 *(Compulsory)*

(a) Reid Limited is an Irish company with three retail outlets. The company's results for the year ended 30th June 2013 are summarised as follows:

	Notes	€
Case I (as adjusted but before capital allowances)	1	510,000
Income from Irish properties	2	25,000
Profit on the sale of a retail unit	3	126,300

Notes

1. Plant and Machinery
On the 1st July 2012 the tax written down value of plant and machinery was as follows:

Plant and machinery €75,000

The plant and machinery were all purchased new for €120,000 in May 2010.

The only transaction by the company in the current accounting period was the sale of a van for €20,000 in March 2013. The van had emissions of 160g/km and was purchased for €35,000 in May 2010. This cost is included in the opening cost of €120,000.

The year end of the company has always been June.

2. Since May 2010 Reid Limited has rented out an office building surplus to requirements. On that date it received a premium of €10,000 on the grant of a five year lease at a yearly rental income of €25,000.

3. The company sold a retail unit on the 10th May 2013 for €210,000. This unit had been purchased by the company in May 2001 for €80,000. Legal fees on acquisition and disposal were €1,500 and €2,200 respectively.

At the 1st July 2012 the company had a capital loss carried forward of €3,500.

Required:

Calculate the corporation tax payable by Reid Limited for the year ended 30th June 2013.

10 Marks

(b) Ocean Limited is an Irish resident close company. The company has 120,000 €1 ordinary shares in issue.

The shareholders of the company are:-

	%
Orla Cooper	30
Siobhan Byrne (Orla's sister)	20
David Cooper (Orla's husband)	10
Brian Jones (Orla's brother)	20
Max Ryan (unrelated)	10
Ben Cooper (Orla's son)	10
	100

With the exception of Ben, all the participators are directors of the company. Ben works for the company on a part-time basis.

Question 2 continues overleaf

QUESTION 2 *(Cont'd)*

In the year ended 31st October 2013, the company had the following transactions:

1. The company lent Ben Cooper an interest free loan of €10,000 in September 2013 to allow him to pursue his studies.

2. The company paid €5,000 for a holiday for Brian Jones.

3. During 2011 the following Directors lent money to the company:

   - Orla lent the company €130,000 at an 8% interest rate.
   - Siobhan lent the company €150,000 at a 10% interest rate.

No repayments had been made to Orla and Siobhan as at 31st October 2013. The interest was paid to the directors on 31st October 2013.

Requirement:

You are required to comment on the taxation implications for the company of the above transactions and provide calculations where necessary to support your answer.

10 Marks
Total 20 Marks

QUESTION 3 *(Compulsory)*

(a) Kehoe Limited is a small Irish company selling garden furniture. The company had the following transactions for September/October 2013. All amounts are exclusive of VAT:

		Notes	**€**
Sales:	Irish customers		380,000
	Non EU customers		10,000
	EU customers – VAT registered		40,000
Purchases:	Irish suppliers		150,000
	EU suppliers – VAT registered		20,000
	Motor expenses	1	2,500
	Staff entertainment	2	1,250
	Rent – business premises		8,000

Notes:

1. The motor expenses consist of the following:

	€
Petrol – Managing director's car – 80% business use	600
Diesel – Vans	1,500
Repairs to car	400
	2,500

2. The company was celebrating 10 years in business and brought all the staff out for a meal at a local restaurant.

The standard rate of VAT applies (23%) except for the vehicle repairs and the staff meal which have a VAT rate of 13½% and 9% respectively.

Question 3 continues overleaf

QUESTION 3 *(Cont'd)*

Required:

(i) Calculate Kehoe Limited's VAT liability for September/October 2013.

10 Marks

(ii) Kehoe Limited who use the online system submitted their VAT return and payment on the 30th November 2013. Calculate any interest/penalties due.

4 Marks

(b) Anne Kelly is in the process of setting up an internet website and plans to sell goods to both the Irish and UK market. She expects her Irish sales to be €100,000 in her first 12 months and her UK sales to reach £15,000 for the same period. All Anne's customers will be private individuals and her VAT rate will be 23%.

Required:

Outline the VAT implications of Anne's internet business. **6 Marks**

Total 20 Marks

SECTION B

Answer ANY TWO of the FOUR questions in Section B

QUESTION 4

(a) Outline the Capital Gains tax rules applicable to married couples in respect of:

(i) Disposals between spouses. **2 Marks**

(ii) Annual exemption. **2 Marks**

(iii) Losses made by a spouse. **2 Marks**

(b) Thomas and Mary are married. Thomas is resident and domiciled in Ireland. Mary is resident in Ireland but domiciled in the USA.

In 2013 the couple sold the following assets:

Mary

- Mary sold an investment property in Boston for €120,000. The property cost €75,000 in 2003. Mary remitted €60,000 of the proceeds to Ireland in 2013.
- Mary sold UK shares for €10,000. These shares cost €4,000 in 2006. Mary did not remit the sales proceeds to Ireland.
- Mary gave 200 shares in Celtic Limited to Thomas. Mary had purchased the shares in 2002 at a cost of €2.10 per share. The market value of the shares on the date she gave them to Thomas was €2.70 per share.

Thomas

- Thomas sold 1,000 shares in Tiger Limited to his sister Michelle for €3 per share. The market value at the date of sale was €3.50 per share. Thomas originally purchased the shares in May 2001 for €3.90 each.
- Thomas sold an investment property in Chicago for €180,000. The property cost €110,000 in December 2002. None of the sales proceeds were remitted to Ireland.
- Thomas sold the shares given to him from Mary earlier in the year. He received €3.85 per share.

Required:

Assuming Thomas and Mary are separately assessed for capital gains tax, calculate:

(i) Mary's Irish capital gains tax liability, if any, for 2013.

6 Marks

(ii) Thomas's Irish capital gains tax liability, if any, for 2013.

8 Marks

Total 20 Marks

QUESTION 5

(a) Carlow Limited is owned equally by five shareholders, each of whom received a dividend of €10,000 on the 30th April 2013. Carlow Limited's year end is the 30th June each year. The five shareholders are:-

Trim Limited – an Irish company.
June Carlow – an Irish resident.
Nathan Moore – a UK resident.
Black Limited – a US company.
Sheila Jones – an Irish resident.

Ireland has a double tax treaty with both the UK and the US.

Required:

(i) State, giving reasons, whether dividend withholding tax (DWT) will be deductible from the dividends paid to the five shareholders of Carlow Limited.

4 Marks

(ii) State the due date for payment of any DWT deductible from the dividends paid on the 30th April 2013.

2 Marks

(b) Doyle Limited is a small courier company. It has prepared a 16 month accounting period to the 30th September 2013. Details of the companies income is as follows:

	€
Case I adjusted income before capital allowances	224,000
Case V	80,000

Fixed assets

The company purchased four vans (emissions 145g/km) for €35,000 each on the 1st of April 2013. All other assets of the company are leased.

Required:

Calculate the corporation tax of Doyle Limited for all of the accounting periods covered by Doyle Limited's 16 month accounting period to the 30th September 2013.

You may assume all income accrues evenly throughout the period.

14 Marks
Total 20 Marks

QUESTION 6

The following multiple choice question consists of TEN parts, each of which is followed by FOUR possible answers. There is ONLY ONE right answer in each part.

Requirement:
Indicate the right answer to each of the following TEN parts. **Total 20 Marks**

N. B. ***Each part carries 2 marks.***
Candidates should answer this question by ticking the appropriate boxes on the special answer sheet which is contained within the answer booklet.

1. Which of the following expenses is not allowed as a tax deduction in computing the trading income of a company: -

(a) Cost of holiday for staff member arising from a sales incentive scheme.
(b) Contributions to the director's pension scheme.
(c) Director's remuneration.
(d) Legal fees in respect of the company's acquisition of a new warehouse.

2. Brian filed his 2012 tax return on the 30th November 2013. He had a tax liability of €86,000 for 2012 before deduction of the 2012 preliminary tax payment of €75,000. He is liable to a late surcharge payment of:

(a) €565
(b) NIL
(c) €550
(d) €4,300

3. Moon Limited gave a gift to its largest customer which cost €500 excluding 23% VAT. The retail value of the gift was €1,250 excluding VAT. The VAT implications of the gift are:

(a) No VAT liability arises on gifts to customers.
(b) A sale of €500 must be recorded.
(c) A sale of €1,250 must be recorded.
(d) A 'Vatable' supply arises based on €1,538.

4. Sun Limited owns a large warehouse which it lets out at full market rent. Sun Limited has an accounting period the year ended 30th June each year. Sun Limited has made a rental loss in its accounting year ended 30th June 2013. The loss on the letting can be realised for corporation tax purposes:

(a) Used in the current accounting period the 30th June 2013 to reduce other profits of the company.
(b) Used in the current accounting period the 30th June 2013 on a value basis to reduce the corporation tax of the company.
(c) Carried back to the accounting period the 30th June 2012 to reduce Irish rental income only.
(d) Used in the previous period the 30th June 2012 to reduce profits of the company.

Question 6 continues overleaf

QUESTION 6 *(Cont'd)*

5. Niall borrowed €5,000 interest free from his employer to enable him to purchase a car. Niall received the loan on the 1st October 2013 and he hopes to repay the loan in full on the 30th June 2014. The 2013 benefit-in-kind is calculated at:

(a) €156
(b) €675
(c) €506
(d) €169

6. Susan purchased a painting for €3,000 in July 1982. Susan sold the painting in August 2013 for €6,000. Her capital gains tax position for 2013 assuming she has no other gains is:

(a) Capital gains tax liability of €571.
(b) This is a wasting chattel and exempt from capital gains tax.
(c) She has no capital gains tax in 2013 and a loss carried forward of €759.
(d) She has no capital gains tax liability and no loss carried forward.

7. Sandra commenced trading on the 1st October 2012 and prepared accounts to the 30th September 2013 and annually thereafter. Profits as adjusted for tax purposes were:

	€
Year ended 30th September 2013	30,000
Year ended 30th September 2014	20,000
Year ended 30th September 2015	25,000

The Schedule D Case I profit assessed for 2013 was:

(a) €27,500
(b) €30,000
(c) €20,000
(d) €22,500

8. Star Limited is a close company. On the 1st July 2013 it made a loan of €10,000 to one of its shareholders Andrew, who owns 20% of the voting rights. Star Limited's accounting period is the 31st December each year. The loan is still outstanding at the 31st December 2013. In respect of this loan, the company has to pay tax of:-

(a) €2,000
(b) €2,500
(c) €1,000
(d) €1,250

9. David is a sole trader and prepares accounts to the 30th April each year. In March 2009 he purchased a van for €30,000. The emissions of the van were 160g/km. On the 10th December 2012 he sold the van for €10,000. Calculate David's capital allowance on this van for the tax year 2013.

(a) None
(b) Balancing allowance €8,750
(c) Balancing charge €2,500
(d) Balancing allowance €5,000

Question 6 continues overleaf

QUESTION 6 *(Cont'd)*

10. Linda purchased a house on the 30th June 2000 for €75,000. On the 1st July 2013 she sold the house for €200,000. Linda lived in this house as her main residence for the period 1st July 2000 to 30th June 2007. Linda's chargeable Capital Gain is:-

(a) €43,923
(b) €61,492
(c) €52,708
(d) €114,200

Total 20 Marks

QUESTION 7

(a) Paul Moore is a vintage car enthusiast. He has always kept up to three such vehicles at any one time and used them occasionally to take part in vintage car rallies.

Paul retired from the fire brigade in February 2013 and decided to become more involved with his hobby.

Paul used some of his retirement package to purchase four vintage cars for €8,000 and spent €25,000 overhauling them. Paul sold two of the cars in November 2013 for €54,000. Paul used some of the proceeds of the sale to purchase three more cars, which he hopes to overhaul and sell in the next few months.

Required:

(i) Identify and briefly explain the six badges of the trade.

9 Marks

(ii) State, giving reasons whether Paul should be regarded as carrying on a trade in respect of his vintage car activities.

3 Marks

(b) Mark White, a new client who has been self-employed for a number of years, has asked you to explain the following with reference to income tax.

(i) The rules applicable in determining the amount of preliminary tax to be paid for the tax year 2013.

3 Marks

(ii) The payment date for preliminary tax for 2013.

1 Mark

(iii) The implications for late payment of preliminary tax.

2 Marks

(iv) Mark intends to sell a chargeable asset in November 2013 and wishes to know the filing date for his capital gains tax return in relation to this disposal.

2 Marks

Total 20 Marks

2nd Year Examination: May 2014

Advanced Taxation ROI

Suggested Solutions and Examiner's Comments

Statistical Analysis – By Question							
Question No.	1	2	3	4	5	6	7
Average Mark (%)	69.5%	47%	55%	60%	72%	47%	60%
Nos. Attempting	674	671	672	532	231	450	135

Statistical Analysis - Overall	
Pass Rate	70.1%
Average Mark	57%
Range of Marks	**Nos. of Students**
0-39	123
40-49	80
50-59	151
60-69	142
70 and over	183
Total No. Sitting Exam	**679**
Total Absent	115
Total Approved Absent	24
Total No. Applied for Exam	818

Examiner's Comments on Question One

This question was an income tax computation for two single taxpayers living together with an incapacitated child. It was well answered by the majority of candidates. Students are encouraged to revise the following areas:

- The calculation of the premium liable to tax under schedule D case V.
- The fact that it is the payer of the medical expenses that receives the relief.
- The incapacitated child credit is given to the person who maintenances the child.
- That USC is calculated on schedule F income.

Solution 1

(a)

Stephen Quinn
Income Tax Computation 2013

		Notes	€	Marks Allocated
Schedule E		1	65,400	
Schedule F 400/80 x 100			500	1
			65,900	
Charges:				
Retirement annuity		2	(8,000)	
Statutory Income			57,900	
Tax Payable:				
	€32,800 at 20%	=	6,560	
	€25,100 at 41%	=	10,291	
			16,851	
Less:	Single credit		(1,650)	0.25
	PAYE credit		(1,650)	0.25
	Incapacitated child	3	(3,300)	1
	Medical expenses	4	(596)	1
Tax liability			9,655	
Less:	PAYE paid		(8,950)	0.5
	DWT €500 at 20%		(100)	0.5
Tax due			605	

Solution One (Cont'd)
Universal Social Charge:

		€	
Total Income		65,900	**1**
€10,036 at 2%	=	201	
€ 5,980 at 4%	=	239	**1**
€49,884 at 7%	=	3,492	
		3,932	

(b)

Amy Jones
Income Tax Computation 2013

		Notes	€	
Case V		5	27,625	
€27,625 at 20%		=	5,525	
Less:	Single credit		(1,650)	**0.5**
	Medical expenses €8,000 at 20%	=	(1,600)	**2**
	College fees €3,500 – €1,250 at 20%	=	(450)	**1**
	Tax liability		1,825	
	PRSI €27,625 at 4%	=	1,105	**1**

Notes:

1. Schedule E

			€	
Salary			58,000	**0.5**
B-I-K Car	€30,000 x 18%	=	5,400	**1**
B-I-K Loan	€50,000 x 4%	=	2,000	**1**
			65,400	

2. Retirement Annuity

Relevant earnings	65,400	
Maximum relief: €65,400 x 20% =	13,080	**1**
Restricted to premium paid of	8,000	

3. As Stephen pays maintenance for Ryan he is entitled to the incapacitated child credit.

4. Medical Expenses:

		€
Self		180
Ryan		2,500
Amy		300
		2,980
Credit €2,980 at 20%	=	596

5. Schedule D – Case V

			€	
Property 1				
Rent €1,100 x 12		=	13,200	**0.5**
Less:	Interest €5,500 x 75%	=	(4,125)	**1**
	Maintenance charge	=	(1,100)	
			7,975	
Property 2				
Rent	€25,000 x 3/12	=	6,250	
	€28,000 x 3/12	=	7,000	**1**
Premium €20,000 - (€20,000 x $\frac{10 - 1)}{50}$		=	16,400	
			29,650	**2**

Solution One (Cont'd)

Less: Interest			(10,000)
			19,650
Total rent income:	€7,975 + €19,650	=	27,625

6. The Lone Parent credit is not available as Stephen and Amy are co-habiting.

Examiner's Comments on Question Two

Part (a) was a basic corporation tax computation and part (b) was on close companies. As in previous sittings, corporation tax causes problems for candidates. While part (a) was well answered with an improvement in layout from previous sittings most candidates did less well on close company adjustments in part (b).

Close companies are an important topic as in practice almost all small and medium sized companies are close companies and it is important that candidates understand the tax consequences of providing certain benefits and loans.

Solution 2

(a) **Corporation Tax computation**

	Notes	€	Marks
Case I	1	497,500	
Case V		25,000	2
Income		522,500	
Gain	2	305,472	
Profit		827,972	
Corporation Tax:			
€497,500 at 12½%	=	62,188	
€ 25,000 at 25%	=	6,250	2
€305,472 at 12½%	=	38,184	
		106,622	

(b) **(1)** As Ocean Limited has lent money to a participator the company must account for the following additional tax to the Revenue Commissioners:

€10,000 x 20/80 = €2,500 3

This will form part of the corporation tax of the accounting period the 31st October 2013. The tax will be held by the Revenue Commissioners until the loan is repaid by the shareholder.

Ben will be subject to the normal benefit-in-kind rules and will have an Income Tax charge on the receipt of a loan at a preferential interest rate. 0.5

(2) As Brian Jones is a director/employee of the company the normal benefit-in-kind rules apply. The close company provisions can be ignored. 1.5

Solution Two (Cont'd)

(3) As Orla and Siobhan are both directors who own more than 5% of the company's share capital the maximum amount of interest allowed as a business expense is the lower of:

- 13% of the nominal amount of the issued share capital of the company **3**
  or
- 13% of the loans from the directors.

The interest in the companies accounts for the year ended 31st October 2013 is:

Orla	€130,000 x 8%	=	€10,400
Siobhan	€150,000 x 10%	=	€15,000
			€25,400

The maximum that can be treated as an expense is the lower of:

- €120,000 x 13% = €15,600
  or
- €280,000 x 13% = €36,400

The amount paid will consist of interest of €15,600 which is deductible as an expense for corporation tax purposes. In relation to the interest allowed as interest the company must withhold income tax at the standard rate from these payments and pay the tax withheld to the Collector General with its corporation tax liability under section 239. The balance of the interest paid to the directors, €9,800 will be treated as distribution. The distribution will be subject to DWT and will be added back in the company's tax adjusted profit computation. **1** **1**

Notes:

1. Capital allowances:

			€	
Opening cost			120,000	
Less: Disposal			(35,000)	
			85,000	
At 12½%		=	10,625	**1**
Balancing position: Van				
Sales proceeds			20,000	
TWDV:	€			
Cost	35,000			
30/6/2010	4,375			
30/6/2011	4,375			
30/6/2012	4,375		21,875	
Balancing allowance			1,875	**2**
Total capital allowances;				
€10,625 + €1,875		=	12,500	
Case I				
Adjusted profit			510,000	
Less: Capital allowances			(12,500)	
			497,500	

Solution Two (Cont'd)

		€	Marks Allocated
2.	**Capital gain**	**€**	
	Sales proceeds	210,000	
	Less: Disposal costs	(2,200)	
	Less: Acquisition costs:		
	€80,000 + €1,500 = €81,500		
	€81,500 x 1.087 =	(88,591)	1
	Gain	119,209	
	Less: Loss	(3,500)	1
		115,709	
	Adjusted: €115,709 x 33/12.5 =	€305,472	1

Examiner's Comments on Question Three

This was a VAT question including a practical VAT calculation, the tax consequences of a late return and VAT payment. It also included a theory section on distance selling.

This question was well answered with the exception of part (b) on distance selling. Students are encouraged to revise this topic and also the registration limit for the supply of goods.

Students should also note that the penalty for the late submission of a VAT return is €4,000, and not a surcharge.

Solution 3

(a) (i)

	Notes	€	Marks
Output VAT			
Sales to: Irish customers €380,000 at 23%		87,400	1
Non EU customers €10,000 at 0%		0	1
EU customers – VAT registered €40,000 at 0%		0	1
EU acquisitions €20,000 at 23%		4,600	1
		92,000	
Input VAT			
Irish suppliers: €150,000 at 23%		(34,500)	0.5
EU suppliers – VAT registered: €20,000 at 23%		(4,600)	1
Motor expenses	1	(388)	
Staff entertainment	2	□	1
Rent: €8,000 at 23%		(1,840)	1
VAT due		50,672	

Notes

		€	Marks
1.	**Motor expenses**	**€**	
	Petrol – no input credit allowed	□	1
	Diesel €1,500 at 23%	345	0.5
	Repairs to car €400 x 80% = €320 at 13½%	43	1
		388	

2. No input credit allowed on food and drink for the taxpayer or any staff member.

arks
ted

Solution Three (Cont'd)

(ii) Penalty for late submissions of VAT returns €4,000

Interest for late payment is 0.0274% per day. **1**

Due date:	23/11/2013
Submitted:	30/11/2013

Days late: 7 **1**

€50,672 x 0.0274% x 7	= € 97		**0.5**
Total interest and penalty	= €4,097		

(b) As Anne's sales in Ireland exceed the threshold for the sale of goods of €75,000 in any 12 month period, she will be required to register for VAT and charge VAT at the standard rate on sales made to Irish customers. **2**

The sales to the UK customers will be liable to Irish VAT as the place of supply is Ireland (where the transport begins). **2**

However if Anne was to exceed the UK registration limit for internet sales she would be required to register for VAT in the UK and charge UK VAT on these sales. The place of supply changes to where the transport ends. **2**

Examiner's Comments on Question Four

This capital gains question was broken down into two parts. Part (a) was theory on the capital gains tax implications for married couples. This was well answered.

Part (b) was a practical situation dealing with married couples and the remittance basis.
The main areas of difficulty here were:

- The majority of candidates appreciated that the remittance basis applied to Mary. However they taxed Mary on the amount remitted of €60,000 rather than the gain of €45,000.
- Thomas sold shares to his sister and made an actual loss of €400. As this was a sale to a connected person this loss cannot be used to reduce all gains of the taxpayer. Only a handful of candidates recognised and applied this point.
- Shares are not a durable chattel and are not exempt if there sales proceeds are below €2,540.

Solution 4

(a) **(i)** **Disposals between spouses**

When an asset is transferred between spouses, no gain or loss arises on the transaction. The spouse who has acquired the asset from their spouse takes over the period of ownership and the base cost from their spouse. **1** The couple must be living together for this relief to apply. **1** Where an individual inherits an asset from their spouse, the period of ownership will be from the date of death and the cost at date of acquisition will be the market value at the date of death.

Other than assets acquired on death, for subsequent disposal:

- The spouse is deemed to have acquired the asset at the same cost and on the same date as the spouse who originally acquired the asset.

Marks
[illegible]ted

Solution Four (Cont'd)

- Gain or loss on disposal of the asset is calculated by;
  - Reference to the whole period of ownership of the asset, by the couple, and
  - by reference to the original cost of the asset.

(ii) Annual exemption

Each spouse is entitled to the €1,270 annual exemption. It is not possible to transfer any unutilised annual exemption between spouses regardless of whether they are jointly assessed or not. **1** **1**

(iii) Losses made by a spouse

Surplus losses of one spouse in a year of assessment can be transferred to the other spouse for offset against the chargeable gains of the other spouse. **2**

Unutilised losses of the spouse are carried forward for offset against any future gains of the spouse who incurred the losses.

Spouses can elect not to transfer losses between them. This election must be made before 1st April following the year of assessment in which the losses are incurred.

(b) (i) Mary – Capital gains tax computation 2013

Mary is liable to Irish capital gains tax on Irish gains and foreign gains to the extent they are remitted to Ireland.

- Investment property in Boston

	€	Marks
Sales proceeds	120,000	
Cost 2003	(75,000)	
Gain	45,000	**0.5**

Mary will be fully liable on the gain of €45,000 as she remitted €60,000 of the proceeds to Ireland in 2013. The Irish Revenue deems a taxpayer to have remitted the gain first. **1.5**

- UK shares are not liable in 2013 as Mary did not remit the sales proceeds. **2**
- This is a transfer to a spouse and is exempt from capital gains tax. **1**

Summary		**€**	Marks
Investment property		45,000	
Less: Annual exemption		(1,270)	**0.5**
		43,730	
Tax at 33%	=	14,431	**0.5**

(2) Thomas – Capital gains tax computation 2013

As Thomas is resident and domiciled he is liable on his worldwide gains.

- Sale of shares to sister

	€	Marks
Sales proceeds		
1,000 x €3.50	3,500	
Cost 2001 1,000 x €3.90 = €3,900		
€3,900 x 1.087	(4,239)	
Loss	(739)	**0.5**

Solution Four (Cont'd)

This is restricted to the actual loss of:-

	€	Marks
Sales proceeds	3,500	
Cost 2001	(3,900)	
	(400)	0.5

• Investment property - Chicago

	€	
Sales proceeds	180,000	
2002 Cost: €110,000 x 1.049	(115,390)	
Gain	64,610	1

This is fully liable as Thomas is resident and domiciled and therefore liable on his worldwide gains. 1

• Sale of Shares in Celtic limited

	€	
Sales proceeds: 200 x €3.85	770	
Cost: 2002 200 x €2.10 = €420		
€420 x 1.049	(441)	2
	329	

Summary	€	
Investment property	64,610	
Shares in Celtic limited	329	
	64,939	0.5
Less: Annual exemption	(1,270)	
	63,669	0.5
Tax at 33% =	21,011	

The loss on the sale of shares to his sister cannot be used. This is the loss on the sale of an asset to a connected person. Thomas can carry it forward and use it against a gain he might make on the sale of another asset to that sister. 2

Marks Allocated

Examiner's Comments on Question Five

This question was a two part question on corporation tax.

Part (a) was on dividend withholding tax and was well answered.

Part (b) was on an accounting period that exceeded twelve months. Although many candidates obtained maximum marks here, there was evidence of confusion with income tax rules in some cases.

Solution 5

(a) **(1)** The dividend liable to dividend withholding tax is:-

			Marks
Trim Limited □	€10,000	Exempt as an Irish company.	1
June Carlow □	€10,000	Liable as an Irish resident individual.	0.5
Nathan Moore □	€10,000	Exempt as an individual resident in the EU/tax treaty country.	1
Black Limited □	€10,000	Exempt as a company resident in a country that Ireland has a tax treaty.	1
Sheila Jones □	€10,000	Liable as an Irish resident individual.	0.5

Total dividend liable is €20,000. Dividend withholding tax is:

€20,000 at 20% = €4,000.

(2) The payment date for the dividend withholding tax is the 14th May 2013. **2**

(b) As the company has prepared its accounts for 16 months the period will be divided into two accounting periods for corporation tax purposes. The first of which is for 12 months duration.

	Notes	**Year ended 31st May 2013**	**Period ended 30th September 2013**	Marks
		€	**€**	**2**
Case I	1	168,000	56,000	
Less: Capital allowances	2	17,500	5,833	
		150,500	50,167	
Case V	3	60,000	20,000	
		210,500	70,167	

Corporation tax:

Year ended 31st May 2013		**€**	Marks
€150,500 at 12½%	=	18,813	**1.5**
€ 60,000 at 25%	=	15,000	
		33,813	

Period ended 30th September 2013			Marks
€50,167 at 12½%	=	6,271	**1.5**
€20,000 at 25%	=	5,000	
		11,271	

Solution Five (Cont'd)

Notes

1. The Case I is apportioned over the two periods on a time basis:

		€	Marks
€224,000 x 12/16	=	168,000	**1.5**
€224,000 x 4/16	=	56,000	**1.5**

2. Capital allowances
Ap 12 months 31st May 2013

		€	Marks
Additions			
Vans €35,000 x 4	=	140,000	
Wear and Tear	=	17,500	**2**

Ap 4 months 30th September 2013

			Marks
€140,000 x 12½% = €17,500 x 4/12	=	5,833	**2**

3. Case V income is apportioned over the two periods on a time basis:

		€	Marks
€80,000 x 12/16	=	60,000	**1**
€80,000 x 4/16	=	20,000	**1**

Examiner's Comments on Question Six

Students are reminded that no marks are given for workings in the multi-choice question. The candidate either has the right answer or they have the wrong answer (and obtain no marks).

As is often the case, there was a very mixed standard for this question.

Solution 6

					Marks
(1)	**(d)**				
(2)	**(d)**	€86,000 x 5%	=	€4,300	**2 per question**
(3)	**(b)**				
(4)	**(c)**				
(5)	**(d)**	€5,000 x 13½% x 3/12	=	€169	

Solution Six (Cont'd)

(6)	**(d)**	Sales proceeds	€6,000
		82/83 €3,000 x 2.253	(€6,759)
		Loss	(€759)
		Actual position	
		Sales proceeds	€6,000
		Cost 82/83	(€3,000)
		Gain	€3,000
		No Gain / no loss	
(7)	**(b)**	2013 30/9/2013	€30,000
(8)	**(b)**	€10,000 x 20/80 =	€2,500
(9)	**(d)**	March 2009 → 30/4/2009 - 2009	
		December 2012 → 30/4/2013 - 2013	
		Cost:	€30,000
		2009 W & T	€3,750
		2010 W & T	€3,750
		2011 W & T	€3,750
		2012 W & T	€3,750
		TWDV =	€15,000
		Balancing position	
		Sales proceeds	€10,000
		TWDV	€15,000
		Balancing allowance	€ 5,000
(10)	**(a)**	Sales proceeds	€200,000
		Cost 00/01	
		€75,000 x 1.144	(€85,800)
		Gain	€114,200

Total ownership: 13 years
Non occupation
1/7/2007 to 30/6/2012: 5 years

Gain liable;
€114,200 x 5/13 = €43,923

Examiner's Comments on Question Seven

This question was in two parts. Part (a) was a theory section asking for the six badges of trade with a brief explanation. This was well answered and candidates showed a good knowledge of this area. The candidates were then asked to apply this knowledge to a practical situation and to outline whether the taxpayer Paul was carrying on a trade. This was well answered with the vast majority of candidates able to apply their knowledge to this practical situation.

Part (b) was on preliminary tax for an individual plus the filing date for Capital Gains Tax. This was well answered however a number of candidates got confused and gave the corporation tax preliminary requirements.

Solution 7

(a) **(i)** The badges of trade were in essence a distillation by a Royal Commission on taxation of the UK case law up to the mid 1950's as to the factors which pointed towards the carrying on of a trade. The Royal Commission identified six such badges, namely:

1. Subject matter realised;
2. Length of period of ownership;
3. Frequency of transaction;
4. Supplementary work on or in connection with the property realised;
5. Circumstances giving rise to the realisation of the property;
6. Motive.

Subject matter realised
Some products/commodities are normally the subject matter of trading, while others (e.g. shares) generally are held for investment/dividend stream purposes. **1.5**

Length of period of ownership
In general, trading involving the sale of goods normally involves holding the goods for a short period of time. A long period of ownership normally indicates that the asset was acquired as an investment. **1.5**

Frequency and number of transactions **1.5**
In general, trading involves habitual activity as distinct from – say – a 'once off' transaction.

Supplementary work on or in connection with the property realised **1.5**
Work carried out on the property, particularly in an organized and systematic manner would indicate a trading activity.

Solution Seven (Cont'd)

Circumstances giving rise to the realisation of the property
In particular, special circumstances which give rise to the disposal of a property which would otherwise be held as an investment would indicate that the sale did not constitute a trade or adventure in the nature of a trade. **1.5**

Motive
The motive on the acquisition of the property in the first place is a critical factor (i.e. was it purchased for resale or as an investment?). This can be inferred from surrounding circumstances. **1.5**

(ii) It would appear that Paul would be regarded as carrying on a trade from the date of his retirement. The reason for this conclusion is that he acquired four motor cars with, it would appear, the intention of selling them (i.e. Motive). In addition, he carried out repair work on the motor cars (i.e. supplementary work). Furthermore, in a short period of time he sold a number of motor cars (length of ownership, frequency of transactions). **1** **1** **1**

(b) **(i)** The amount of preliminary tax that a taxpayer must pay may be calculated using any of the following options:

1. 90% of the estimated final tax liability for 2013, or **1**
2. 100% of the final liability for the previous tax year, 2012, or **1**
3. 105% of the final liability for the pre-preceding tax year, 2011. **1**

Option (3) may only be used by a taxpayer who is paying by direct debit.

(ii) Preliminary tax in respect of 2013 tax year is due on 31st October 2013. **1**

(iii) Where income tax is paid late or underpaid, interest will be charged at a daily rate of 0.0219% (approximately 8% p.a.) The interest will be charged on the outstanding amount of income tax from the due tax payment date, i.e. 31st October to the date of the actual payment of the tax. **2**

(iv) The disposal was in the tax year 2013 and the return filing date for this year is the 31st October 2014. **2**