



The Chartered Tax Adviser Examination

May 2008

PAPER I – GENERAL TAXATION

Answers

MODULE A – PERSONAL TAX

- 1 Jim is an employee. His records must be retained until the later of:
- 1 year after 31 January following the tax year ie 31 January 2009, and
 - The time after which enquiries by HMRC into the return can no longer be started (usually 12 months after the filing date).

As Jim received notice after 31 October 2007, his filing date for the return is 3 months after the notice was issued ie 15 March 2008.

Jim submitted his tax return late, therefore enquiries can commence until 12 months after the quarter date following filing. ie 30 April 2009.

As a result Jim's records must be retained until 30 April 2009.

If an enquiry has been opened but not completed on 30 April 2009, then the date is extended until completion of enquiries.

The maximum penalty for the failure to keep and retain records is £3,000 per tax year.

- 2 Kamal

Income tax computation

2007/08

	Total £	Savings income £	Dividend income £
Building society income £1,336 x 100/80	1,670	1,670	
Dividend income (non tax-exempt) £3,861 x 100/90			4,290
	4,290		4,290
Net income	5,960	1,670	4,290
Personal allowance	(5,225)	(1,670)	(3,555)
Taxable income	<u>735</u>	<u>Nil</u>	<u>735</u>
Tax: £735 @ 10%	74		
Less: tax credits			
On dividend (restricted)	(74)		
On building society interest			
20% x £1,670	(334)		
Income Tax repayable	<u>(334)</u>		

- 3 Orah can **appeal against the conclusion** of the section 28A closure notice (s 31 TMA 1970)

Notice of the appeal must be given in writing within 30 days of the issue of the closure notice to the officer who issued the closure notice.

The notice of appeal must **state the grounds of appeal**.

Orah may wish to pay the £8,460 of tax in order to avoid incurring additional interest, in the event of the commissioners finding against her.

Examiner note: Alternatively, she can request postponement of all or part of the tax, subject to a separate right of appeal if not agreed.

- 4 The conditions for an eligible employee are:
- Must be employed by the company for **at least 25 hours per week**, or for at least **75% of their working time**, if less.
 - Must not have control of **30% or more** of the **ordinary shares** in the company
 - Only gets relief on options with a value of up to **£100,000 (£120,000 from 6 April 2008)** at the date of **grant** (any excess is treated as relating to an unapproved scheme)

Note: credit is given for either the £100,000 or £120,000 limit.

5

	£
Child benefit - exempt	–
Interest on overpaid income tax - exempt	–
Dividends from a VCT	
• exempt on first £200,000	
• taxable	
50,000/ 250,000 x £12,500 x 100/90	2,778
Interest on NS&I Income Bonds	5,450
Maintenance payments - exempt	–
Net income	<u>8,228</u>

- 6 Interest on a loan to purchase shares in an employee controlled company is eligible for relief provided:

- The company is **UK resident** with at least **50%** of the shares owned by employees and
- The borrower works **full-time**
- The borrower acquired the shares **not later than 12 months after** the company became employee controlled
- The borrower has **less than 10 % of the shares/ voting power**

In this scenario Barry has less than 10% of the shares so relief is given.

- 7 Mahmood

Deemed employment payment	
	£
Fees received from relevant engagements	185,000
Less: 5% deduction	(9,250)
Less:	
Allowable expenses	(47,500)
	<u>128,250</u>
Intermediary's NIC attributable to deemed employment payment (<i>Note</i>)	
12.8/112.8 x £128,250	(14,553)
Deemed employment payment	<u>113,697</u>

Note: There is no threshold applying to the NIC on the deemed employment payment as this was used up by his actual salary.

8	Emilio	
		£
	Annual value	15,000
	Expensive accommodation	
	(£325,000-£75,000) x 6.25% (Note)	15,625
	Furniture benefit	
	20% x £8,400	<u>1,680</u>
	Taxable benefit	<u>32,305</u>

Note: As the accommodation was owned more than 6 years before first made available market value rather than cost is used.

May 2001 extension – this capital cost is included in the market value

July 2007 conservatory – the capital cost is included in the tax year after it is incurred ie 2008/09.

9 The two alternative courses of action open to HMRC are:

(1) *Doubt as to notifiability – s306A Finance Act 2004*

HMRC may **apply to the Special Commissioners** for an order that the arrangement be treated as notifiable. The Special Commissioners will grant the order provided HMRC have **taken all reasonable steps** to establish whether the arrangements are notifiable, and **have reasonable grounds** for suspecting that they are notifiable.

(2) *Pre-disclosure enquiry – s313A Finance Act 2004*

HMRC may by **written notice**, to a person believed **to be a promoter** of a notifiable arrangement, require the promoter to **state whether in the promoter's opinion** the arrangements are notifiable. If not they must state the reasons for their opinion.

It is not sufficient for the promoter to refer to the opinion of another person, e.g. a lawyer or accountant.

10 Juan

Withdrawal of EIS relief

		£
	Relief withdrawn	
	£38,000/ £40,000 x £6,122 (<i>Working</i>)	5,816
	<i>Working</i>	
	2006/07	_____
	Tax:	
	£2,150 x 10%	215
	<u>£26,850</u> x 22%	5,907
	<u>£29,000</u>	<u>6,122</u>
	Less EIS relief	
	20% x £40,000 (restricted)	<u>(6,122)</u>
		<u>Nil</u>

11 Aoife

Notice of coding

	£	£
Personal allowance		5,225
Add: allowable expenses		
CLOT annual subscriptions		<u>250</u>
		5,475
Less:		
Employment benefits	3,650	
Unpaid tax (HR taxpayer)		
£960 x 100/40	<u>2,400</u>	<u>(6,050)</u>
Net allowance		<u>(575)</u>

K code – remove last number, then deduct 1

K56

12 Hywel

	Final payment £	Payment on account £
Correct payments		
31 January 2008	12,500	31,000
31 July 2008		31,000
Actual payments		
28 February 2008	12,500	15,000
31 July 2008 (expected)		
(50% x £62,000) + £(31,000 - 15,000)		47,000
Interest		
On 28 February 2008 payment		
7.5% x 1/12 x £(12,500 + 15,000)		172
On amount underpaid on first POA		
7.5% x 6/12 x £(31,000 – 15,000)		<u>600</u>
		<u>772</u>

13 Rent-a-room

Sue and Ellen both rent out rooms in their only/ main residences.

Sue has income below £4,250, and property income is automatically exempt. However as her expenses exceed the income she can elect to opt out of rent a room for 2007/08 and instead realise a property loss of £480 (£4,040 - £4,520).

Ellen's income exceeds £4,250, so she is automatically assessed on property income of £2,044 (£5,200 - £3,156). However she can elect to use the rent a room limit of £4,250 instead of her actual allowable expenses. Hence she is assessed on £950 (£5,200 - £4,250).

Both elections must be made by 31 January 2010.

14 Priscilla
Income Tax
2007/08

	Total £
Salary	240,000
Net income	<u>240,000</u>
Personal allowance	(5,225)
Taxable income	<u>234,775</u>
Tax:	
£	
2,230 x10%	223
<u>147,755</u> x 22%	32,506
149,985 W1	
84,790 x40%	33,916
<u>234,775</u>	<u>66,645</u>
Add excess annual allowance charge W2 40% x £10,385	4,154
Income Tax liability	<u>70,799</u>

Workings:

1	Extended basic rate band £34,600 + £(90,000 x 100/78)	<u>149,985</u>
2	Excess annual allowance £(90,000 x 100/78) + 120,000 Less allowance Excess	235,385 <u>(225,000)</u> <u>10,385</u>

15 Patrick is aged 74 at the end of the tax year. Mary is aged 77 at the end of the tax year.

	£	£	
Personal allowance (65-74)		7,550	
Less reduction $\frac{1}{2} \times £(26,000 - 20,900)$ restricted	2,550 <u>(2,325)</u> 225	(2,325)	
		<u>5,225</u>	
Married couple's allowance based on Mary's age (75+)		6,365	
Less reduction	<u>(225)</u> Nil	(225)	
		<u>6,140</u>	
Less amount transferred to Mary 50% x £2,440 (basic MCA)		(1,220)	
		<u>4,920</u>	

16 Residence

Harry loses his residence status if he **leaves the UK under an employment contract that includes a full tax year** (as in this case 2008/09). He becomes non resident on **1 January 2008**. He only returns to the UK at the end of his contract and therefore becomes UK resident again on **31 July 2009**.

Amie makes visits to the UK which **average 91 days or more per year over four consecutive tax years** (2003/04 to 2006/07). She is therefore resident from the beginning of the **fifth tax year ie 6 April 2007**.

17 Employed rather than self employed

- Contract of service not contract for services
- Control exercised by 'employer'
- Equipment provided by 'employer'
- Unable to provide a substitute
- Lack of financial risk eg bad debts
- Inability to profit from time efficiencies
- Limitation on/ limited work for other
- Mutuality of obligation
- Integration test: e.g. does the individual hold a recognised office or post

(Any other reasonable point allowed)

18 Krystyna

Termination payment

10 February 2008

	£
Payment	45,000
Less exempt amount	<u>(30,000)</u>
	<u>15,000</u>

Basic rate tax deducted at source

(BR code used as paid post form P45)

22% x £15,000

3,300

There is no NIC on ex gratia termination payments

Amount paid to Krystyna

£(45,000 – 3,300)

41,700

Additional tax to pay by self assessment:

Termination payments are the top slice of income (ie taxed after dividend income) & Krystyna is a higher rate taxpayer.

Additional tax payable by self assessment

(40-22)% x £15,000

2,700

19 Andreas

National Insurance Contributions

6 October to 5 November 2007

Director – apply annual limits but pro rate for appointment during the year - 6months left to the tax year end.

$£5,225 \times 6/12 = £2,613$ and $£34,840 \times 6/12 = £17,420$

Strictly pro rate by number of tax weeks (months for the exam)

$£(6,220 - 2,613) \times 11\%$

397

20 Receipt of employment income by a director

A director is deemed to receive employment income on the earliest of:

- (a) **payment made**
- (b) becoming entitled to earnings
- (c) the time when sums are credited to the company's accounts
- (d) if **determined before the end of the period, the time when the period ends**
- (e) if determined after the end of the period, the time when determined.

Larky Ltd

As the directors control the company the directors meeting, and not the AGM, is deemed to be the date of determination of the bonus. As the meeting is after the accounting period end this is deemed to be the date of determination ie the bonus is deemed to be received on 15 March 2008.

MODULE B – BUSINESS TAX

1 Eleanor

2005/06	1 September 2005 to 5 April 2006 4 months ended 31 December 2005 and 3 months ended 5 April 2006 $\pounds 5,200 + (3/12 \times \pounds 21,600)$	£10,600
006/07	Year ended 31 December 2006	£21,600
2007/08	Year ended 31 December 2007	£28,800
Overlap period	1 January 2006 to 5 April 2006 $3/12 \times \pounds 21,600$	£5,400

2 Yasmin

	£	
Draft profit	67,000	
Legal fees re debt collection	–	Allowable as related to trade
Legal fees re investment property	500	Disallowable as not related to the trade. Deductible against property income
Gifts of moisturiser cream	–	Allowable as contain advert, cost less than £50 per item and not food, tobacco or alcohol
Subscription to Beautician association	–	Allowable as related to the trade
Membership of local health spa		Disallowable as not wholly and exclusively incurred in relation to the trade
	600	
Adjusted profit	<u>68,100</u>	

3 Antonia

Assessments are as follows:

2005/06	
Year ended 31 January 2006	£23,400
2006/07	
No accounting period ends in this tax year so tax the 12 months to the new accounting date	
12 months ended 31 May 2006	
$8/12 \times 23,400 + 4/16 \times 38,000$	
$\pounds 15,600 + \pounds 9,500$	£25,100
2007/08	
12 months ended 31 May 2007	
$12/16 \times \pounds 38,000$	£28,500
Unrelieved overlap profits:	
2 months brought forward	£7,200
8 months to 31 January 2006	£15,600
Total of 10 months	<u>£22,800</u>

4 Hamid

Calculation of the terminal loss (loss of the last 12 months of trading)

	£	£
Period 6 April 2007 – 30 September 2007		
Loss = 6/8 x £20,000		15,000
Add overlap relief		<u>8,000</u>
		23,000
Period 1 October 2006 – 5 April 2007		
Loss from 1.2.07 – 5.4.07		
2/8 x £20,000	5,000	
Profit from 1.10.06 – 31.1.07		
4/12 x £12,000	<u>(4,000)</u>	
		1,000
Total Terminal Loss		<u><u>24,000</u></u>

The terminal loss can be relieved against **trading income** of the year of cessation and the **three years** of assessment prior to that of cessation on a **LIFO** basis.

5 Isabel, Jessica and Kate

	<i>Total</i> £	<i>Isabel</i> £	<i>Jessica</i> £	<i>Katie</i> £
<i>Year ended 30/4/07</i>				
3 m/e 31/7/06	22,500			
PSR (1:1:1)	(22,500)	7,500	7,500	7,500
9 m/e 30/4/07	67,500			
Salary 9/12 x 24,000	(18,000)			18,000
PSR (2:2:1)	(49,500)	<u>19,800</u>	<u>19,800</u>	<u>9,900</u>
Assessments for 2007/08		<u><u>27,300</u></u>	<u><u>27,300</u></u>	<u><u>35,400</u></u>

6 Jacob

	£	<i>Main pool</i> £	<i>Car with private use (60% bus)</i> £	<i>Car with private use (60% bus)</i> £	<i>Total allowances</i> £
TWDV b/f New BMW Disposal		–	10,500	27,000	
			<u>(5,000)</u>		
			5,500		
Balancing allowance <i>Additions without FYA's</i>			<u>(5,500)</u>		3,300
WDA 3,000 <i>Additions with FYA's</i>				(3, 000)	1,800
Low emission car 100% FYA	14,000 (14,000)				14,000
		–			
TWDV c/f Total allowances		<u><u>–</u></u>		<u><u>24,000</u></u>	<u><u>19,100</u></u>

7 Sam

The year ended 30 April 2006 and the year ended 30 April 2007 may be averaged as £27,000 is **less than 70%** of £45,000.

Year ended 30 April 2006

$$(\pounds 27,000 + \pounds 45,000)/2 = \pounds 36,000$$

Year ended 30 April 2007

Averaged as above = £36,000

Year ended 30 April 2008

£26,000 is 72.2% of the averaged profit of £36,000 so marginal averaging applies

$$[3 \times (\pounds 36,000 - \pounds 26,000)] - (3/4 \times \pounds 36,000) = \pounds 3,000$$

$$\pounds 26,000 + \pounds 3,000 = \pounds 29,000 \text{ (provisional)}$$

The year ended April 2007

$$\text{This is revised } \pounds 36,000 - \pounds 3,000 = \pounds 33,000$$

Assessments	£
2006/07	36,000
2007/08	33,000

8 James

Without a succession election:

	<i>Main pool</i> £	<i>Allowances</i> £
TWDV b/f	65,000	
Additions	16,000	
Disposal (MV)	<u>(37,000)</u>	
	<u>44,000</u>	
Balancing allowance	<u>(44,000)</u>	44,000

With a succession election:

	<i>Main pool</i> £	<i>Allowances</i> £
TWDV b/f	65,000	
Additions	16,000	
	<u>81,000</u>	
Disposal (TWDV)	<u>(81,000)</u>	

No allowances are available in the period of cessation.

9 Iggle Ltd

Corporation tax computation

Year ended 31 December 2007

	£	£
Schedule D Case I	30,000	
Loss brought forward	<u>(30,000)</u>	
		-
Schedule A	20,000	
Schedule D Case III deficit	<u>(17,000)</u>	
		3,000
Gift Aid payment		<u>(3,000)</u>
Profits chargeable to Corporation Tax		<u>-</u>

Unrelieved amounts carried forward at 31 December 2007:

Trading loss £5,000

Schedule D Case III deficit £1,000

Election made to carry forward the non-trading deficit against non-trading profits of a succeeding accounting period. (This claim can be made for all or any part of the deficit). s.83 FA 1996

10 Penalties for the late filing of CT600

Flat rate penalty of £100 if return is no more than three months late, increased to £200 as it is more than three months late.

These rise to £500 and £1,000 if returns are late for more than three accounting periods in a row (need to ascertain if these apply).

In addition, as Gorgon Ltd has not filed a return within 18 months of the end of the accounting period, and has not paid the right amount of tax, a tax related penalty of 10% of the unpaid tax at 31 January 2008 is imposed.

This rises to 20% if the return is filed more than 24 months after the end of the period. (Not needed for the marks).

11 Payment dates

Square Ltd – not a large company (UL 750,000 as associated with Triangle Ltd) therefore there is no requirement to pay tax by quarterly instalments.

Triangle Ltd – large company in year ended 31 December 2007 and **in the previous year** (UL **750,000** as associated with Square Ltd). Tax due by quarterly instalments.

Round Ltd – despite being a **large company** in year ended 31 December 2007, it **was not large in the prior year and profits do not exceed £10million this year**, so there is no requirement to make quarterly payments.

12 Jelly Ltd

Year ended 31 December 2007

Jelly Ltd

No IBA's but no balancing adjustments

Custard Ltd

TWDV at sale of £462,000 is lower than the price paid for the building of £960,000

Remaining life of the building is (25 years less 10 years (period from 1 December 1997 to 1 December 2007)) 15 years.

Annual IBA's £462,000/15 = £30,800

Therefore year ended 31 December 2007 Custard Ltd can claim £30,800

13 Rose Ltd

Corporation Tax Computation

Year ended 31 October 2007

		£
Schedule D Case I		220,000
Schedule A		60,000
Chargeable Gains		32,000
PCTCT		<u>312,000</u>
FII	(£1,350 x 100/90)	1,500
Profits		<u>313,500</u>
Limits	UL = £1,500,000 LL = £300,000 Therefore marginal	
Corporation Tax:	30% x £312,000	93,600
Marginal relief	11/400 x (£1,500,000 - £313,500) x £312,000/£313,500 x 5/12 1/40 x (£1,500,000 - £313,500) x £312,000/£313,500 x 7/12	(13,530) (17,220)
Corporation Tax liability		<u>62,850</u>

14 Daisychain Ltd

	<i>12 months ended 31 May 2005</i>	<i>10 months ended 31 March 2006</i>	<i>12 months ended 31 March 2007</i>	<i>12 months ended 31 March 2008</i>
	£	£	£	£
Schedule D Case I	130,000	100,000	–	40,000
Loss b/f				<u>(40,000)</u>
Schedule D Case III	35,000	50,000	30,000	20,000
	<u>165,000</u>	<u>150,000</u>	<u>30,000</u>	<u>20,000</u>
Trading loss relief (2/12 x £165,000)	<u>(27,500)</u>	<u>(150,000)</u>	<u>(30,000)</u>	–
PCTCT	<u>137,500</u>	<u>–</u>	<u>–</u>	<u>20,000</u>

Trading loss carried forward at 31 March 2008 is £2,500.

15 Alpha Ltd

	£	Tax (debits)/credits for year ended 30 June 2007 £
Goodwill		
Cost	170,000	
Amortisation		
3 years x 10%	(51,000)	
TWDV at 1 July 2006	<u>119,000</u>	
Year ended 30 June 2007		
Taxable credit at sale		
£210,000 - £119,000	91,000	
Reinvestment in the patent means that Alpha Ltd can claim reinvestment relief		
However not all proceeds are reinvested thus restricting the relief to the excess of the amount reinvested over the cost of the original asset (£194,500 - £170,000)	<u>(24,500)</u>	
Net taxable credit		<u>66,500</u> <u>66,500</u>

16 Wilson Ltd

A company is a close company if it is controlled by 5 or fewer participators together with associates, or any number of directors.

The participators are:

	<i>Number of shares held</i>
Harry Wilson and Vanessa	1,400
Annabel (not associated with Mark) and Maria (associated with business partner)	1,200
Mark Dwyer	950
Oscar and Albert	<u>800</u>
	<u>4,350</u>

As 4,350 is more than 50% of the total number of shares.
Wilson Ltd is a close company.

17 Dipsy plc

There are 4 associated companies.

Therefore the limits for corporation tax purposes are

$$UL = \text{£}1,500,000/4 = \text{£}375,000$$

$$LL = \text{£}300,000/4 = \text{£}75,000$$

Dipsy plc, Judy Ltd, Jake Ltd and Bella Ltd form a loss relief group (direct holding of at least 75% and an effective interest of at least 75%).

Losses are relieved against profits in the marginal band first (where possible reducing PCTCT to £75,000) then against profits at the full rate.

However as Jake Ltd only acquired the shares in Bella Ltd on 1 October 2007 the corresponding accounting period for group relief between those 2 companies does not start until this date.

Only 3/12 of Jake Ltd's loss can be surrendered to Bella Ltd. The surrendered loss cannot exceed 3/12 of Bella Ltd's PCTCT for the year.

18 Octopus Limited

9 months ended 30 September 2007

Machinery

The machinery has an expected life of at least 25 years and as such it is a long life asset, provided expenditure reaches the de minimis level. This limit is £100,000 per annum.

The de minimis limit for Octopus Ltd for the 9 months ended 30 September 2007 would be $9/12 \times £100,000 = £75,000$.

This is met so a WDA of 6% pa of £90,000 will be available i.e. $£5,400 \times 9/12 = £4,050$

Research & Development

Revenue expenditure incurred by medium sized enterprises, provided it exceeds £10,000 per annum (reduced pro rata for periods of less than 12 months), is eligible for 150% tax relief. Therefore Octopus Ltd can obtain an additional 50% deduction, of £20,000, from its adjusted trading profits.

The machinery is capital expenditure and is not eligible for the 150% relief. Instead it is eligible for capital allowances. A 100% FYA is available of £55,000.

19 Dee plc

A degrouping charge will arise:

- when Gregory Ltd leaves the 75% group on 1 November 2007
- as this is within 6 years of the no gain no loss transfer and the asset is still owned by Gregory Ltd
- the degrouping charge will be £270,000 (£400,000 - £130,000)
- and it will be assessed as if arising on 1 January 2007

The degrouping charge can be allocated to Dee plc or to Evans Ltd. A joint election would be required within 2 years of the end of the accounting period in which Gregory Ltd leaves the group i.e. 31 December 2009 (TCGA 1992 s.179A).

Degrouping charges are also eligible for business assets rollover relief provided the property was used for trade purposes by Gregory Ltd and Evans Ltd (TCGA 1992 s.179B).

20 Cloud plc

(The acquisition of 100% of the shares in Storm Ltd by Cloud plc on 1 February constitutes a change in ownership as more than half of the ordinary share capital is acquired by another company (s.769(1)(a) ICTA 1988)).

If within a period of 3 years there is both a change of ownership and a major change in the nature or conduct of the trade the losses brought forward in Storm Ltd at 1 February 2007 cannot be carried forward for use against trading profits made in accounting periods after the change in ownership.

Losses made after 1 February 2007 will not be able to be carried back to accounting periods prior to the change in ownership.

MODULE C – CAPITAL TAXES AND TRUSTS

1

Pre taper gain – current year	60,000
Less: losses brought forward	(6,000)
Nett current pre taper gains	<u>54,000</u>
 Taper relief – over 2 years – 25% chargeable	 13,500
 Annual exemption	 (9,200)
	<u>4,300</u>
 Capital gains tax	
£2,230 @ 10%	223
£2,070 @ 20%	414
CGT due	<u>637</u>

- 2 (i) The helicopter qualifies for capital allowances as an item of plant used for a trade. Therefore for capital gains tax purposes, the effect of the rule is that gains are taxable, losses are effectively disallowed.
- (ii) The racehorse is exempt: it is tangible moveable property which is a wasting asset.
- (iii) The painting is a chattel bought for over £6,000. It is now worthless and a disposal would produce a capital loss. The consideration is deemed to be £6,000 and the loss is thus restricted to £6,000.

3 (1)

200 shares	10,000
Cost	(200)
Untapered gains	<u>9,800</u>

Assets disposed of in a series of transactions to connected person: TCGA 1992, s.19 and s.20

(2)

$$\frac{200}{600} \times 48,000 = 16,000 - 200 = 15,800$$

(3)

$$\frac{400}{600} \times 60,000 = 40,000 - 400 = 39,600$$

4 Edward

The property was occupied as follows:

31.03.1982 to 31.03.1986	4 years	Let whilst working away in the UK: resident both before and after
01.04.1986 to 31.03.1988	2 years	Owner occupied
01.04.1988 to 31.03.2008	20 years	Non owner occupied: let
Total	26 years	

Exempt proportion:

Allowable period of absence as above	4 years
Owner occupation as above	2 years
Last 3 years	3 years
Total qualifying years	9 years

Therefore:	£
Gain	151,710
Exempt proportion 9/26	<u>(52,515)</u>
	99,195

Lettings relief: lower of

(i) exempt element £52,515	
(ii) £40,000	<u>(40,000)</u>
Untapered gain	<u>59,195</u>

5 Chattels exemption not available – values too high.

Proceeds	Cost	MV82
	£	£
MV assumed – but connected person transfer	170,000	170,000
Therefore might have to be re assessed		
Cost	60,000	80,000
IA 1.047		83,760
(Higher of 2)	83,760	
	<u>(143,760)</u>	<u>(163,760)</u>
	26,240	6,240
TR 9 yrs + 1 yr = 10yrs		
Therefore 60% due	3,744	
AE (restricted)	<u>(3,744)</u>	
	<u>(nil)</u>	

- (2) A rebasing election might be beneficial if the 1982 computation produces the higher of two losses, or if the cost calculation produces a gain and the 1982 calculation a loss.

6 (1) (i) $31.3.07 - \frac{3,000}{20,000} = 15\%$ Held for the previous 2 years

Therefore exemption applies

(ii) 28.2.2008 800 sold a 4% holding

Only 9% held previously

But 1.4.06 to 31.3.07 15% held

Within 2yrs of (28.2.08) date of disposal

Therefore exemption applies

(iii) on 30.4.08 remaining 5% holding sold

1.4.06 now over 2yrs from date of disposal

Therefore no relief. The gain is chargeable.

7 (a)

Net chargeable gains	15,500
Losses b/fwd	(2,250)
Untapered gains	<u>13,250</u>
Taper relief	
April 98 to April 2007	
= 9yrs + bonus year	
= 10yrs therefore 60% chargeable	7,950
AE 9,200 / 2	<u>(4,600)</u>
	3,350
× 40%	<u>1,340</u>
(40% for all trusts, disc or entitled)	

8 Mrs Wallace:

Consideration 31/03/2008		35,000
Cost: NGNL transfer:		
Original cost	5000	
IA	620	
		(5,620)
		<u>29,380</u>

Taper relief: computed by reference to the joint period of ownership: TCGA1992 Sch A1 para 15: therefore 10 years inc. the bonus year

Therefore 60% chargeable	17,628
Annual exemption	(9,200)
	<u>8,428</u>

40% capital gains tax £3,371

- 9 (1) s.58 TCGA 1992 – transfers between spouses are of a NGNL

BUT

They must be living together, therefore there is no relief here.

A taxable gain will arise based on the market value of the asset. Whilst they are separated, they remain connected for CGT purposes.

- (2) Yes – NGNL transfer

Kathy effectively acquires asset at indexed cost at that time.

- (3) Rollover relief would be available as it is a business asset if the consideration was fully reinvested in other business assets. For these purposes s.18 requires market value to be used for the consideration.

- 10 (1) No claim s. 242(2) TCGA 1992

			<u>Cos t</u>		<u>MV82</u>
Proceeds			19,000		19,000
Cost /MV 82		<u>12,000</u>		<u>17,000</u>	
A	19				
A+B	<u>19 + 85</u>		(2,192)		(3,106)
IA	1.047		<u>(3,252)</u>		<u>(3,252)</u>
Gain before taper			<u>13,556</u>		<u>12,642</u>
Take lower gain					12,642
Gain after taper relief (9 yrs + bonus: 60%)					7,585
AE					<u>(9,200)</u>
					<u>Nil</u>

- (2) If a claim made, then deduct £19,000 proceeds for CGT cost c/f restricted in this case to the 1982 value of £17,000 (s244(2) TCGA 1992).

Thus, for the future, there would be additional tax on £17,000. The rate applying to this would need to be considered when deciding whether to elect.

11

				Total	Rents	20% inc	Dividends
Rent				850	850		
BS1	480	×	100	600		600	
			80				
F				<u>1000</u>			<u>1000</u>
				<u>2450</u>	<u>850</u>	<u>600</u>	<u>1000</u>
Basic rate band £1,000							
850 at 22%				187	187		
150 at 20%				30		30	
1,000							
450 at 40%				180		180	
1,000 at 32.5%				325			325
2,450							
Tax at source				<u>(220)</u>		<u>(120)</u>	<u>(100)</u>
				<u>502</u>	<u>187</u>	<u>90</u>	<u>225</u>
Payable 31.1.2009							

12 s.113A IHTA 1984

(i) 1.6.06: TOV

Before	500,000
After	(250,000)
TOV	<u>250,000</u>
BPR	100%

(ii) 2.5.08 – death within 7 years: PET becomes chargeable
still owned by donee, but
shares now listed, therefore not RBP
therefore BPR lost
therefore

PET chargeable	250,000
Annual exemption	(6,000)
Total	<u>244,000</u>

Therefore tax on estate 1,000,000

Nil band 300,000 – 244,000 = (56,000)

= 944,000 at 40% = 377,600

13. Possible estate at death.

(i)	APR available on agricultural value only as vacant possession and farmed himself	480,000
(ii)	Open Ditch: no vacant possession within 1 yr therefore but let after 1/9/95 100% APR	25,000 <u>(25,000)</u> –
(iii)	Farmhouse 600-300 – although this is a subjective test. Other reliefs may apply.	<u>300,000</u>

14

					Gross	Tax
1	7 yr b/f	96,000				
2	Distribution	<u>40,000</u>				
					136,000	
3	“Relevant property” in trust plus related settlements	330,000 <u>75,000</u>				
					<u>405,000</u>	<u>48,200</u>
					<u>541,000</u>	<u>48,200</u>
	300,000					
	241,000	20%	48,200	PC rate	<u>48,200</u>	= 11.9%
					405,000	
	Therefore	PC	330,000	x	(11.9% x 30%)	= 11,782

15.

		£
Cash		200,000
Life assurance proceeds		50,000
House		500,000
Stamp collection		180,000
Holiday home	120,000	
5% = 6,000	<u>(6,000)</u>	
		<u>114,000</u>
		<u>1,044,000</u>

	£
£300,000 at Nil	
£744,000 at 40%	297,600
QSR (150,000 × 30% × 80%)	<u>(36,000)</u>
IHT payable	<u>261,600</u>

16

(1)	(W1)	1 st transfer	120,000	-	6,000	(AE x 2)	=	114,000
	(W2)	2 nd transfer				G	T	N
		7yr b/f				114,000	-	114,000
	This gift		200,000					
	AE x 2		<u>(6,000)</u>					
						196,000	2,000	194,000
						<u>310,000</u>	<u>2,000</u>	<u>308,000</u>

300,000	-
8,000	20
	<u>80</u>

Grossing up applies as above.

- 17 (i) Not chargeable – situs depends on place where shares are registered
(ii) Not chargeable – chattels situated where physically kept – but ESC F7 applies
(iii) Chargeable – branch bank accounts sited where the branch is sited

18 22.1.2007 – no IHT – estate left to wife (s.18 IHTA 1984) (1)

18.1.2010 - £800,000 falls into his wife's estate and is charged to IHT.

- (i) it is a life interest and she is treated as beneficially entitled under s.49(1) IHTA 1984 (1)
(ii) s.49(1A) IHTA 1984 applies as the interest was acquired after 22 March 2006 and is an immediate post-death interest (IPDI) therefore s.49(1) IHTA 1984 still applies. (2)
For the daughter, This as it is not an IPDI nor a transitional serial interest, thus the trust becomes 'relevant property' for the purpose of the discretionary trust rules. (2)

[Examiner's note: There is some question of whether the remaining trust is a bereaved minor trust, but there is insufficient information here.]

- 19 (i) No exemption. UK charities only are covered by s.23(1) IHTA 1982.
(ii) Exempt s.18(1). Living apart is not relevant, as it would be for Capital Gains Tax: s.58 TCGA 1992
(iii) Exempt: s.25(1), Sch 3 IHTA 1984.

20

(W1) 20.7.2000 Gift with reservation:
also a PET £150,000

(W2) 20.7.2003 release of the reservation
- also a PET £390,000

(W3) Death 20.7.2007: 1st PET £150,000 escapes
- over 7yrs from death, thus preventing
a double charge
2nd PET chargeable: 20.7.2003

7yr gift b/f		NIL
This gift	390,000	
AE (HMRC consider the annual exemption Is not available: IHTM 14343) (Qn asked for this to be ignored in any case.)	<u> -</u>	
	<u>390,000</u>	
Current death rates:		
300,000		
90,000 at 40%		<u>36,000</u>
4-5yrs from death: taper relief 40%		
60% chargeable		21,600

MODULE D – VAT

- 1 Any output VAT shown on any invoice, whether it is correctly charged or not, is a debt due to the Crown. This remains the case even if the supplier was not registered – the VAT is nevertheless still recoverable from that supplier as a debt due to the Crown. Whether or not there has actually been a supply is not material.

If the recipient has reclaimed the VAT as input tax, then even though the VAT is not, legally, input VAT, HMRC policy is to not disallow the claim if the recipient has acted in good faith

- 2 The provisions of Schedule 1 VATA 1994, covering the liability, notification and registration for VAT will apply to Tapas in respect of its taxable supplies and lays down that a person incurs a liability to register for VAT in one of 2 ways – the backward look or the forward look.

The forward look test - if at any time there are reasonable grounds for believing that the value of taxable supplies in the period of 30 days then beginning will exceed £64,000.

The backward look test – if at the end of any month the value of taxable supplies in a period of one year then ending exceeded £64,000.

The backward look test will not apply as Tapas had reasonable grounds for believing that its taxable supplies would exceed £64,000 in the 30 days beginning 1 April.

Schedule 1 para 6(10) requires Tapas to notify its liability to be registered by the end of the period when the liability arises – i.e. by 30 April 2008.

Under the forward look test, the HM Revenue & Customs are required to register Tapas from the beginning of the period when the liability arises – so the effective date of registration will therefore be 01 April 2008.

- 3 (a) Supplies to UK Restaurants – the place of supply is the UK, as per s7(2) VATA 1994. The liability is standard rated as per s1(1) & 2(1) VATA 1994 as there is no zero rate or exemption available under s30 or s31.
- (b) Supplies to Berlin GmbH - the place of supply is the UK as per s7(7)(a) VATA 1994. The liability is zero rated, as per Reg 134, SI 1995/2518
- (c) Supplies to Southern Inc – the place of supply is the UK as per s7(7)(a) VATA 1994. The liability is a zero rated export, as per s30(6) VATA 1994
- 4 Members of VAT groups must be bodies corporate.

Members must meet both the control test in section 43A of VATA 1994 which is that one body corporate, one person, or two or more persons in partnership, controls all the bodies in the VAT group

Members must also meet the residency test in section 43A of VATA 1994

which is that all members must be established or have a fixed establishment in the UK.

- 5
- The requirement is for a Declaration by the business, that the method being proposed is fair and reasonable.
 - There is no official form designated for the purpose but HM Revenue & Customs have published a specimen Special Method Declaration template which businesses can use, on their own business stationery.
 - The declaration should be submitted to HM Revenue & Customs at the same time as, and accompanying, the actual partial exemption special method proposal.
 - The legal basis is paras (9) & (10) of Regulation 109, of the VAT General Regulations (SI 1995/2518)

- 6
- S89 of the 1994 VAT Act provides that where after such a contract has been made, but before the goods or services are supplied, there is a change in the VAT rate, then unless the contract provides otherwise, an amount equal to the amount of VAT now chargeable shall be added to the price.

Therefore, unless the contract specifically states that the prices agreed shall be inclusive of any VAT applicable (or other similar wording specifically prohibiting the supplier from charging VAT in addition to the agreed price), then VAT can be charged, and must be paid by the customer.

If the supplier is unable to add VAT to the price charged, then under S19 (2) VATA 1994 he must treat the consideration received as VAT-inclusive.

- 7
- (1) The unencumbered sale of a debt for consideration is an exempt supply by the business, under Item 1 Group 5 Schedule 9 VATA 1994 the value being the gross amount paid by the purchaser
- (2) The principle supplies made by the factor are likely to be as follows:
- Assignment or reassignment of the debt – not a supply
 - Discount or interest charge – VAT exempt
 - Admin charge – Standard rated
 - Guarantee of payment – Standard rated
 - Electronic transfer of funds if separately charged for – VAT exempt

Further marks will be awarded to candidates who give relevant examples of further supplies made, or likely to be made, by factors, to businesses,

- 8
- Permission to submit an estimated VAT return must be obtained from HM Revenue & Customs before the estimated return is submitted

Only if HM Revenue & Customs are satisfied that the taxable person is unable to account for the exact amount of VAT [payable or repayable], will permission for an estimated return be given.

The exact amount must be determined within the next VAT period and adjusted and exactly accounted for in that next VAT period, by means of including the adjustment on that next VAT return.

If that still cannot be done, then HM Revenue & Customs may permit the business to adjust the estimate on the next but one return.

If the estimated return is submitted, and the estimated amount of VAT is paid, by the due date, the taxpayer will not be in default in respect of any amount which is subsequently determined to be under declared / underpaid.

Examiner's note Extra marks up to the maximum available will be awarded to candidates who state that permission to estimate can be given after the due date, and that in these circumstances, any default already recorded remains in place.

- 9 In 2006, the Court of Appeal, in the case of *Bookit Ltd v HM Revenue & Customs*, considered that

Bookit was acting as an agent for the cinema operator, and in respect of its agency services, the court held that its supply to the cinema operator was an exempt supply because its services involved transmitting the card information including security authorisation codes, which had the end result of transferring funds from the card issuer to Bookit's bank account.

As a result of that case, HM Revenue & Customs accept that where an agent like Bookit, acting for the supplier of goods or services (the cinema operator),

makes a separate charge to the customer over and above the price of the actual goods or services, then Bookit makes a separately identifiable service of handling payment by credit card, and provided that that service includes the transfer of funds to Bookit's account, then that separate supply is exempt.

- 10 (1) Both the customer and the supplier must have agreed to enter into a self-billing agreement.
- (2) The self-billed invoice must contain all the information normally required on a VAT invoice (for example, information such as the suppliers name, address and VAT number).
- (3) The self-billed invoice must relate to a supply or supplies made by a VAT registered supplier.
- (4) The self-billed invoice must clearly show the wording 'THE VAT SHOWN IS YOUR OUTPUT VAT DUE TO HM REVENUE AND CUSTOMS'
- (5) The customer issuing the self-billed invoices must keep the names, addresses and VAT registration numbers of all the suppliers who have agreed to self-billing and be able to produce this information for inspection by HM Revenue and Customs if required.
- (6) The customer must raise self-billed invoices for all transactions with the supplier during the period which the agreement covers.
- (7) The supplier agrees not to issue VAT invoices in respect of supplies covered by the agreement.
- (8) The supplier will notify the customer if he ceases to be a taxable person, changes his registration number or transfers his business as a going concern.

Marks will be given for any relevant condition not listed above.

- 11 (1) (i) There are two or more parties in business together with a view to making a profit;
- (ii) These parties share any net profits and losses arising from the business activities; and
- (iii) The parties individually have the power, by their words and actions, to legally bind the other members of the firm in relation to transactions with third parties
- (2) (i) Without prejudice to the 1890 Partnership Act, a person who ceases to be a partner, remains a partner for VAT purposes until the date on which his cessation is notified to HMRC

- (ii) Any assessment or other notice which relates to a period during which the person was a partner, is treated as served on him, even if the assessment or notice is raised after HMRC have been notified that the person has ceased to be a partner.
- 12 The Sheldon concession is derived from a Parliamentary Statement (by the then Paymaster General);
- The statement binds HM Revenue & Customs(to accept that):
- If an Officer of HM Revenue & Customs has the full facts of a transaction and has nevertheless given a ruling which misleads a taxpayer to his detriment, then any assessment will be based on the correct ruling/liability only from the date that the error was brought to their attention
- 13 Official Evidence - any document, electronic or hard copy, produced by HM Revenue & Customs, such as a Goods departed notice generated under the New Export System, or a SAD – Single Administrative Document – endorsed by HM Revenue & Customs at the point of exit or confirmation of electronic discharge of an New Computerised Transit System movement
- Commercial Evidence – authenticated sea or air waybill, International consignment notes, bills of lading; certificates of shipment which contain full details of the consignment and how it left the EC; International Consignment notes fully completed by the consignor, the haulier and the recipient; FTA (Freight Transport Association) own account transport document fully completed and signed by the receiving customer.
- Examiner’s note – the above list is not necessarily exhaustive and additional marks will be awarded where other, appropriate examples are given – provided that such examples are not “supplementary evidence”.*
- 14 Mods & Rockers has one or more fixed establishments in France, and in the Channel Islands, and is making supplies of the hire of a means of transport in France and the Channel Islands, which are outside the scope of UK VAT.
- Mods & Rockers may have an obligation to register for VAT in France in respect of the supplies it makes there,
- The transfer of its own stock to outlets in France is a deemed supply by virtue of para 6(1) of Schedule 4 of VATA 1994, when stock is transferred from one member state to another under the directions of persons carrying on a business.
- There are no comparable deeming provisions covering the transfer of the mopeds to the Channel Islands, but Mods & Rockers will need documentary proof of export.
- 15 There is no definition in the UK VAT legislation
- An agent is taken to be someone who acts for or represents someone else (the principal) in arranging supplies of goods or services to be made to, or by, the principal.
- Whether a person is an agent for another person depends on the actual relationship between them, and not simply upon adopting the title of “Agent” and “Principal”
- An agent/principal relationship will exist if both parties agree that it does and the agent has agreed (such agreement may be written, oral or even inferred from their general relationship) with the principal to act on his behalf in relation to the particular transaction concerned

- 16 A pro-forma invoice is not a valid tax invoice; its issue does not create a tax point where output tax has to be accounted for, neither does it create the right for the customer to deduct input tax.
- The supplier therefore only has to account for VAT on receipt of the payment, and a proper tax invoice must be issued to the customer when the payment is received.
- The customer cannot recover VAT – even if the full quantum of the pro forma invoice is paid – until such time as they receive a proper, valid VAT invoice.
- Examiner's note : Appropriate marks will be awarded where candidates provide answers which whilst reflecting the generality explained above, deal with the position of businesses operating cash accounting.*
- 17 The sale of both donated and bought in goods, by charities (including trading subsidiaries) is always a business activity.
- If the charity, or the trading subsidiary, is not already registered, then it will have an obligation to register for VAT, if the taxable supplies made in selling the goods, exceeds the current VAT registration limits.
- For donated goods, the sale or hire of such goods is zero rated (Item 1 Group 15 of Schedule 8 VATA 1994)
- For bought in goods, the supplies are standard rated unless they fall under the general zero rate or reduced rate or exempt provisions, of the VAT legislation
- Bought in goods sold at qualifying fund raising events are VAT exempt supplies. (Items 1 & 2 Group 12 Schedule 9 VATA 1994)
- 18 Supplies of CDs and DVDs are supplies of goods – relevant legislation is s5(2) and Schedule VATA 1994, and for place of supply rules – 94 s7(2) – 7(9) VATA 1994.
- Place of supply of CDs and DVDs to UK customers is UK; VAT is due at the standard rate as not covered by any reliefs in VATA94 Schedules 7A, 8 or 9.
- Place of supply to EU member state customers is also UK by virtue of s7(7)(a) VATA 1994. Supplies to persons who are registered taxable persons in other member states can be zero rated under Reg 134, SI 1995/2518. Supplies to private individuals cannot be zero rated and are therefore standard rated.
- The place of supply to customers outside the EU is the UK, as per 94 s7(7)(a) VATA 1994. These supplies will be zero rated as exports of goods to a place outside the EU, under 94 s30(6) VATA 1994.
- 19 Whilst it might be tempting to suggest to your client that they should propose recovery of 25/27^{ths} of the VAT incurred on the refurbishment (on the basis that the current lease will expire 27 years after the refurb took place, and there will be 25 years of taxable rent) HM Revenue & Customs policy is not to accept such proposals.
- It is HM Revenue & Customs policy that following the Tribunal case of The Trustees of R&R Pension Fund, even if the refurbishment is not a Capital Item, the VAT recovery must be calculated as if it was – i.e. on the basis of a 10 year period.
- Therefore it is unlikely that HMR&C would accept any recovery greater than 8/10ths of the VAT – on the basis that there has already been 2 years of exempt income.

20 Zero rating takes precedence

s30(1) VATA 1994 applies

s30 provides that:

- if the supply could be zero rated;
- but regardless of that provision, no VAT would be charged anyway;
- then the supply will always be treated as a taxable supply;
- and the VAT charged will be nil

MODULE E – OTHER INDIRECT TAXES

- 1 The granting of duty deferment facilities requires the provision of adequate security. It must be enough to cover all of the business's deferrable liabilities for any calendar month period.

For all deferred charges the charges for a calendar month must be paid as a total sum on the 15th of the next month or the next working day.

Customs Duty (Deferred Payment) Regulations 1976 reg 4(1) and reg 2(1)

Notice 101

- 2
- (1) Beverages containing alcohol
 - (2) Tobacco Products
 - (3) Commercial means of transport (Any motor vehicle which, by its type of construction and equipment, is designed for and capable of transporting more than nine persons including the driver, or goods, or any special purpose vehicle or mobile workshop)
 - (4) Articles, other than portable instruments of the applied or liberal arts, used in the exercise of a trade or profession before his death by the person from whom the legatee has acquired them.
 - (5) Stocks of new materials and finished or semi-finished products.
 - (6) Livestock and stocks of agricultural products exceeding quantities appropriate to normal family requirements.

C&E Duties (Personal Reliefs for Goods Permanently Imported) Order 1992 art 21 and Council Regulation 918/83 art 17

- 3
- Specialised goods returning from long-term hire/loan agreements
 - Building equipment or machinery returns after use in capital projects overseas
 - Exhibition goods returned after long-term display or storage overseas
 - Collectors' or heritage items originally manufactured in the Customs Union returned from overseas after re-acquisition by a UK dealer or investor, for example collectable items of furniture or ceramics

Professional effects return with home coming expatriates

Notice 236

- 4 Through Inward Processing Relief, duty is relieved on certain imports of non-EC goods which are processed in the Community and re-exported.

The two main methods of relief are suspension and drawback.

Inward Processing relief suspension suspends the customs duties when the goods are first imported into the EC. Customs duties and import VAT are only due if the goods are released into the Community market and not re-exported.

Under Inward Processing Relief drawback, customs duties and import VAT are due when the goods are brought into the EC. Duty is claimed back only if the goods are exported from the EC or transferred to an Inward Processing Relief suspension authorisation holder.

FixIt UK Ltd should apply for Inward Processing Relief suspension as they intend all their goods to be imported and re-exported back to the customer.

5 FA 1994 Sch 6A

- Insurance sales relating to motor cars, light vans or motorcycles if the contract is arranged through or supplied by the supplier of the motor vehicles. It does not apply to 'ordinary' motor insurance.
- Insurance sales relating to electrical or mechanical domestic appliances if the contract is arranged through or supplied by the supplier of the appliance. It does not apply to 'ordinary' home contents insurance.
- Insurance sales of travel insurance.

6 A 'connected person' under this legislation is the same as explained under section 839 of the Income and Corporation Taxes Act 1988.

Essentially, this means

- Relatives are connected with one another;
- Trustees of settlements are connected with settlers;
- Business partners are connected with one another;
- Companies are connected with the people who control them;
- Companies under the control of the same persons are connected with one another.

7 For Insurance Premium Tax purposes the records that should be kept are:

- The business and accounting records
- Policy documents, cover notes, endorsements and similar documents, and copies of such documents that are issued by the insurance company;
- Copies of all invoices, renewal notices and similar documents issued by the insurance company;
- all credit or debit notes or other documents received by the insurance company which evidence an increase or decrease in the amount of any premium or fee; and copies of such documents that are issued by them;
- such other records as the Commissioners may specify in a notice published by them and not withdrawn by them.

These records should be preserved for a period of 6 years unless specific permission is obtained to hold some records for a shorter period.

(Above is an example answer and marks will be awarded for any relevant points made not included above.)

- 8
- The registration or cancellation of a registration (FA 1994 s 59 (1) a);
 - the amount of tax chargeable in a premium or whether the tax is chargeable at all (FA 1994 s 59 (1) b);
 - whether a payment falls to be treated as a premium received under a higher rate contract (FA 1994 s 59 (1) bb);
 - the entitlement to a credit, the amount of credit, or the way in which the benefit of the credit is to be obtained (FA 1994 s 59 (1) c);
 - the assessment of tax by HM Revenue and Customs or the amount of an assessment (FA 1994 s 59 (1) d);
 - a refusal of an application for group treatment (FA 1994 s 59 (1) e);
 - whether a liability notice can be served on an 'insured person' (FA 1994 s 59 (1) f);
 - an assessment of tax against an 'insured person' and the amount of such an assessment (FA 1994 s 59 (1) g);

- whether the special accounting scheme applies to an insurer in an accounting period (FA 1994 s 59 (1) h);
- a requirement to give security to HM Revenue and Customs for protection of the revenue (FA 1994 s 59 (1) i);
- penalties imposed by the Commissioners including appeals about the liability to a penalty and the amount of a penalty or interest (FA 1994 s 59 (1) j and s 59 (1) k);
- claims for repayment (FA 1994 s 59 (1) l);
- the liability of the Commissioner to pay interest or the amount of any interest payable (FA 1994 s 59 (1) m).

9 SI 2002/761 reg 38

- reg 7 (1) - (4) - correct declaration of the Aggregates levy due from him in the return, that it is accurate and the form has been signed and dated and declared that the information is true and complete
- reg 8 (2) - Late payment of levy due on return
- reg 9 (1) - (4) - obliged to keep a record known as 'aggregates levy account', 'aggregates levy bad debts account' and 'aggregates levy tax credits account'
- reg 10 - obliged to keep certain accounting records listed in this reg (a) to (m)
- reg 28 (1) - (2) - make corrections to return accurately and in a timely manner with relation to claims for tax credits with timely payment
- reg 29 (7) or (9) - make corrections to return accurately and in a timely manner with relation to under or over-payments made in error that net to less than £2,000, with timely payment
- reg 34 (3) or (4) - failure to notify the Commissioners within 21 days of the day a person begins carrying on another's relevant activities due to death or incapacity
- reg 35 (3) or (4) - failure to notify the Commissioners within 21 days of the day a person begins carrying on another's relevant activities due to insolvency

10 A written application by the transferor and the transferee for a transfer of going concern must be submitted to the Commissioners.

A transfer of going concern will not be possible if the previous owner continues to trade as an aggregates levy registered business.

Upon approval of the transfer of going concern the implications will be as follows:

- all existing liabilities of the aggregates levy registration to make returns and pay tax will transfer to Quarry Co;
- any existing rights by that registration to tax credits and repayments of aggregates levy will transfer to Quarry Co;
- the responsibility for preserving any records or accounts of the acquired business will now be the responsibility of Quarry Co.

FA 2001 s 39

SI 2002/761 reg 37

Public Notice AGL1

(Above is a suggested answer. The examiner will give credit for all relevant points mentioned by the candidate but not shown above.)

- 11
- commercial transport documents from the carrier responsible for removing the goods from the UK;
 - customer's orders;
 - inter-company correspondence;
 - copy sales invoices;
 - advice notes;
 - packing lists;
 - details of insurance or freight charges;
 - evidence of payment;
 - evidence of receipt of the aggregate abroad
 - if going to a non-EU country, official evidence – normally a Single Administrative Document stamped by HM Revenue & Customs
 - if going to a non-EU country, commercial documentation – such as authenticated waybills or PIM/PIEX International Consignment Notes for individual consignments, vehicles and containers.

Aggregates Levy Notice: AGL1

- 12
- (i) Do not have to register and do not have to notify HM Revenue & Customs:
- Soil, vegetable or other organic matter;
 - Spoil, waste or other by-products of any industrial combustion process, or the smelting or refining of metal;
 - Drill-cutting from licensed oil exploration;
 - Aggregate necessarily arising from roads when utilities work is carried out;
 - Aggregate won by being removed from the ground on the site of any building in the course of excavation;
 - Aggregate won from navigation dredging;
 - Aggregate won from road building or
 - Aggregate in respect of which you are jointly or severally liable for the levy, but in circumstances where someone else is registered in order to account for the same aggregate when it is exploited.
- (ii) Do not have to register but must notify HM Revenue & Customs of its activities:
- Coal, lignite, slate or shale;
 - Spoil resulting from the separation of coal, lignite, slate or shale after extraction;
 - Spoil resulting from the separation of specified minerals after extraction;
 - China clay, ball clay, and spoil or waste (not including overburden) resulting from its extraction; or
 - Any other clay.

reg.3 SI 2001/4027; s.17 FA2001

- 13 The three methods specified by HM Revenue & Customs for weighing waste without a weighbridge at the landfill site are:
- (a) Specified method 1: Maximum permitted weight of container
The operator records the maximum weight of the vehicle and applies the tax rate to it whether the vehicle is full or partially full.
 - (b) Specified method 2: Volume to weight conversion
The operator uses the cubic capacity of the vehicles and the category of waste to apply conversion tables to establish the tonnage of the waste to apply the tax rate to.
 - (c) Specified method 3: Weighing the waste prior to receipt at the site
Waste is weighed elsewhere before arrival at the landfill site and this weight can be used for the tax calculation as long as there is a clear audit trail.

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- 14 If a person ceases to be a controller, both the controller and the operator must notify HM Revenue & Customs within 30 days of the change.

Failure to do will result in the client being liable to a penalty of £250.

The notification must include:

- Name/trading name of the operator and controller
- Landfill Tax registration number of the operator
- Address of the landfill site for which there is a controller
- VAT registration (if applicable) of the controller
- Address of the principal place of business in the UK of the controller
- Telephone and fax numbers of the controller; and
- Date the controller ceased to be a controller at the site named

para.60, Sch 5 FA1996

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- 15 SI 1996/1527 reg 32

A payment is a 'qualifying contribution' if

- It is made by a registered landfill site operator to an approved body (i.e. an enrolled environmental body)
- It is made subject to a condition that the body shall spend the sum paid or any income derived from it, or both, only in the course or furtherance of its approved objects.
- A contribution is not repaid to him or to a contributing third party, in the same accounting period as that in which it was made
- A person claiming a credit for the contribution shall make a record containing specified information
- A person claiming credit for the contribution in relation to which there is a contributing third party shall have provided to the regulatory body (ENTRUST) designated information
- A person claiming credit for a contribution in relation to which there is a contributing third party shall have informed the approved body to which the contribution is made of the name and address of the contributing third party.

16 SI 1996/1527 reg 23

- a registered person has carried out a taxable activity for consideration in money for a customer with whom he is unconnected
- the tax has been accounted for and paid on the disposal concerned
- the whole or any part of the consideration for the disposal has been written off in the accounts as a bad debt
- a landfill invoice has been issued in respect of the disposal which shows the amount of tax chargeable
- that invoice was issued within 14 days of the disposal or within such period agreed under a s 61(3) direction
- a period of one year (beginning with the date of the issue of that invoice) has elapsed

17. FA 2000 sch 6 para 3

- Electricity;
- Natural gas as supplied by a gas utility;
- Petroleum and hydrocarbon gas in a liquid state;
- Coal and lignite;
- Coke, and semi-coke of coal or lignite; and
- Petroleum coke.

18 [CCL rates for the period in the question are £0.00456 per kilowatt hour for electricity.]

Property A: $500,000 \times £0.00456 \times 94\% = £2,143$

Property B: **£NIL** CCL charge as all the consumption is exempt as it is renewable source electricity under a renewable source declaration contract.

Property C: The consumption falls below the de minimis limit of 12,000 kilowatt hours per year so qualifies as 'domestic use', which means it is excluded from CCL. Hence £NIL CCL charge.

19 The Climate Change Levy annual accounting scheme authorises a registered person to pay and account for Climate Change Levy on returns on an annual basis.

The eligibility criteria for gaining authorisation to apply the concession are:

- (a) the taxable person has been registered for at least 12 months at the date of application for authorisation
- (b) the taxable person has reasonable grounds for believing that the amount of Climate Change Levy on taxable supplies made or to be made by him in the period of 12 months beginning on the date of application for authorisation will not exceed £2,000.
- (c) the registration is not in the name of a representative member of a group of two or more bodies corporate
- (d) the registration is not in the name of a division
- (e) in the 12 months preceding the application for authorisation the taxable person did not cease to operate this scheme

SI 2001/838 regs 6B and 6C

20 Use for a relevant residential purpose means use as:

- (a) a home or other institution providing residential accommodation for children
- (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder
- (c) a hospice
- (d) residential accommodation for students or school pupils
- (e) residential accommodation for members of any of the armed forces
- (f) a monastery, nunnery or similar establishment, or
- (g) an institution which is the sole or main residence of at least 90 per cent, of its residents

Except use as:

- (a) a hospital
- (b) a prison or similar institution, or
- (c) an hotel or inn or similar establishment

FA 2000 sch 6 para 9(3)