
Advanced Taxation

Republic of Ireland

2nd Year Examination

August 2012

Exam Paper, Solutions & Examiner's Report



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Accounting Technicians Ireland

2nd Year Examination : Autumn 2012

Paper : ADVANCED TAXATION (Republic of Ireland)

Wednesday 22nd August 2012 - 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 (No. 3) 2011. The provisions of the Finance Act 2012 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 QUESTION 1, QUESTION 2 and QUESTION 3 (Compulsory) 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 labeled as appropriate e.g. €, units, etc.

Question 1 begins on Page 2 overleaf.

The following insert is enclosed with this paper:

- Tax Reference Material

SECTION A**Answer QUESTION 1, 2, 3 (Compulsory) in this Section****QUESTION 1 (Compulsory)**

Damien Nolan and his wife Siobhan have one child Anthony aged seven. Damien has his own business, which due to the current economic climate has made losses for the last few years. He has a trading loss carried forward to 2011 of €8,250. His current set of accounts for the year ended 31st March 2011 has a tax adjusted loss of €15,000 and Damien's capital allowances for 2011 amounted to €3,000.

Damien's only other income for 2011 was rental income from three properties he has let out. Details of the income and outgoings from these properties are as follows:-

Property 1 – Residential property registered with PRTB

This property has been let by Damien for many years. The monthly rental income was €1,250. This property was vacant from 1st July 2011 to the 30th September 2011. The property was re-let from the 1st October 2011; the monthly rent is now €1,100 a month. The expenses for the year ended 31st December 2011 are:-

	€
Maintenance	1,000
Repairs	500
Insurance	450
Interest	4,000

The expenses for the period when the property was un-let were €1,550.

Property 2 – Residential property registered with PRTB

This property was let to Damien's sister Angela for annual rental income of €8,000. The market value rent is €11,500 per annum. Damien paid expenses of €2,100 for this property for 2011.

Property 3 – Commercial property

This property was purchased by Damien in November 2010. The property was let for the first time on the 1st September 2011 on a lease for 5 years. The yearly rental income is €20,000 and the tenant paid a premium of €10,000. The only expense for this property is interest of €8,000 for the year ended 31st December 2011.

Siobhan works three days a week for a manufacturing company and her salary for the year ended 31st December 2011 was €18,500 and PAYE deducted amounted to €2,000.

Required:-

- (a) Calculate Damien's Case V income for 2011. **8 Marks**
- (b) Calculate Damien and Siobhan's Income Tax for 2011. You may assume joint assessment applies and Damien makes maximum claims for his trading losses. **6 Marks**
- (c) When must Damien submit his 2011 income tax return. **1 Mark**
- (d) What if any, are the tax consequences if Damien is late submitting his 2011 income tax return. **3 Marks**
- (e) What if any, are the time limits for any loss claims made by Damien when calculating his income tax for 2011. **2 Marks**

Total 20 Marks

QUESTION 2 (Compulsory)

- (a) Halt Limited is an Irish resident company with no associates. The company has been trading for over ten years. The results for the company for its last two accounting periods are as follows:-

	Year ended 30th June 2010	Period ended 31st March 2011
	€	€
Case I	10,000	(30,000)
Case V	18,000	15,000
Gain as adjusted	-	25,000

Required:-

You are required to compute the corporation tax of Halt Limited for each accounting period on the assumption that full relief was claimed for all available losses at the earliest opportunity.

7 Marks

- (b) Olpen Limited is an Irish resident manufacturing company. The company was set up in 2001 and its results for the six months to the 31st December 2011 are summarised as follows:-

	Notes	€
Turnover		3,250,000
Direct costs		<u>(1,565,000)</u>
Gross profit		1,685,000
Selling and distribution costs		(410,000)
Administration costs		(565,000)
Interest payable	1	(165,000)
Other income	2	<u>80,000</u>
Net profit		<u><u>625,000</u></u>

Notes

1. Interest payable	€
Interest on late payment of VAT	5,000
Interest on working capital loan	80,000
Bank overdraft interest	45,000
Interest on a loan to buy a 2% share in Bond Limited	<u>35,000</u>
	<u>165,000</u>
2. Other income	
Dividend from Bond Limited an Irish company	5,000
Deposit interest received gross	20,000
Rental income	<u>55,000</u>
	<u>80,000</u>

QUESTION 2 (Cont'd)**3. Plant and machinery**

On 1st July 2011 the tax written down value (TWDV) of the plant and machinery are:-

	€
Machinery (cost €185,000)	115,625
Motor vehicles (cost €80,000)*	40,000

* This represents the restricted cost of the motor vehicles.

The following assets were purchased during the current accounting period:

		Cost (€)
(1) 1 st July 2011	new machine	12,100 (including VAT at 21%)
(2) 1 st October 2011	new car emissions 180g/km	20,000 (including VAT at 21%)

During the current accounting period the following asset was sold:-

On 10th September 2011 the company sold a machine for €1,950. This machine had previously been purchased for €5,000 in July 2006.

Up until the current accounting period Olpen Limited had prepared accounts to 30th June each year.

All figures are exclusive of VAT unless stated otherwise.

Required:

- (i) Compute the corporation tax payable by Olpen Limited for its six month accounting period to 31st December 2011.
- 10 Marks**
- (ii) State the latest filing date for the corporation tax return and indicate the consequences of non-compliance.

3 Marks

Total 20 Marks

QUESTION 3 (Compulsory)

Justin Walsh has just set up his own manufacturing business and has just registered for VAT. He has done plenty of research of his own but is still unsure of a few VAT treatments. Listed below are his main concerns:-

1. Justin intends to import VATable raw materials for his manufacturing process from outside the EU and is unsure of the VAT implications.
6 Marks
2. Justin understands that even though he is VAT registered, he is not entitled to an input credit on all his purchases. He requires a list of the items not available for input credit.
6 Marks
3. Justin is considering offering a few of his products that he normally sells separately in a hamper to cater for the Christmas market. He is unsure how to apply VAT to the hamper.
3 Marks
4. Justin is considering the purchase of a new machine to be used in his manufacturing process. This machine is supplied by a German company. Justin is unsure of the VAT implications.
5 Marks

Required:

Write a report to Justin where you clearly explain the VAT implications for Justin with regard to the four VAT enquiries set out above.

Total 20 Marks

SECTION B**Answer any TWO of the FOUR questions in this section****QUESTION 4**

John and Mary Hughes are married and resident and domiciled in Ireland. They have decided to move to Wexford in 2011 to take life more slowly and to enable this move they sold the following assets in 2011:-

1. Their home in Clontarf where they have lived since they got married in 1983. This house was owned jointly by John and Mary and purchased for €95,000 on the 1st June 1983. They sold the house for €395,000 on the 31st May 2011. Legal fees on acquisition and disposal were €5,000 and €8,000 respectively.
2. Mary also owned a two bedroom house in Howth that she purchased on 1st March 1976 for €35,500. Mary had lived in this house since acquiring the house until 1st September 1979 when she went to Spain as an English teacher. While in Spain she let her house in Howth. Mary returned to Ireland on 1st June 1981 and moved back into her house in Howth where she lived until she married John and moved to their new home in Clontarf on 1st June 1983. The house in Howth has been let ever since. Mary received a good offer for the Howth property and it was sold on the 1st September 2011 for €290,000.
3. John owned a van that he used for both business and private use. The van was used 80% for John's trade. On the 10th December 2011, the van was sold for €9,500. The van had cost John €6,000 when purchased on the 25th April 2009. John's year end every year was the 30th of June and the van qualified for capital allowances.
4. John had purchased 5 acres of land in March 1999 from his twin brother Sean. John paid Sean €2,000 an acre for the land. The market value of the entire 5 acres in March 1999 was €15,000. In 2005 John had given 2 acres to his sister Betty when she had married her long term partner Joe. The market value of the 2 acres was €8,000. The market value of the 3 acres remaining was €18,000. John has now decided to sell the 3 acres remaining and on 15th December 2011 he sold the 3 acres for €20,000. Legal fees on the disposal amounted to €800.

Requirement:

- | | | |
|------------|--|-----------------|
| (a) | (i) Calculate John and Mary's capital gains tax for 2011. | 12 Marks |
| | (ii) State the due dates of payment of the capital gains tax calculated in (i) above and the date for the filing of John and Mary's capital gains tax return. | 3 Marks |
| (b) | (i) You are required to list three specified assets. | 3 Marks |
| | (ii) What is the tax significance of this list. | 2 Marks |

Total 20 Marks

QUESTION 5

Harry Jones, who is Irish, has been living in Australia since he qualified as a plumber in 1999. On the 1st September 2011 he has returned to Ireland to take care of his widowed mother May.

Harry plans to start up his own plumbing business early next year and has asked you to write a letter explaining the following:-

- (i)** Is he resident/ordinarily resident in Ireland in 2011 and 2012 and how will this affect his Irish income tax liability for these two years?

6 Marks

- (ii)** He hopes to start trading on the 1st of November 2011 with a year ended the 31st October each year.
Outline to Harry his first three tax years for his trading income and how he would be assessed to tax in these years. Also would he be entitled to any options, to revise any year.

8 Marks

- (iii)** As a self employed person he is aware that he could be selected for a Revenue audit. He understands that a taxpayer has certain rights under the taxpayer's charter. He would like you to list four rights available to him under this charter.

6 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 obtained in the Answer booklet.

1. Sinead Brady is employed by Troy Limited and has an annual salary of €45,000. Sinead also owns an apartment that she lets out and has yearly rental income after expenses of €6,000. What is Sinead's liability to PRSI and USC on her non Schedule E income:
 - (a) €660
 - (b) €420
 - (c) None
 - (d) €360

2. Bernie and Sean are married. They wish to elect for separate assessment for 2011. What is the time limit for this election?
 - (a) 1st April 2011
 - (b) 31st October 2011
 - (c) 31st October 2012
 - (d) 31st December 2011

3. Sunrise Limited's accounting period is the year ended 31st March each year. On the 1st January 2011 the company purchased an office building for €1 million. The company borrowed to finance the purchase and the annual interest on the loan was €25,000. The company let the property on a ten year lease on the 1st September 2011 at an annual rent of €50,000 and a premium of €40,000.

Calculate Sunrise Limited's Schedule D Case V income to be included in its corporation tax computation for the accounting period year ended 31st March 2012:
 - (a) €65,000
 - (b) €47,384
 - (c) €51,030
 - (d) €41,134

4. Lauren Grimes sold an asset on the 1st July 2011. State the filing date of Lauren's capital gains return for this disposal:
 - (a) 15th December 2011
 - (b) 31st October 2011
 - (c) 31st January 2012
 - (d) 31st October 2012

QUESTION 6 (Cont'd)

5. Moon Limited is an Irish resident company. Its share capital is 20,000 €1 ordinary shares. The shares are owned by:-

Name of Shareholder	Director/ employee	Number of shares	Relationship to other shareholders
Harry Moon	Yes	5,000	Husband/brother
Anne Moon	No	5,000	Wife of Harry
Bill Moon	Yes	10,000	Brother of Harry

The company paid €5,000 in June 2011 for each shareholder to go on holidays. Calculate the Addback in the company's accounts:-

- (a) None
 (b) € 5,000
 (c) €15,000
 (d) €10,000
6. M Ltd paid a dividend of €25,000 in June 2011 to its shareholders as follows:

	€
Patrick – Irish resident individual	10,000
George – UK resident individual	5,000
X Ltd – Irish resident company	5,000
Y Ltd – UK resident company	<u>5,000</u>
	<u>25,000</u>

Calculate M Ltd's Dividend Withholding Tax in relation to this dividend:

- (a) €2,000
 (b) None
 (c) €3,000
 (d) €5,000
7. Assuming M Ltd. has a year end of the 31st December each year and a liability to DWT applies to the payment made in June 2011 (as per question 6 above) state the payment date of M Ltd's DWT:
- (a) 21st November 2011.
 (b) 21st September 2012.
 (c) 14th January 2012.
 (d) 14th July 2011.
8. Stacy Williams has been in business for many years. She is VAT registered. Stacy supplied goods to another VAT registered trader on 2nd August 2011. What is Stacy's deadline for issuing a VAT invoice to this customer:
- (a) 15th August 2011.
 (b) 19th September 2011.
 (c) 15th September 2011.
 (d) Within 7 days of supply.

QUESTION 6 (Cont'd)

9. David Hughes has been a sole trader for many years. However due to the economic climate he has decided to immigrate to Canada and ceased trading on the 30th September 2011. Details of his last three periods profits are as follows:

Year ended	30 th June 2009	€15,000
Year ended	30 th June 2010	€18,000
Period ended	30 th September 2011	€24,000

You are required to calculate David's Case I income for 2011 and 2010 assuming that all available options are exercised:

(a)	2011	€18,000	2010	€18,600
(b)	2011	€24,000	2010	€18,000
(c)	2011	€14,400	2010	€18,000
(d)	2011	€14,400	2010	€18,600

10. Christy Smith was born in Ireland of Irish parents. On the 10th January 2011 he was 21 and he decided to move to France. He planned to study under one of the most renowned French chefs. Christy's plan was to return to Ireland after his training and set up his own restaurant. In 2011 is Christy:-

- (a) Resident/ordinarily resident and domiciled in Ireland.
- (b) Not resident/ordinarily resident and domiciled in Ireland.
- (c) Not resident/ordinarily resident and not domiciled in Ireland.
- (d) Resident/ordinarily resident and not domiciled in Ireland.

Total 20 Marks

QUESTION 7

(a) State four factors which in each case are taken into consideration in deciding whether an individual is:-

- (i) self employed
- OR
- (ii) an employee.

8 Marks

(b) Richard Cooper lives with his long term partner Alice Byrne. They have one child, Stephen, who is nine years old and physically incapacitated. Richard is a sales representative for a major international distribution company. His employment package for 2011 includes a basic salary of €30,000 (PAYE deducted of €4,800) and the following benefits:-

- (i) A company car, which was first provided new in May 2010. The market value of the car in 2010 was €30,000. In 2011 the value of the car is only €25,000. His employer pays all expenses except private petrol that Richard must pay himself. The cost of his private petrol amounted to €2,000 in 2011. Richard travels 40,000 business km in 2011 and spends 80% of his time away from his place of employment.
- (ii) The company pays his medical insurance of €500 (net) to Quinn Health Insurance.
- (iii) The company lent Richard €50,000 on the 1st August 2011 so that he could make some home improvements to enable his son Stephen be more independent. His employer charged him 3% interest on this loan. No repayments have been made to date. Richard is already receiving full mortgage interest relief for 2011 at source (TRS).
- (iv) Richard won his employer a large contract in 2011 and as a result he was given an all expenses paid trip to Spain for his family. The market value of this trip was €8,000. The cost to Richard's employer was €6,000 due to a connection they had with the holiday company.

Richard is aged 38 and a member of his employer's contributory pension scheme. He made pension payments of €2,000 in 2011.

Alice works for the bank and her salary for 2011 was €40,000 (PAYE deducted €9,600). Richard and Alice maintained their son equally during 2011.

Required:-

Calculate Richard's Income Tax for 2011.

12 Marks
Total 20 Marks

2nd Year Examination: August 2012

Advanced Taxation ROI

Suggested Solutions

Students please note: These are suggested solutions only; alternative answers may also be deemed to be correct and will be marked on their own merits.

Solution 1

(a)

Damien Nolan		
Case V Computation - 2011		
	Notes	€
Property 1	1	5,850
Property 2	2	5,900
Property 3	3	<u>13,200</u>
		<u>24,950</u>

(b)

Damien and Siobhan Nolan		
Income Tax Computation - 2011		
		€
Schedule D - Case I		nil
Schedule D - Case V		24,950
Schedule E		<u>18,500</u>
		43,450
Section 381	4	<u>(18,000)</u>
		<u>25,450</u>

€25,450 at 20%	=	5,090
Less: Married credit		(3,300)
PAYE credit		<u>(1,650)</u>
Tax liability		140
Less: PAYE paid		<u>2,000</u>
Refund		<u>1,860</u>

(c)

The filing date for Damien's Form 11 for 2011 is the 31st October 2012.

(d)

The tax consequences for Damien if he does not submit his Form 11 by the due date is a surcharge which is calculated on the full tax payable for the year and does not take into account any payments on account.

The surcharge is calculated as follows:-

(a) 5% of the amount of tax subject to a maximum of €12,695 where the return is submitted before the expiry of two months after the specified date, and

**Marks
Allocated**

.5

.5

2

.5

.5

1

1

1.5

Solution 1 (Cont'd)

(b) 10% of the amount of tax subject to a maximum of €63,458 where the return is not submitted within two months after the specified date.

(e) There is no time limit for the loss carried forward to 2012.

The time limit for Damien's Section 381 claim in 2011 is 31st December 2013.

Notes**1** Property 1

	€	
Rent 1/1/2011 to 30/6/2011 €1,250 x 6	=	7,500
Rent 1/7/2011 to 30/9/2011		-
Rent 1/10/2011 to 31/12/2011 €1,100 x 3	=	<u>3,300</u>
		10,800

<i>Less:</i>	€	
Maintenance	1,000	
Repairs	500	
Insurance	450	
Interest €4,000 x 75%	<u>3,000</u>	
		<u>4,950</u>
		<u>5,850</u>

Between letting expenses are allowed in full.

2 Property 2

	€
Rent earned	8,000
<i>Less:</i> expenses	<u>2,100</u>
	<u>5,900</u>

As this is a favoured letting Damien only has to pay tax on the rent earned of €8,000.

3 Property 3 – commercial property

	€
Premium: €10,000 – €10,000 x $\frac{5-1}{50}$	= 9,200
Rent: €20,000 x 4/12	= <u>6,667</u>
	15,867
<i>Less:</i> Interest €8,000 x 4/12	= <u>(2,667)</u>
	<u>13,200</u>

Pre-letting interest is not allowed. As this is a commercial property the interest is not restricted to 75%.

Solution 1 (Cont'd)

- 4 The trading loss carried forward from 2010 cannot be used in 2011 as Damien does not have any trading profit in 2011. This loss will be carried forward to 2012 to reduce any trading profits from this trade.

			€
2011	c/y	31 st March 2011	(15,000)
	Add:	capital allowances	<u>(3,000)</u>
			<u>(18,000)</u>

2011 Case I income is nil as Damien has made a loss. This loss has been increased by the capital allowances for 2011 of €3,000. Damien has a trading loss of €18,000 which he will use under Section 381 to reduce his total income for 2011. As joint assessment applies this would include his wife's income.

Solution 2:

- (a) Step One:** The company can reduce trading income liable at the standard rate in the accounting period the loss arises.

AP – 9 months 31st March 2011

		€
Case I		-
Case V		<u>15,000</u>
Income		15,000
Gain		<u>25,000</u>
Profits		<u>40,000</u>
Corporation Tax: €15,000 at 25%	=	3,750
€25,000 at 12½%	=	<u>3,125</u>
		<u>6,875</u>
Loss remaining	=	30,000

- Step Two:** The company can carry the loss back to a previous period of corresponding length and reduce trading income liable at the standard rate.

AP – 12 months 30th June 2010

		€
Case I		10,000
Case V		<u>18,000</u>
Income		28,000
Loss relief: Section 396(A) €10,000 x 9/12 =		<u>(7,500)</u>
Income		<u>20,500</u>
Corporation tax: €2,500 at 12½%	=	313
€18,000 at 25%	=	<u>4,500</u>
		<u>4,813</u>
Loss remaining: €30,000 - €7,500	=	22,500

Solution 2 (Cont'd)

Step Three: The company can reduce corporation tax on a value basis of the accounting period in which the loss arose.

AP – 9 months 31st March 2011

	€	
Corporation Tax	6,875	
Less: Trade loss: Section 396(B)		
€22,500 at 12½%	<u>2,813</u>	
	<u>4,062</u>	

Loss remaining = Nil

Time limit: 31st March 2013.

(b) (i) Olpen Limited**Case I computation**

	Notes	€
Net profit per accounts		625,000
Addbacks: Interest	1	40,000
Deductions: Other income		(80,000)
Capital allowance	2	<u>(17,500)</u>
Case I		<u>567,500</u>

Olpen Limited**Corporation tax computation for AP 31st December 2011**

Case I		567,500
Case III		20,000
Case V		55,000
Dividend	3	<u>-</u>
Income		<u>642,500</u>
Corporation tax	€567,500 at 12½% =	70,938
	€ 75,000 at 25% =	<u>18,750</u>
		<u>89,688</u>

(ii) A company must submit its tax return (CT 1) by 21st day of the ninth month after the end of its accounting period. For Olpen Ltd the filing date is 21st of September 2012. There are two penalties if the return is late.

(1) Surcharge

The surcharge is 10% of the amount of tax subject to a maximum amount of €63,485. Where the return is delivered within two months of the filing date the surcharge is 5% subject to a maximum of €12,695.

Solution 2 (Cont'd)

(2) Restriction of certain claims for loss relief

Where a return is less than two months late, reliefs are to be restricted by 25% subject to a maximum in each case of €31,740.

Where the delay is two months or more, the reliefs are to be restricted by 50% subject to a maximum of €158,715.

Notes:**1. Interest**

The interest that must be added back is the interest on the late payment of the VAT and the interest on the loan to acquire the shares in Bond Limited. This interest is not allowed as it is not a trade expense. This interest will not be allowed as a non-trade charge because Olpen Limited does not have a material interest (5%) in Bond Limited.

2. Capital allowances:

	Machinery	Motor Vehicles
	€	€
TWDV - 1/7/2011	115,625	40,000
Additions (W1)	10,000	10,000
Disposals (W2)	<u>(1,875)</u>	<u>-</u>
	123,750	50,000
Wear and tear (W3)	<u>11,875</u>	<u>(5,625)</u>
TWDV - 31/12/2011	<u>111,875</u>	<u>44,375</u>
Balancing position - Machine		
	€	
Sales proceeds	1,950	
TWDV	<u>1,875</u>	
Balancing charge	<u>75</u>	

As the sales proceeds is less than €2,000 the company will not be assessed on this balancing charge.

Summary of capital allowances

	€
Machinery	11,875
Motor vehicles	<u>5,625</u>
	<u>17,500</u>

Solution 2 (Cont'd)**Workings on capital allowances:****1. Additions**

$$\text{Machinery: net of VAT } \frac{\text{€12,100}}{121} \times 100 = \text{€10,000}$$

Motor car: Olpen Limited will not be entitled to any of the VAT on this car as an input credit as it is a high emissions car. Olpen Limited will have to restrict the cost of €20,000 to the lower of:-

$$\begin{aligned} \text{(i)} \quad & \text{€20,000} \times 50\% = \text{€10,000} \\ & \text{or} \\ \text{(ii)} \quad & \text{€24,000} \times 50\% = \text{€12,000} \end{aligned}$$

The amount that qualifies for capital allowances for this vehicle is €10,000.

2. Disposal

The tax written down value of the machinery sold is:-

July 2006: AP 30th June 2007

		€
Cost		5,000
W + T:	30/6/2007	<u>(625)</u>
TWDV -	30/6/2007	4,375
W + T:	30/6/2008	<u>(625)</u>
TWDV -	30/6/2008	3,750
W + T:	30/6/2009	<u>(625)</u>
TWDV -	30/6/2009	3,125
W + T:	30/6/2010	<u>(625)</u>
TWDV -	30/6/2010	2,500
W + T:	30/6/2011	<u>(625)</u>
TWDV -	30/6/2011	<u>1,875</u>

3.. Wear and Tear

	€
Machinery	
Opening cost	185,000
Add: cost of addition	10,000
Less: cost of disposal	<u>(5,000)</u>
	<u>190,000</u>

$$\text{Wear and Tear at } 12\frac{1}{2}\% \text{ €23,750} \times 6/12 = \text{€11,875}$$

	€
Motor vehicle	
Opening cost	80,000
Add: cost of addition	<u>10,000</u>
	<u>90,000</u>

$$\text{Wear and Tear at } 12\frac{1}{2}\% \text{ €11,250} \times 6/12 = \text{€ 5,625}$$

1

.5
.5

1

1

Solution 3

- 1.
- VAT is normally payable at the point of entry on the importation of taxable goods into Ireland from non – EU member states.
 - VAT, at the same rate as applies to the sale of the particular goods within Ireland, is chargeable at the point of importation.
 - VAT is payable before the imported goods are released by Customs, unless the importer is approved for the deferred payments scheme.
 - Eligibility under the deferred payments scheme will permit the payment of a VAT liability in respect of the goods on the fifteenth day of the month following the month in which the goods are released from Customs.
 - An application to participate in the deferred payments scheme must be made to the appropriate collector of Customs and Excise, which will require that the payment of the relevant VAT is made by direct debit drawn on the trader's bank. To qualify for the deferred payments scheme, the importer must be able to obtain a guarantee from its bank that the VAT liability demanded for the imports will be paid.
 - The value of the imported goods for the assessment to VAT is their value for customs purposes inclusive of all taxes, duties and other charges levied inside the State on the goods, but not including the VAT liability itself.
 - The VAT registered person who imports the goods during a VAT period is entitled to claim an input credit in his VAT return for the period that the VAT paid or payable in respect of goods imported. If a VAT registered trader imports goods under the deferred payments scheme in August 2011 he will pay VAT due on the importation on the 15th September 2011 under the deferred payments scheme. The trader may claim a VAT credit in the VAT return for July/August 2011 in respect of the VAT.
 - VAT legislation provides relief to manufacturers who export 75% or more of their production. Such manufacturers are allowed to import raw materials and components (but not plant and machinery) without payment of VAT at the point of importation.
2. A VAT registered trader is unable to deduct input VAT in any of the following circumstances:
- (a) The specific item being purchased is not allowed to be claimed in the VAT legislation. The five items not allowed by legislation are:-
- (i) VAT on the purchase of petrol otherwise than as stock in trade.

1

1

1

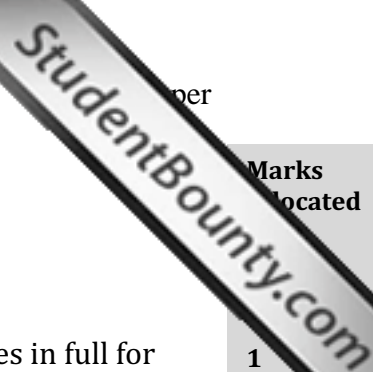
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1

1

Solution 3(Cont'd)

	Marks Allocated
(ii) VAT on the provision of food, drink or accommodation for the taxable person, his agent or employees. A taxable person can recover the VAT on accommodation costs of attending conferences for his employees in the course of the taxable persons business. Specific records have to be kept in relation to the conference and the conference must be for a minimum of 50 delegates.	1
(iii) VAT on non business items (drawings) passed through the business accounts.	1
(iv) VAT on business entertainment.	1
(v) VAT on motor cars unless the car is acquired for resale, or for the purpose of car hire business or driving school. With effect from 1 st January 2009, businesses will be entitled to recover 20% of the VAT incurred on the purchase of a car if:-	1
<ul style="list-style-type: none"> • The car is used 60% for business use; • the car is first registered after 1st January 2009; • The car has emissions below 156g/km. 	1
(b) The trader has not received a valid VAT invoice.	
(c) The VAT was incurred on the purchase of a good or service that is used in the course of making an exempt supply.	
3. This is considered a multiple supply as each item is capable of being sold separately in its own right. In this case the consideration should be apportioned between the various supplies involved, and each supply will be taxed at the appropriate rate of VAT.	1 2
4. Where a VAT registered business purchases goods from an EU supplier it will self-account for VAT on the purchases. The following steps are required to be followed in order to account for the VAT correctly:-	
1. The Irish trader must supply their Irish VAT registration number to the EU supplier. Once this is done the EU supplier will supply an invoice with no VAT charged on it. It will only show the net amount.	1 1
2. The Irish trader will include the net amount on the invoice as a sale in their VAT return for that VAT period and increase the amount of VAT on sales.	1
3. On the same VAT return they will also include a deduction for the VAT on the purchase. The amount of the input credit is the amount of VAT they have charged themselves. This has the effect of rendering the transaction VAT neutral i.e. output VAT will be equal to input VAT in respect of the intra-community acquisition.	1 1



Solution 4

**(a) (i)
(1) House in Clontarf**

This gain is exempt from capital gains tax as this house qualifies in full for principal private residence relief.

1

(2) House in Howth - Mary

	€	
Sales proceeds	290,000	
Cost $75/76 \text{ €}35,500 \times 6.080$	<u>(215,840)</u>	=
Gain	<u>74,160</u>	

1

Period	Time duration	Occupied/ not occupied
1/3/1976 to 1/9/1979	3 years 6 months	occupied
1/9/1979 to 1/6/1981	1 year 9 months	deemed occupied
1/6/1981 to 1/6/1983	2 years	occupied
1/6/1983 to 1/9/2010	27 years 3 months	not occupied
1/9/2010 to 1/9/2011	<u>1 year</u>	deemed occupied
	<u>35.5 years</u>	

1

1

	€	
Gain liable $\text{€}74,160 \times \frac{27.25}{35.5}$	56,926	=

2

(3) Van - John

The van is a wasting chattel and is liable to capital gains tax as it is used in the business and qualified for capital allowances. The business use only is liable to capital gains tax.

	€	
Sales proceeds $\text{€}9,500 \times 80\%$	7,600	=
Cost $\text{€}6,000 \times 80\%$	<u>4,800</u>	=
Gain	<u>2,800</u>	

2

**(4) 3 acres of land - John
Cost used in 2005**

The cost price of the 5 acres is the market value of the 5 acres when received from Sean.

98/99 €15,000

When John gave 2 acres to Betty in 2005 he would have had a disposal. The cost remaining after this disposal is:-

	€	
$\text{€}15,000 \times \frac{\text{€}8,000}{\text{€}8,000 + \text{€}18,000}$	4,615	=

2

Cost remaining $\text{€}15,000 - \text{€}4,615$	10,385	=
---	--------	---

Solution 4 (Cont'd)Marks
Allocated**Disposal - 2011**

	€	
Sales proceeds	20,000	
Less: Legal fees on disposal	800	
Less: Cost 98/99 €10,385 x 1.212	<u>12,587</u>	1
	<u>6,613</u>	

Mary - Capital gains tax - 2011

	€	
House in Howth	56,926	
Less: Annual exemption	<u>(1,270)</u>	.5
	<u>55,656</u>	
Capital gains tax at 25%	13,914	

John - Capital gains tax - 2011

	€	
Van	2,800	
Land	<u>6,613</u>	
	9,413	
Less: Annual exemption	<u>(1,270)</u>	
	<u>8,143</u>	
Capital gains tax at 25%	2,036	.5

(a) (ii) As Mary's disposal is between 1/1/2011 and 30/11/2011 her Capital gains tax is due on 15th December 2011. 1

As John's disposals were in December 2011 his Capital gains tax is due on the 31st January 2012. 1

The filing date for both John and Mary for all disposals in 2011 is 31st October 2012. 1

(b) (i) Specified assets

- (a) Land and buildings in the State
- (b) Minerals in the State
- (c) Rights in the Irish continental shelf
- (d) Unquoted shares deriving their value from the assets (a) to (c)
- (e) Assets of a trade carried on in the State.

1 mark
for each
specified
asset

Note: The question only requires three specified assets.

(ii) A person who is not resident and not ordinarily resident must still pay Irish capital gains tax if they sell a specified asset. 2

Solution 5Marks
AllocatedABC & Co.
Accountants
Main Street
Kildare

August 2012

Harry Jones
Bow Street
Kildare

Dear Harry,

As requested I am writing to explain the points in your recent letter.

(a) Resident/ordinary resident

Two tests are applied to determine whether a person is tax resident in Ireland for a particular year:

- (1) 183 day rule – if a person spends 183 days or more in Ireland during a tax year, he is resident for that year;
- (2) 280 day “look back” rule – a person will be resident for a tax year if he spends 280 days in aggregate in Ireland in that tax year and the preceding year, provided he spends more than 30 days in Ireland in each year.

As you returned to Ireland in September 2011 you will not be resident in Ireland in 2011 as you did not spend 183 days here and you are not caught by the look back rule as you spent no days in Ireland in 2010.

1

In 2012 you will be regarded as resident as you spent 183 days in Ireland.

1

A person will be regarded as ordinarily resident in Ireland for a tax year if he has been resident here for each of the previous three years. In your case you will not be considered as ordinarily resident until 2015 on the basis that you are resident in 2012, 2013 and 2014,

2

In 2011 you will be non-resident/non ordinarily resident and domiciled in Ireland and you will be liable to income arising in Ireland.

1

In 2012 you will be resident/non ordinarily resident and domiciled in Ireland and you will be liable on your worldwide income.

1

Solution 5 (Cont'd)

- (b) If you commence to trade on 1st November 2011 your first tax year for your trading income will be 2011. Your basis of assessment will be your actual trading profits from your commencement date the 1st November 2011 to the end of the tax year, the 31st of December 2011.

Your second tax year will be 2012 and you will be assessed to tax on the 12 months profits to the 31st of October 2012.

Your third tax year will be 2013 and you will be assessed to tax on the normal basis of assessment for a trade which is current year and for you that would be the twelve months profits to the 31st of October 2013.

You are entitled to exercise the option under section 66 of the TCA 1997. This option is available to you in your third tax year which is 2013. You are entitled to compare your original assessment for year two which is 2012 with the actual profits for year two. If the actual profits are lower than the original assessments you are entitled to exercise your option. You get the difference between the original assessment and the actual and this is taken from the original assessment for 2013, the third year.

You must elect for this option in your third year's form 11. This must be submitted to the Revenue by the 31st of October 2014.

- (c) Taxpayers charter:

The main purpose of the charter of rights is to ensure that all taxpayers are treated fairly and correctly. Under the charter of rights all taxpayers are entitled to:

- * **Courtesy and Consideration**
To expect that Revenue staff will at all times carry out their duties courteously and considerately.
- * **Presumption of Honesty**
To be presumed to have dealt with your tax affairs honestly unless there is a reason to believe to the contrary and subject to the Revenue is responsibility for ensuring compliance with the law.
- * **Information**
To expect that every reasonable effort will be made to give you access to full, accurate and timely information about Revenue law and your entitlements and obligations under it. So that they can do this, Revenue staff are entitled to expect that you will give them all the facts and full co-operation, which they need to deal with your affairs.

Marks
Allocated

1

2

1

1

2

1.5 for
each
correct
right
with
brief
detail

Solution 5 (Cont'd)

- * **Impartiality**
To have your affairs dealt with in an impartial manner by Revenue staff who seek to collect only the correct amount of tax, no more no less.
- * **Privacy and Confidentiality**
To expect that personal and business information provided by you will be treated in strict confidence and used only for the purpose allowed by law.
- * **Independent Review**
To object to a change to tax if you think the law has been applied incorrectly and to ask that your case be reviewed. If the matter cannot be resolved to your satisfaction by Revenue officials, you have rights in law to an independent review.
- * **Compliance Costs**
To expect that the Revenue and their staff recognise the need to keep to the minimum necessary the costs you incur in complying with Revenue law subject to their responsibility to carry out their functions efficiently and economically.
- * **Consistent Administration**
To expect that the Revenue will administer the law consistently and apply it firmly to those who try to evade their lawful share.

(Note: The question only requires four rights under the charter).

I hope you find the above information to be of assistance. However, please feel free to contact me should you require any further clarification.

Yours faithfully,

ABC & Co.

Solution 6

1. (b) €6,000 x 7% = €420

2. (a)

3. (b)

		€
€40,000 - (€40,000 x $\frac{10-1}{50}$) =		32,800
€50,000 x 7/12 =	=	<u>29,167</u>
		61,967
Less: Interest €25,000 x 7/12 =		<u>14,583</u>
		<u>47,384</u>

4. (d)

5. (b)

6. (a) €10,000 at 20% = €2,000

7. (d)

8. (c)

9. (d) 2011 Actual 1/1/2011 to 30/9/2011
 €24,000 x 9/15 = €14,400

2010 c/y 30/6/2010 = €18,000

Section 67

2010 Actual 1/1/2010 to 31/12/2010

€18,000 x 6/12 + €24,000 x 6/15

€9,000 + €9,600 = €18,600

The Inspector of Taxes will exercise his option.

Final assessments: 2011 = €14,400

2010 = €18,600 (as revised)

10. (b)

Solution 7**(a) (i) Self employed**

An individual hired under terms and conditions which include some or all of the following features is normally self-employed:

- Is in business on his/her own account and provides the same services concurrently to others;
- provides the materials for the job;
- provides his own plant and machinery;
- has a fixed place of business to take orders, bookings for contracts, store materials and equipment etc;
- provides his own insurance cover under the appropriate heading, e.g. public liability etc;
- is not under the direction or control of the site foreman as to the method to be employed in carrying out the work;
- controls his own hours of work in fulfilling the obligations of the contract;
- hires helpers at his own expense;
- if appropriate is registered for VAT;
- is not entitled to overtime pay, sick pay or holiday pay;
- is exposed to financial risk by having to bear the cost of making good any faults or substandard work carried out under the contract or has to meet the cost of overruns.

(ii) Employee

An individual hired under the terms and conditions which include some or all of the following is normally an employee.

- Is under the control of the hirer;
- receives an agreed weekly/monthly wage;
- does not supply materials for the job;
- does not supply plant or machinery other than hand tools;
- does not engage his own helpers;
- does not subcontract the work;
- is not exposed to financial risks in carrying out the work;
- is entitled to holiday pay.

(The question only requires four factors under each heading).

Solution Seven (Cont'd)Marks
Allocated

(b)

Richard Cooper
Income Tax Computation - 2011
Single assessment

	Notes	€	
Schedule E	1	42,442	2
Less: pension		<u>(2,000)</u>	
		<u>40,442</u>	
	€		
€32,800 at 20%	= 6,560	2	
€ 7,642 at 41%	= <u>3,133</u>		
		9,693	
Less: Single credit	(1,650)		.5
Incapacitated child	(1,650) 3		1
PAYE credit	(1,650)		.5
Medical Insurance			
€625 at 20%	<u>(125)</u> 4		1
Tax liability	4,618		
Less: PAYE paid	<u>4,800</u>		.5
Refund due	<u>182</u>		

Notes:

1.	Schedule E	€	
	Salary	30,000	.5
	B-I-K car €30,000 x 18%	5,400	1
	Medical insurance $\frac{€500}{80} \times 100$	625	1
	B-I-K loan €50,000 x (5% - 3%) = €1,000 x 5/12	417	2
	Trip to Spain	<u>6,000</u>	1
		<u>42,442</u>	
2.	Richard Cooper is not considered a lone parent as he is living with his partner Alice.		1
3.	As Richard and Alice maintain their son Stephen equally the incapacitated child credit is divided equally between them.		
4.	As Richard did not pay the medical insurance himself he did not receive tax relief at source.		

2nd Year Examination: August 2012**Advanced Taxation ROI****Examiner's Report**

Statistical Analysis - By Question							
Question No.	1	2	3	4	5	6	7
Average Mark (%)	53%	39%	30%	35%	41%	46%	55%
Nos. Attempting	214	213	209	147	46	119	122

Statistical Analysis - Overall	
Pass Rate	33.5%
Average Mark	41.5
Range of Marks	Nos. of Students
0-39	93
40-49	52
50-59	56
60-69	15
70 and over	2
Total No. Sitting Exam	218
Total Absent	40
Total Approved Absent	9
Total No. Applied for Exam	267

Question one

This question was answered satisfactorily by most candidates. The main errors were:-

1. Candidates were not aware that between letting expenses are allowed.
2. Candidates could not calculate the premium liable under schedule D case V.
3. Candidates had no idea how to claim relief for Damien's trade loss. A large number of candidates used the corporation tax rules to reduce the income tax liability on a value basis.
4. A large number of candidates could not give the filing date for the form 11 or the tax consequences for late submission. This was four marks lost.
5. Very few candidates knew the time limit for the section 381 claim.

Question two

This question was poorly answered by a large number of candidates. Corporation tax continues to be a problem for candidates and more time must be spent preparing for this question. Very few candidates knew the filing date of the companies return a large number giving 31st of October 2012 as the filing date.

Question three

This question was extremely badly dealt with by most candidates. It is hard to understand that after two years studying VAT that nearly all candidates could not list the items that a registered trader could not claim an input credit for. This is basic VAT knowledge. Most candidates stated that a trader could not claim an input credit for exempt and zero rated goods and then proceeded to list these items which I assume they got from the tax reference material. This answer shows total lack of understanding of VAT. This area is covered fully in the manual. In the 2012/2013 edition it is on pages 312 to 314.

The other parts of this question were equally poorly attempted. A lot of work needs to be done on this tax for future exams.

Question four

This question was badly answered with most candidates providing very poor if any workings.

The common mistakes were:-

1. A large number of candidates calculated the gain on the Clontarf property and gave no principal private residence relief. It was quite clear from the question that this property was completely exempt as John and Mary had lived in the house since they purchased it in 1983.
2. The workings for the Howth property were particularly poor. Candidates must state in their solution that the time spent in Spain and the last 12 months of ownership are allowed as deemed occupation. Please study the solution and how the workings are presented. This is the layout I would be expecting from candidates.
3. Nearly all candidates could not deal with the part of the question involving the van. Yes, it was a wasting chattel but it was not exempt as it was used in the business and qualified for capital allowances.
4. The part disposal was extremely badly attempted by most candidates. There is a part disposal formula that has to be used not number of acres.
5. Quite a few candidates could not give the payment dates/filing date.
6. Most candidates did not have any idea what a specified asset was or its tax significance.

A lot of work needs to be done here to ensure that candidates are fully prepared for this question. The syllabus for capital gains tax is quite small so candidates should really be very well prepared for this tax.

Question five

This question was only attempted by a few candidates who made a reasonable attempt.

Question six

The multi-choice question was satisfactorily answered.

Question seven

This question was the best answered question on the paper. It was a mixture of theory and computation on Schedule E.

Conclusion

I was extremely disappointed with the standard. Quite a number of candidates were not prepared for the exam. A lot of work needs to be done by candidates before the next set of exams in 2013.