Accounting Technicians Ireland

Taxation II

Republic of Ireland

Autumn 2009

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.

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.

NEW SYLLABUS
Accounting Technicians Ireland

(Formerly The Institute of Accounting Technicians in Ireland)

2nd Year Examination: Autumn 2009

Paper: TAXATION II (Republic of Ireland)

Tuesday 18th August 2009 - 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 2008. The provisions of the Finance Act 2009 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 inserts are enclosed with this paper:

- **Form 11 [QUESTION 5]**
- **Multiple Choice Question answer sheet [QUESTION 6]**
- **Tax Reference Material**

SECTION A

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

QUESTION 1 (*Compulsory*)

Retail Ltd is an Irish resident company engaged in the retail sale of household appliances. It is not a close company. Results for the year ended 31st May 2008 were as follows:

	Notes	**€**
Turnover		960,000
Direct costs	(1)	300,000
Gross Profit		660,000
Overheads	(2)	375,000
Operating profit		285,000
Other Income	(3)	35,000
Net Profit		320,000

NOTES

1. Direct costs include depreciation of €15,500.

2. Overheads include the following:

Depreciation		4,750
Travel and entertainment	(a)	4,300
Audit fees		3,800
Legal fees	(b)	6,500
Motor expenses	(c)	6,800
Directors remuneration		60,000

(a) Travel and entertainment

Entertainment at promotional fairs	800
Travelling to visit suppliers	1,500
Entertaining suppliers	2,000
	4,300

(b) Legal expenses

Pursuing breach of contract by a supplier	2,000
Disposal of warehouse	4,000
Collection of Bad Debts	500
	6,500

(c) Motor expenses

These comprise running costs of €3,800 and €3,000 respectively for the managing director's and financial controller's cars.

Both the managing director's and financial controller's cars were acquired new in May 2007.
The cost prices were:-

Managing director's car	€29,000	private use 50%
Financial controller's car	€24,000	private use 20%

3. Other income

Dividends received from Irish retail companies	5,000
Profit on sale of warehouse	20,000
Deposit interest received gross	10,000
	35,000

The warehouse was sold on 1st November 2007 for €95,000. It was purchased on 1st September 1999 for €75,000.

4. The company has a trade loss carried forward for the accounting period 31st May 2007 of €30,000.

QUESTION 1 *(cont'd)*

5. The tax written down value of fixed assets as at 1st June 2007 were as follows:-

	€
Managing Director's car.............	21,000
Financial Controller's car...........	21,000
Fixtures and fittings....................	56,250

The fixtures and fittings were all purchased in March 2006 at a cost of €75,000. During the year ended 31st May 2008, the company sold some of these fixtures, which originally cost €10,000, for €4,500.

Requirement

(a) Compute the Corporation Tax payable by Retail Ltd for the year ending 31st May 2008.

17 Marks

(b) State the due date or dates for payment of the Corporation Tax.

2 Marks

(c) State the date by which the company must file its Corporation Tax Return.

1 Mark

Total 20 Marks

QUESTION 2 (*Compulsory*)

Colm Power (aged 45) commenced practice as a solicitor on 1st September 2007. His professional income as adjusted for tax purposes is:-

		€
Year ended	31st August 2008	60,000
Year ended	31st August 2009	70,000

He purchased the following assets on the 1st September 2007:

Motor car	€30,000
Emissions...........................	140 g/km
Office furniture	€3,000
Computer system	€5,000

The private use of the car was agreed with the Inspector of Taxes as 50%.

Colm has been separated from his wife Deirdre since 2004. Details of the financial separation arrangement are as follows:-

	Per Month €
Maintenance payment Deirdre	500
Maintenance payment children	1,000

The children live with Colm for three months of the year. They have no income in their own right.

Colm's only other income in 2008 was a dividend received from ABC plc of €6,400.

His outgoings for 2008 are as follows:-

	Note	**€**
Permanent Health Contribution		400
Medical Insurance - VHI		1,400
Medical expenses...................................	(1)	1,600

NOTE

1. The medical expenses were for his daughter Mandy. The VHI reimbursed Colm €600 in relation to these expenses.

Requirement

(a) Calculate Colm's Case I income after capital allowances for his first *two* tax years.

7 Marks

(b) Compute the Income tax/PRSI/levies payable by Colm for the Income tax year 2008 on the assumption that there is no election for Joint assessment.

10 Marks

(c) State the due date for the payment of preliminary Income tax for 2008.

2 Marks

(d) State the tax consequence if Colm does not pay his preliminary tax on the due date.

1 Mark

Total 20 Marks

QUESTION 3 (*Compulsory)*

(a) Briefly explain the VAT treatment if an Irish registered trader makes an inter-community acquisition from a trader in another member state.

5 Marks

(b) Briefly explain the VAT treatment if an Irish unregistered trader makes an inter-community acquisition from a trader in another member state.

5 Marks

(c) James Keogh has been registered for VAT for many years. He is on the sales basis of accounting for VAT. Details of his income and outgoings for November/December 2008 are as follows:-

Sale of Goods (exclusive of VAT)

	€
Sales at 21%	100,000
Sales at 13.5%	50,000
Sales at zero................................	10,000

Costs (inclusive of VAT)

	VAT Rate	**Amount €**
Purchase of materials from Irish suppliers	21%	60,500
Purchase (import) of machinery from German supplier	21%	18,150
Audit and Accountancy.............	21%	6,050
Repairs and maintenance of equipment	13 ½ %	4,540
Petrol for company car:		
Private use by James 50%	21%	363
Diesel for company vans	21%	968
Entertainment of suppliers..........	21%	484

(i) You are required to calculate James Keogh's VAT liability for November/December 2008.

8 Marks

(ii) State when the above VAT return must be submitted to the revenue.

2 Marks

Total 20 Marks

SECTION B

Answer any TWO of the FOUR questions in this section

QUESTION 4

Kevin and Sinead have been married since 1998. They are both resident and domiciled in the state. They have opted for Joint assessment. During 2008, they have had the following disposals:-

(i) Sinead sold a painting for €5,000. She had purchased the painting in May 1980 for €4,500.

(ii) Kevin sold 5 acres of farm land for €1,200 an acre. Legal costs of sale were €500. Kevin had received 20 acres of farm land from his aunt Claire in August 1998. His Aunt had given this land to Kevin as a wedding present. Its market value in 1998 was €800 an acre. His aunt had originally purchased the land in 1978 for €250 an acre. The market value of the land remaining in 2008 is €1,250 an acre. There is no development potential to this land.

(iii) Kevin sold 800 shares in Coup plc for €8,000. This was out of a holding of 3,000 shares that had been acquired as follows:-

Date of Acquisition	**Number of shares**	**Cost**
		€
1st May 1986........................	500	750
10th July 1992......................	600	880
21st January 2001	1,900	14,250
	3,000	

(iv) Sinead sold an antique table for €1,650. Sinead had purchased the table at an auction in July 1999 for €3,000.

Requirement

(a) Compute Kevin and Sinead's Capital Gains Tax for 2008.

18 Marks

(b) State when the return for Capital Gains Tax for 2008 must be submitted to the Revenue Commissioners.

2 Marks
Total 20 Marks

QUESTION 5

Alan Walshe is a widower with three children. Jill aged ten, Ben aged fifteen and Steven aged nineteen. His wife Doreen died in a car accident on 10th July 2006.
Alan is a director of Walshe limited and owns 50% of the ordinary share capital. Alan's P60 for 2008 from Walshe limited showed the following:-

	€
Total pay.......................	200,000
Total tax deducted	68,000

In addition, Alan has the following income and outgoings for 2008:-

Income
(1) Bank interest of €1,600 received net of DIRT.

(2) Alan owns two houses which he lets out.

Property 1

Purchased......................	1/5/2001
Annual rent	€12,000
Expenses	
Interest	€7,500
Insurance.......................	€600
Maintenance fee............	€1,200

Property 2

Purchased......................	1/2/2008
First let..........................	1/10/2008
Monthly rent	€1,800
Interest	
1/2/08 to 31/12/08.........	€6,050
Furniture –	
Purchased 1/2/08...........	€5,000

Alan has met all his obligations under the Residential Tenancies Act 2004.

Outgoings

(1) VHI premium €3,000 net of tax relief at source.

(2) Tuition fees of €2,800 were paid for Steven in respect of an approved course.

(3) **€**450 for service charge paid to Dublin City Council. The corresponding amount for 2007 was €390.

Gain
Alan sold a painting for €12,000 on 1/3/2008. He had acquired the painting for €3,000 in June 2001. He had a capital loss of €2,000 from 2007.

Alan's personal details

PPS number:	6518937B
Address:	249 The View
	Drumcondra
	Dublin 3
Phone:	01 8621595
Date of Birth:	26th March 1961
Walshe Limited Tax number:	9051457E

P.T.O →

QUESTION 5 *(cont'd)*

Requirement

(a) Calculate Alan's Income Tax for 2008.

10 Marks

(b) Calculate Alan's Capital Gains Tax for 2008.

3 Marks

(c) Complete Alan's Form 11 for 2008 (where the answer to any section is 'none', it may be left blank).

7 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 correct answer.

Requirement

Indicate the right answer in each of the following TEN parts.

N. B. *Each part carries 2 marks.* **Total 20 Marks**

Candidates should answer this question by ticking the appropriate boxes on the special green answer sheet which is supplied with the examination paper.

[1] Mark has been self employed for many years. He filed his income tax return for 2008 on 10th December 2009. He is liable to a late filing penalty of :-

- **(a)** Nil.
- **(b)** Interest of .0273% per day.
- **(c)** 5% of the tax liability subject to a maximum of €12,695.
- **(d)** 10% of the tax liability subject to a maximum of €63,485.

[2] Alpha Ltd has a nine month accounting period ending 31st December 2008. The company purchased a machine for €100,000 in May 2007. The company received a government grant of €10,000. What is Alpha Limited's capital allowance (to the nearest euro) for this machine for the nine month period 31st December 2008:-

- **(a)** €12,500
- **(b)** €11,250
- **(c)** €8,438
- **(d)** €9,375

[3] Niall commenced employment with Wonder Limited on 1st July 2007. Wonder Limited provided him with a company car in July 2007 which cost the company €30,000. The original market value was €34,500. In the current tax year (2008), Niall travelled only 8,000 business miles. The company paid for all the expenses. Niall contributed €100 per month for the use of the car.

Wonder Limited also lent Niall €100,000 on 1st October 2008 to enable him to buy a holiday villa in France. The company charged him interest of 6% per annum. What is Niall's benefit in kind for 2008:-

- **(a)** €6,250
- **(b)** €10,900
- **(c)** €10,750
- **(d)** €12,100

[4] Gerry purchased an office building on the 1st January 2008. He let out the building on a 35 year lease on the 1st July 2008. The annual rent was €24,000 and Gerry charged a premium of €50,000. The only expense was interest on money borrowed to finance the purchase. The interest for the year ended 31st December 2008 was €10,000. Gerry will be assessed on Schedule D Case V income in 2008 of:-

- **(a)** €64,000
- **(b)** €18,000
- **(c)** €23,000
- **(d)** €52,000

QUESTION 6 *(Cont'd.)*

[5] Joan ceased trading on 30th June 2008. She prepared accounts to 30th June each year. Profits adjusted for tax purposes were:-

Year ended 30th June 2007 €20,000
Year ended 30th June 2008 €24,000

The Schedule D Case I profit assessed for 2008 was:-

(a) €24,000
(b) €12,000
(c) €22,000
(d) €20,000

[6] Michael, a married man, sold a painting in May 2008 for €3,100. He had purchased the painting for €820 in January 1996. Michael and his wife Sarah had no other gains in 2008. His Capital Gains Tax liability to the nearest euro for 2008 is:-

(a) €411
(b) €157
(c) €290
(d) Nil

[7] Burke Limited leased a car in May 2007 for its sale manager Joe Canon. Its retail value was €30,000. The emissions are 130 g/km. Joe uses the car 25% for private use. Burke Limited's year end is December each year. The lease rental charged for the accounting period the year end 31st December 2008, is €6,000. The addback in Burke Limited's Case I computation is:-

(a) €1,500
(b) €1,200
(c) €2,700
(d) €3,000

[8] Indicate the latest date for the filing of a VAT registered trader's May/June 2008 VAT return.

(a) 31st July 2008
(b) 19th July 2008
(c) 14th July 2008
(d) 5th July 2008

[9] Joe sold a warehouse in June 2008. He has a capital gains liability of €10,500. What is the due date of payment:-

(a) 31st January 2009
(b) 31st October 2009
(c) 31st October 2008
(d) 31st December 2008

QUESTION 6 *(Cont'd)*

[10] Susan, a single person aged 35, took out a retirement annuity in March 2008. She paid a premium of €10,000. She is a self employed accountant and details of her income and outgoings for 2008 are as follows:-

	€
Schedule D Case II............	35,000
Schedule D Case III	5,000
Schedule D Case V............	6,000
Qualifying permanent health Premium	1,000

What is her allowable retirement annuity premium allowed as a charge for 2008:-

(a) €10,000
(b) €9,200
(c) €9,000
(d) €7,000

QUESTION 7

(a) Define a close company.

3 Marks

(b) List two consequences of a company being regarded as a close company.

6 Marks

(c) With regards to Income tax, explain the following terms:-

(i) Residence

5 Marks

(ii) Domicile

4 Marks

(iii) Ordinarily resident

2 Marks
Total 20 Marks

2nd Year Examination: Autumn 2009

Taxation II (ROI)

Solutions

SOLUTION 1

(a)

Retail Limited
Case I Computation
Year ended 31st May 2008

	Notes	€	€
Net profit			320,000
Addbacks			
Depreciation in direct costs		15,500	
Depreciation in overheads		4,750	
Entertainment at promotional fairs		800	
Entertaining suppliers		2,000	
Legal fees		4,000	
Motor expenses	(1)	Nil	27,050
			347,050
Deductions			
Other income		35,000	
Capital allowances	(2)	17,125	52,125
Case I			294,925

Retails Limited
Corporation Tax Computation
Year ended 31st May 2008

	Notes	€	€
Schedule D – Case I		294,925	
Less: Loss carried forward		(30,000)	264,925
Schedule D – Case III			10,000
Dividends received			exempt
Income			274,925
Gain	(3)		2,440
Profits			277,365

Corporation tax

€264,925 at 12.5 % =	33,116
€ 10,000 at 25% =	2,500
€ 2,440 at 12.5% =	305
	35,921

SOLUTION 1 *(cont'd)*

(b)

Payment dates
Preliminary tax : 21st April 2008
Balance of tax : 21st February 2009

(c)

Filing date : 21st February 2009

NOTES

1. Motor expenses

There is no addback for motor expenses. The company is entitled to a full tax deduction for the expenses. The managing director and the financial controller will have a benefit in kind for their private use.

2. Capital Allowances

		MD – Car		**FC – Car**		**Fixtures & Fittings**
		€		**€**		**€**
TWDV – 1st June 2007		21,000		21,000		56,250
Disposal					Note (a)	(7,500)
		21,000		21,000		48,750
Wear and Tear	Note (b)	(3,000)	Note (c)	(3,000)	Note (d)	(8,125)
TWDV – 31st May 2008		18,000		18,000		40,625

NOTES

(a)

		March 2006 : Ap 31/05/06
		€
	Cost	10,000
	W&T 31/5/06	(1,250)
	W&T 31/5/07	(1,250)
	TWDV 31/5/07	7,500
	Balancing Computation	
	Sales proceeds	€4,500
	TWDV	€7,500
	Balancing allowance	€3,000
(b)	Cost	€29,000
	Limit	€24,000
	Wear & Tear	€24,000 at 12 ½ % = €3,000
(c)	Cost	€24,000
	Limit	€24,000
	Wear & Tear	€24,000 x 12 ½ % = €3,000
(d)	Opening cost	€75,000
	Less: Disposal	€10,000
		€65,000
	Wear & Tear at 12 ½ %	€8,125

SOLUTION 1 *(cont'd)*

Summary of Capital Allowances

MD Car	€3,000	
FC Car	€3,000	
Fixtures & fittings	€8,125	
Balancing allowance	€3,000	
		€17,125

3. Gain on sale of warehouse

	€	
Sales proceeds	95,000	
Less : legal fees on disposal	(4,000)	
Cost 1999/00		
€75,000 x 1.193	(89,475)	
Gain		1,525

Gain as adjusted for corporation tax

$$€1,525 \times \frac{12.5}{20} = €2,440$$

SOLUTION 2

(a)

Tax Year		**Basis of assessment**	**Amount**
2007	Actual		
		1/9/07 to 31/12/07	
		€60,000 x 4/12	€20,000
2008	12 month set of		
		accounts ending in	
		the second year	
		31st August 2008	€60,000

Capital Allowances Computation

	Plant & Machinery 12.5 % Straight line €	**Motor Vehicle 12.5% Straight line €**
2007		
Additions – Car		30,000
Office furniture	3,000	24,000
Computer system	5,000	_____
	8,000	24,000
Wear & Tear 4/12	(333)	(1,000)
TWDV – 31/12/07	7,667	23,000
2008		
Wear & Tear	(1,000)	(3,000)
TWDV – 31/12/08	6,667	20,000

Summary

2007	€
Plant & machinery	333
Car €1,000 x 50%	500
	833

2008	€
Plant & machinery	1,000
Car €3,000 x 50%	1,500
	2,500

Summary of Schedule D Case II Income

2007	€20,000
Less: capital allowances	(€833)
	€19,167
2008	€60,000
Less; capital allowances	€2,500
	€57,500

SOLUTION 2 *(cont'd)*

(b)

Colm Power
Income Tax Computation - 2008

	Single assessment
	€
Schedule D – Case II	57,500
Schedule F 6,400 x 100/80	8,000
	65,500
Less charges	
Maintenance to spouse 500 x 12	6,000
Statutory Income	59,500
Permanent Health Insurance	(400)
Taxable Income	59,100

		€
€39,400 @ 20% =		7,880
€19,700 @ 41% =		8,077
€59,100		15,957
Less: Single		(1,830)
One parent family		(1,830)
Medical expenses	Note (1)	(410)
Tax Liability		11,887
DWT €8,000 x 20%		(1,600)
Tax due		10,287
PRSI €65,500 @ 3%		1,965
Levies €65,500		
Less:		
Maintenance €6,000		
	€59,500 @ 2%	1,190
Total Income tax/PRSI/levies		13,442

NOTES

1. | | |
|---|---|
| Medical expenses | 1,600 |
| Less: reimbursed from VHI | 600 |
| | 1,000 |

Tax relief at the highest rate €1,000 @ 41% = €410

2. Relief for Medical insurance given at source.

(c) Preliminary income tax payment date for 2008 is 31st October 2008.

(d) The tax consequences for not paying your income tax on the due date is interest of 0.0273% per day or part thereof.

SOLUTION 3

(a) The VAT implications are as follows:

(i) The goods are liable in Ireland to tax on the intra-community acquisition at the VAT rate applicable here;

(ii) The VAT payable is accounted for through the normal periodic VAT return, and

(iii) The tax payable is simultaneously deductable.

Therefore , there is no effective Irish VAT liability on importation in these circumstances. However, an Irish VAT liability will subsequently arise when the Irish trader sells the goods.

(b) Traders who make an intra-community acquisition but who are not registered for VAT in Ireland because their turnover is below the registration threshold, are not taxable in the state, if the annual value of their intra-community acquisitions remains below €41,000. Instead VAT is payable in the member state of purchase at the VAT rate applicable there. Where the threshold in respect of the intra-community acquisitions is exceeded, the trader must register for VAT in the state and will then be covered by the system explained in (a) above.

(c)

(i) VAT on Sales

		€
€100,000 at 21%		21,000
€50,000 at 13 ½ %		6,750
€10,000 at zero		
		27,750
VAT EU acquisition (Germany)		
$\frac{€18,150}{121}$ x 21	=	3,150
		30,900
Less: VAT on costs		
Materials $\frac{€60,500}{121}$ x 21	=	(10,500)
Audit and Accountancy $\frac{€6,050}{121}$ x 21	=	(1,050)
Repairs and maintenance $\frac{€4,540}{113.5}$ x 13.5	=	(540)
Petrol		Not allowed
Diesel $\frac{968}{121}$ x 21		(168)
Entertainment		Not allowed
EU acquisition (Germany) $\frac{€18,150}{121}$ x 21		(3,150)
VAT due		15,492

(ii) The VAT return must be submitted between 10^{th} and 19^{th} January 2009.

Section B

SOLUTION 4

(a) **Sinead**

(i)

Sales proceeds	€5,000
1980/81	
€4,500 x 3.240	€14,580
Loss	€9,580

Actual position

Sales proceeds	€5,000
Cost	€4,500
Gain	€500

Therefore no gain/no loss

(iv)

Deemed sales proceeds	€2,540
Cost	€3,000
Loss	€460

Kevin

(iii) **Sales proceeds**

5 x €1,200 €6,000

Less: legal fee €500

98/99 €800 x 20 = €16,000

$$€16{,}000 \times \left(\frac{€6{,}000}{€6{,}000+18{,}750}\right) = €3{,}879$$

€3,879 x 1.212 = €4,701

€799

(iii)

Sales proceeds
$€8{,}000 \times \frac{500}{800} =$ €5,000

1986/87
€750 x 1.637 €1,228
€3,772

Sales proceeds
$€8{,}000 \times \frac{300}{800} =$ €3,000

1992/93
$€880 \times \frac{300}{600} =$
€440 x 1.356 €597
€2,403

SOLUTION 4 *(cont'd)*

Kevin and Sinead

Capital Gains Tax – 2008

Kevin	€	€
Land		799
Shares	3,772	
	2,403	6,175
		6,974

Less: Sinead loss	
On antique table	(460)
Annual exemption for Kevin	(1,270)
	5,244

Capital Gains tax at 20% €1,048.80

(b) The Capital Gains tax return for 2008 must be submitted by the 31st October 2009.

SOLUTION 5

(a)

Alan Walshe
Income Tax Computation

	Notes	€
Schedule D – Case IV		
1,600 x 100/80		2,000
Schedule D – Case V	1	5,825
Schedule E		200,000
Total Income		207,825

Tax Liability

€39,400	@	20% =	7,880.00
€2,000	@	20% =	400.00
€166,425	@	41% =	68,234.25
€207,825			76,514.25

Less: Widowed person	(1,830.00)
One parent family	(1,830.00)
Second year after bereavement	(3,500.00)
PAYE credit (Note 2)	-
Tuition fees €2,800 x 20%	(560.00)
Service charge €390 x 20%	(78.00)
Tax liability	68,716.25
Less: DIRT €2,000 @20%	(400.00)
PAYE paid	(68,000.00)
Tax due	316.25

(b) Alan Walshe – Capital Gains

	€
Sales proceeds	12,000
2001 €3,000 x 1.087	3,261
	8,739
Less: Capital loss forward	2,000
Annual exemption	1,270
	5,469

Capital Gains Tax at 20% €1,093.80

NOTES

1. Schedule D – Case V

Property 1	€
Rent	12,000
Less:	
Interest	(7,500)
Insurance	(600)
Maintenance fee	(1,200)
	2,700
Property 2	
Rent 1,800 x 3	5,400
Less	
Interest 6,050 x 3/11	(1,650)
	3,750

SOLUTION 5 *(cont'd)*

Total D V	
Property 1	2,700
Property 2	3,750
	6,450
Less:	
Capital allowance	
€5,000 x 12 ½ %	(625)
	5,825

2. Alan is not entitled to the PAYE credit as he is a director and owns over 15% of the company he works for.

SOLUTION 6

(1) (c)

(2) (c) Cost €100,000
Less:
Grant (€10,000)
90,000 x 12 ½ % x 9/12 = €8,438

(3) (b)

€34,500 x 30%	=	€10,350	
Less: €100 x 12	=	(€1,200)	€9,150
€100,000 x (13% - 6%) x 3/12			€1,750
			€10,900

(4) (c)

Rent €24,000 x 6/12 =	€12,000
Premium	
€50,000 – (€50,000 x $\frac{35-1}{50}$) =	€16,000
	€28,000
Less: Interest	
€10,000 x 6/12	€5,000
	€23,000

(5) (b) €24,000 x 6/12 = €12,000

(6) (b)

Sales proceeds	€3,100
95/96	
€820 x 1.277	€1,047
Gain	€2,053
Less: annual exemption	€1,270
	€ 783
Tax @ 20%	€ 157

(7) (b) €6,000 x $\frac{€30,000 - €24,000}{€30,000}$ = €1,200

(8) (b)

(9) (c)

(10) (d) €35,000 x 20% = €7,000

SOLUTION 7

(a) A close company is defined as an Irish resident company, which is controlled by:-
- (i) five or fewer participators and their associates; or
- (ii) participators who are directors, without any limitation on the number.

(b) Only two consequences are required.
- (i) Under Section 438, Taxes Consolidation Act 1997, where a close company makes a loan to a participator, tax at the standard rate must be accounted for to the Revenue Commissioners.
- (ii) Under Section 437, Taxes Consolidation Act 1997, excess interest paid to directors or their associates is treated as a distribution. This treatment applies to interest in excess of the lower of:-

  13% of the total loans from directors; or
  13% of the nominal amount of the issued share capital and share premium account.

  Treatment as a distribution means that company does not obtain a tax deduction for the interest payment. At the same time, the participator is taxable under Schedule F on the total amount of the benefit.

- (iii) Under Section 436 Taxes Consolidated Act 1997, expenses met by the company on behalf of participation are treated as distributions. This treatment applies only in situations where the benefits concerned are not taxable under Schedule E as benefits in kind i.e. where the Participator involved is not an employee or director of the company.

- (iv) Under section 440, Taxes Consolidation Act 1997, undistributed investment and estate income of a close company is subject to a surcharge of 20%. The surcharge applies where the investment and estate income is not distributed to shareholders within 18 months of the end of the accountancy period concerned.

(c) (i) Residence

An individual is regarded as resident in Ireland for a tax year if he/she is present in Ireland:
- At any one time or several times in the year of assessment for a period which in total amounts to 183 days or more: or
- At any one time or several times in the year of assessment and the preceding year a period which in total amounts to 280 days or more.

However, he/she will not be regarded as resident for any tax year in which he/she spends a period in the whole amounting to 30 days or less in Ireland, and no account shall be taken of such a period for the purpose of the 280 day test. In determining days present in Ireland, an individual is deemed to be present if he/she is in the country at the end of the day, i.e. at midnight.

(ii) Domicile

Domicile is not defined in the Income Tax Acts. It is a complex legal concept. Generally, a person is domiciled in the country of which he/she is a national and in which he/she spends his/her life. However, it is not always possible to equate domicile to home, as in certain circumstances an individual may be domiciled in a country which is not and has never been his home. A person may have two homes but he can only have one domicile. There is considered volume of case law on the subject of domicile.

There are three general principles in relation to domicile:
- No person can be without a domicile
- No person can have more than one domicile at the same time, at any rate for the same purpose.
- An existing domicile is presumed to continue until it has been proved that a new domicile has been acquired.

Domicile of origin

An individual is born with a domicile of origin. Normally, this is the domicile of his/her father. However, where the parents have not married, or if the father dies before his/her birth, the child's domicile will be the same as that of his/her mother. If, before he/she has reached the age of majority, the parent from whom he/she has taken his/her domicile changes his/her domicile, the minor's domicile will also change.

Once an individual has reached the age of majority, he/she can reject his/her domicile of origin and acquire a new domicile. In order to abandon his/her domicile of origin, the individual must prove conclusively that he/she has severed links with the country which his/her domicile of origin lies. A domicile cannot be lost by mere abandonment. It can only be lost by positive acquisition of a domicile of choice.

Domicile of choice

A domicile of choice is the domicile that any independent person can acquire for himself/herself by a combination of residence and intention. To acquire a domicile of choice, an individual must establish a physical presence in the new jurisdiction and have an intention to reside there indefinitely.

A domicile of choice can in turn be abandoned. This will involve either the acquisition of a new domicile of choice or the revival of the domicile of origin. Here, again, the two factors of presence and intention will be required.

(iii) Ordinarily residence

An individual is ordinarily resident in Ireland for a year of assessment if he/she has been resident for each of the three years of assessment preceding that year. An individual will not cease to be ordinarily resident for a year of assessment until such time as the individual has three consecutive years of non-residence. In effect, it is necessary to have been non-resident in Ireland in each of the three years of assessments following the year of departure from Ireland.

2nd Examination: Autumn 2009

Taxation II (ROI)

Examiner's Report

Question 1
Corporation Tax
This question was poorly answered by most students. The common mistakes were:

- Students adding back the private use of cars for employees.
- A lot of students omitted the trading loss of €30,000.
- Most students included the dividend from an Irish company in the corporation tax computation as income. This is exempt income and students should have stated this in their solution. Most students went on to compound the error by giving the company a credit for DWT against their corporation tax.
- The students were told in the question that the companies deposit interest was received gross. It should have been included as D III income and taxed at 25% corporation tax not 20% as a lot of students did.
- The payment and filing dates were unknown by a lot of students which is not acceptable. Most students were giving the Income tax dates for a company.
- Most students could not deal with the capital allowances and were calculating wear and tear on the reduced balance when it should be calculated on cost price. Very few students could deal with the balancing position on the sale of the fixtures and fittings.
- Most students omitted the legal fees on the disposal of the warehouse when they were calculating the gain. Many also gave the annual exemption of €1,270 which is only available to individuals.
- Layout of the corporation tax computation was poor.

Question 2
Income Tax
This question again was poorly answered by most students. The common mistakes were:

- Nearly all students could not deal with commencement.
- Again the capital allowances were badly attempted by nearly all students. Most students were unaware that if the basis period is less than 12 months you must restrict wear and tear to the length of the basis period in this case 4/12.
- A lot of students did not appreciate that it is only the maintenance for the benefit of a spouse that is allowed as a charge in you tax computation.
- Most students were unaware that medical insurance qualifies for tax relief at source and does not appear as a charge in your tax computation.
- Students could not deal with the tax relief for course fees or service charge. I would expect students to know this as they should be claiming these relief's themselves in their own tax computations.
- Most students did not give Colm the correct band at 20%.
- A lot of students failed to gross up the dividend before they brought this in as Income.
- Most students could not calculate the PRSI and Levies. These must be calculated on total income. When calculating Levies a tax payer is entitled to a deduction for the maintenance to a spouse.
- Again the payment date for Income tax was not known.
- Also most students thought that the penalty for paying tax late was a surcharge when of course it is interest. Surcharge is the penalty when you send in your tax return late.

Question 3
VAT
This was the best question done by most students.

- Students did not have a detailed knowledge of part a and b and at times it was hard to know if students really understood the VAT position. I gave students the benefit of the doubt.
- The computation part of the question was well done.
- Most students knew when the vat was to be paid and the return submitted.

Question 4
Capital Gains Tax. The syllabus for this tax is quite narrow so I expect students to know it well which was not the case.

- Most students were unaware that Sinead had a no gain/no loss on the sale of the painting.
- Most students had a handle on the part disposal of the land by Kevin.
- The shares were dealt with well.
- Most students could not deal with the disposal of the antique table. This is a durable chattel. To be liable to tax it must have a sales proceeds of €2,540. Sinead had made a loss on the sale and to bring this asset into the tax system to get relief for the loss you must deem the sales proceeds to be €2,540 and compare to the cost price. You do not index cost price if you have a loss.
- A lot students did not calculate the tax of Kevin and Sinead well. I was looking for students to use Sinead loss against Kevin's gains as losses can be transferred between spouses. I was also looking to see that students did not use Sinead's annual exemption against Kevin's gains as you cannot transfer the annual exemption between spouses.
- The most disappointing part of the solution was part (b). Most students did not read the question. I did not ask for the payment dates, if I had I would have given you the disposal dates as these are needed. I asked for the filing date of the capital gains return for 2008. This is submitted on the 31st of October 2009. It is irrelevant when the assets are sold in the tax year for the filing date.

Question 5
Income Tax
This question required a basic income tax computation for a widowed person. The straight forward disposal of a painting and the completion of the taxpayers form 11 for 2008.

- A few students were unable to handle the pre letting expense for property 2.
- Again most students did not give the correct band at 20%.
- Credits were badly handled. The PAYE credit was not available as the taxpayer was a director of the company he worked for and he owned over 15% of the share capital.
- The capital gain was well answered.
- The Form 11 was satisfactory.

Question 6
Multi Choice
This was a tough question, again weaker students might be better served by doing another question where they will get marks for workings. With Multi Choice it is either right or wrong.

Question 7
Theory Question.
This was a theory question on close company provisions and residence and domicile. It was attempted by very few students. The students that did attempt this question on the whole had not an idea of the provisions.

Conclusion
Overall the standard was disappointing with many students clearly unprepared for the exam. Basic errors were made with credits like college fees and service charge. Students need to study the past paper questions to ensure these errors are not made again.

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