

Paper I – Principles of International Taxation

20 candidates sat this examination (as compared with 19 candidates last year). Each candidate, as required, answered four questions. The vast majority used the time available well and provided four complete answers. The highest mark recorded was 64%, whilst 10 candidates were awarded marks in the 50-59% band. The lowest mark (achieved by one candidate) was 32%.

Each of the questions on the examination paper attracted answers. The most popular question was question 5 (transfer pricing), in respect of which there were 18 answers. This was closely followed by questions 4 (double taxation relief) and 3 (taxation of e-commerce), which were answered by 14 and 13 candidates respectively. Question 2 (harmful tax competition) was attempted by 11 candidates, and the remaining questions each attracted 8 answers.

It is fair to say that, generally, the standard of the scripts was slightly disappointing. As indicated above, only one candidate secured a mark in excess of 60% and of those falling within the 50-59% band most achieved a mark of below 55%. This performance may be explained, in part, by the fact that the quality of the answers varied markedly from question to question. For example questions 4, 5 and 7 were, on the whole, answered quite well, whereas questions 1 and 6 were answered, in general rather poorly. In the latter instances, it was noticeable that candidates often failed to focus on the main issues raised by these questions.

Paper II – Advanced International Taxation

Question 1

Most candidates attempted this question with varying results. The few very high marks were achieved by those candidates who tackled the breadth of the question covering the significant number of issues which the examiner had sought to raise. The first part of the question specified United Kingdom corporate tax issues so credit was not available for discussion about foreign tax except in so far as it impacts upon United Kingdom tax, e.g. in relation to the restrictions on double taxation relief. Credit was certainly not available for discussion of non-tax issues.

The second and third parts of the question were generally handled competently although candidates cannot expect to score highly when the question specifically refers to national insurance and they fail to mention it.

Question 2

This was the least popular question in the first part of the paper. In fact, it could largely be answered from the available material provided that candidates knew where to look. The small number of attempts suggests that the topics were unfamiliar to most of those attempting the examination. Candidates generally scored well on part (2) but very few marks were earned from the knowledge of domicile and inheritance tax.

Question 3

The examiner expected this to be a popular question and, indeed, every candidate decided to answer it. Some answers were very good and the examiner was particularly impressed by the widespread knowledge of the rules relating to the emigration of a company. The weakest part of most answers was to the first part of the question where, although candidates were generally aware of the basic rules, the answers tended to be thin, especially in terms of reference to the case law.

Question 4

This question was answered by surprisingly few candidates. The question gave an opportunity for candidates familiar with UK outbound investment to gain a reasonable number of marks, as it focussed primarily on CFC, Treasury content and capital gains issues.

The candidates who did answer showed only a summary knowledge of the relevant issues and insufficient detailed knowledge. In particular, it seemed clear that there was little knowledge of the general consents or detailed knowledge of the relevant CFC exemptions.

Question 5

This question was unsurprisingly answered by all candidates which reflects the fact that most candidates have a broader understanding of international tax law and also UK international tax law, rather than a detailed knowledge of particular areas (even those in which they are supposed to have detailed knowledge).

The answers varied but overall there was a strong understanding of the application of treaties to income flows, and also the credit system that the UK operates for dividend taxation. There was little knowledge expressed of the domestic law position in relation to interest withholding tax.

Question 6

This question was answered by very few candidates and those that did answer did not go into sufficient depth with their answers, displaying a broad understanding of UK CFC legislation but not a detailed knowledge of the various exemptions, and in particular the holding company exemptions in the exempt activities test (which is admittedly a complex area).

Question 7

This question was answered by a number of candidates and overall most of them made a good attempt. A few candidates even suggested the deduction method which was not in the answer but gained marks anyway as this showed a good understanding of this area.

Overall Comments

The candidates attempting the paper do not have sufficiently deep UK international tax knowledge to address specific situations or to analyse particular transactions, even in the areas which are rated a 3 in the syllabus. Thus the areas of DTR and CFC in particular are core areas of knowledge but in which too many candidates seem to have only a level 2 of knowledge which is inadequate to analyse the implications of fairly standard circumstances in sufficient detail for practical purposes.

Paper IIIB – Principles of Corporate and International Taxation – European Community

The overall impression of the scripts was that most candidates did not write enough to score high marks. Those candidates that did show their knowledge scored well.

No question that was answered appears to have caused great difficulty. The main reason why most people scored so poorly was that they failed to write enough on a number of questions to pick up marks.

One candidate appears to have chosen the "state aid" question without showing any knowledge of the two state aid cases mentioned in the question. One of those cases was the leading state aid case of 2004.

One candidate wrote a single page answer on the "Human rights" question and it appears that this was not down to time pressure. The answer failed to discuss any human rights' case other than a brief reference to *Ferrazini*.