



NOVEMBER 2008 EXAMINATION

CHIEF EXAMINERS COMMENTS

This was the last sitting of the current syllabus so I shall primarily focus on matters highlighted in this session which will be relevant to candidates under the new syllabus.

Handwriting

Perhaps as a result of the increased use of computers, and hence the reduction in candidates' need to write at work, an increasingly common comment from examiners is that the standard of handwriting is deteriorating. Whilst examiners will do their best to decipher candidates' scripts, poor handwriting does present the risk of losing marks because examiners simply cannot read the answer.

Answer the Question Set

Examiners continue to comment on a regular basis that too many candidates provide an answer to the question which they would have liked the examiner to have set rather than the question actually set. At the CTA level, candidates need to be able to exercise judgement as to the relative importance of the issues within the question and to allocate their time and effort accordingly. Whilst credit is given for relevant comments, a candidate's writing all he/she knows about a particular topic which represents only a small part of a question simply cannot be given marks commensurate with the time spent on the point because they are not available. The ability to sift information and judge the relative importance of the issues will be of increased importance for the 100 mark case studies in the new Application and Interaction paper.

Consider the Intended Recipient

Candidates are still failing to consider the intended recipient of their answer. For example, if a letter is intended to be received by a layman, it should be written in a way that they will understand. Detailed legislative references will not be relevant whereas the ability to explain a complex matter clearly and precisely will be vital. Again, with the increased allocation of marks for presentation in the new Application and Interaction paper this is not an area that can be ignored.

Planning

Answers to Paper III questions suggest that few candidates plan their answer before starting to write. The two preceding comments are two facets of this failure to plan.

Under the new syllabus the Application and Interaction questions will be worth twice as many marks as a current Paper III question. However this doesn't mean that candidates will be expected to write twice as much because more marks will be allocated to

presentation and style matters. It is intended that questions will be a little less time-pressured so that candidates can plan their answer properly and improve their presentation. Before starting to write, candidates are therefore advised to:

- a. Spend time reading the question carefully to identify the key issues.
- b. Note down those key issues and consider their relative importance given the requirements of the question.
- c. Consider how much time to allocate to each issue.
- d. Consider how best to order the issues so as to produce a coherent answer which follows a logical sequence.
- e. Consider carefully the style of answer required.

Whilst it may seem as though planning is wasting time that could otherwise be spent writing, the reality is that candidates who spend a sensible amount of time planning their answer are likely to produce significantly better answers than would otherwise be the case. In particular they minimise the risks of answering a question which was not set and of going off at a tangent on a point which is in reality of only passing significance to the answer as a whole. They are also likely to score more highly on the presentation marks which will of course be of far greater importance under the new syllabus. Indeed, candidates hoping to pass simply cannot afford to ignore the presentation marks.

CTA PAPER I

EXAMINERS' REPORT

Module A

Whilst the overall performance on this module was acceptable, there were some unexpected highs and lows in terms of marks scored:

1. The answers were disappointing despite this having been intended as an easy question to start the exam. Too many candidates resorted to generalities (e.g. some undefined "financial risk") and a determined discussion of the other, non-economic (irrelevant) factors determining employment or self employment (e.g. the control test, and mutual obligations).
2. This was another easy question and should have seen most candidates getting near full marks. It was therefore disappointing that so many candidates could not work out a simple tax refund for a taxpayer with just two items of income and no other complications. Undoubtedly a better tabular layout for the computation in

most cases would have helped identify the different elements of the computation, and thus achieve a more reliable calculation of what was refundable and what was not.

3. A poorly answered question, especially given the fact that two dates with a little explanation would have got full marks.
5. This was reasonably well done, but only a minority argued a good case one way or another for domicile or non domicile.
6. Most candidates understood the *principle* of annual calculation method, only a small minority knew how this works through month by month and were able to perform the calculation.
8. Few candidates had much idea how to calculate a marriage allowance or a maintenance payment allowance, with some notable exceptions.
9. Few candidates really understood exactly what happens in practice with an IR35 deemed payment calculation. If they did, there was an easy 6 marks here.
10. Again, a below average performance on this question. Many did not know the significance of a loss making company, or the difference between a trading activity and an excluded one.
12. Few candidates got the second part correct by failing to see the situation from the charity's point of view as opposed to the taxpayer's.
13. The question was poorly answered, with few knowing that there is no minimum period of holding an ISA, and a wide variety of answers (mostly incorrect) being offered in terms of alternative state tax free investments. Many candidates confused investments which pay gross interest with those which are tax free, and most resorted to guessing.
14. The question was satisfactorily answered, but few got all the 6 easy marks on offer. In particular, the subtlety of the different capital allowance treatment of furnished holiday lettings over other lettings seemed to present difficulties.
16. The question was poorly answered, with very few indeed realising that performance related SIP shares are not only allowed, but have specific methodology and rules.
18. Again a poorly answered question, with few being able to spot a clear case of 'chargeable overseas earnings' by a non domicile. Only a minority read the requirement of part (ii) carefully, and realised the question was about the timing of the earnings, and not about whether they were taxable.
19. Again a poorly answered question, with many candidates simply guessing, whereas what was needed was a detailed knowledge of the rules concerning certain tax free payments to employees.

Module B

4. A significant number of candidates made a poor attempt at this question. A large proportion did not realise that a s 261B TGCA 1992 claim could be made against the gains of the previous tax year. Many did not differentiate between income and gains and treated loss relief for a sole trader as if it were loss relief for a company i.e. relief against current year income and gains before carrying back.
6. Many candidates incorrectly felt that the issue in this question related to overlap profits. As the trader draws up accounts to 31 March there are clearly no overlap profits. A significant number of candidates were unable to calculate the opening year's assessable trade profits for the 16 month period.
9. Some candidates performed well on this although many spoke in general terms about the impact on the individual. The question clearly asked for the implications for the company. Only a small number considered class 1 NIC on the beneficial loan or Schedule D Case III for the interest received.
12. The majority of candidates performed well on part 1. However in part 2 a significant number of candidates suggested that consortium relief was available for any losses remaining after group relief.
14. Performance on this question was surprisingly poor. Very few candidates scored full marks. The most frequent error was due to candidates not recognising that the interest on late paid tax would reduce when the estimated liability was reduced from £111,250 to £82,000.
16. Many candidates scored well on this question, showing a greater understanding of loss relief for companies than for sole traders. One typical error in relation to the 3 months of relief from the year ended 30 June 2006, was to give relief for 3/12 of the £90,000 LOSS, rather than for 3/12 of the £43,000 AVAILABLE PROFIT.
18. Many candidates believed that all property related items were to be dealt with via Schedule A. However this question had items to be dealt with via Schedules A, DI, DIII and as proceeds of a capital disposal.

Module C

1. Whilst there were many correct answers to this question there were also many answers that could not deal correctly with the improvement in May 1981 and tried to apply indexation to everything. A number used £210,000 as the proceeds rather than the market value as the disposal was to a connected person.
3. Candidates appreciated that not all of the gain could be deferred however a number determined the amount that was chargeable by taking 80% of the gain rather than looking at the proceeds reinvested. Some deducted the capital loss before rather than after deducting the rollover relief.

4. Many candidates could not compute the gain on the disposal of the painting. They deducted the selling costs from the net sale proceeds and ignored the acquisition costs altogether or deducted them from the cost rather than adding them on. The rest of the question was better attempted.
6. Very few candidates correctly answered question 6. Even if they recognised the need to do a part disposal calculation and started with the correct proceeds they did not correctly compute the costs to be deducted and could not calculate the base cost for a future disposal.
11. This question was well attempted although many grossed up the dividends even though they were given gross. A number taxed the first £1,000 at 10% rather than 22%. Also a significant number forgot to tax the £500 of expenses after deducting them from the figure for dividends to be taxed at 32.5%.
13. Candidates recognised the deemed domicile rule applied and knew the effect this had. Very few initially explained the domicile of origin and choice for Raphael.
15. Part 1 of this question was well attempted. The second part was less well answered. Candidates did not distinguish between the shares and the property. Also, they often treated the brothers as associates of Diana and incorrectly thought that she had control of the company.
16. Candidates could correctly determine the before and after values per share of £300 and £180 correctly but could not apply these values to the correct number of shares. Often 1,000 was used for the before and after number of shares. BPR was noticed by many and the correct percentage of 80% used. However it was sometimes applied to the figure after exemptions and on occasion the BPR figure was thought to be the amount that was chargeable. A significant number missed the marriage and annual exemptions.

A number of the other questions were generally very well attempted. These included numbers 2, 7, 8, 14, 18 and 20.

Module D

With the possible exception of question 7, the computational question, most candidates attempted all questions. Handwriting again proved difficult to read. Whilst not directly penalised for poor handwriting, if examiners can't read the answer they will struggle to award marks.

2. Despite some significant and highly publicised case law, many candidates were not aware that for the purposes of VAT, some licenses fall to be treated in the same way as leases. Many candidates thought that licenses were always exempt, or were always taxable, whereas in reality, it depends on the nature of the licence agreement itself.
3. Some candidates misread the question and answered it as if what had been asked was what the VAT liability rules for transportation services are.

4. This was an unusual question in that candidates were invited to give their own opinions. The examiner was very pleased to note that the majority of answers were well structured and argued, and even where the examiner did not personally agree, the candidates scored well.
6. Quite a few candidates did not know that under s49(1) Beta “inherits” Alpha’s turnover, for the purposes of determining whether and when Beta was liable to register for VAT.
8. Even those candidates who provided good answers failed to mention the 20% minimum value for facilities which are subject to VAT – this is a key element.
10. There were a surprising number of candidates who thought that the 8th and the 13th Directives were Derogations!
16. Some candidates failed to read the question properly in that they had not grasped that the incentive awards were given by Theta to the employees of its customers, and not to its own employees. This was a key point to establishing the correct VAT treatment.
19. Quite a few candidates failed to distinguish between “white goods” VAT incurred on the intended zero rated supply of a new dwelling which is blocked under SI 1992/3222 Article 6, and VAT on costs which is not recoverable because it is attributable to intended exempt supplies (of short leases).

Module E

There is a perceptible trend towards ultra short answers. Whilst this may help to save time, candidates need to remember that their task is to demonstrate to the examiner that they the question. For example, in question 14, where candidates were asked to “State 6 situations where waste will qualify for exemption from Landfill Tax”, candidates still had to convince the examiner that they do understand when such exemption is available. Many candidates gave the following as part of their answers

“Quarries” and
“Landfill Sites”.

Such short answers couldn’t gain marks because the exemption is for the filling in of a quarry, or the restoration of a landfill site. Just answering “quarries” and “landfill sites” could just as easily be taken that the candidates thought that material removed from a quarry was exempt, or that material deposited in a landfill site, was exempt – and clearly neither is the case.

As in other modules, poor handwriting was an issue.

1. Where nothing more than “fall back method” was offered as part of the answer, no marks were given. The examiner took the view that what was the minimum necessary was to demonstrate that if none of the 5 other alternative methods were appropriate, it is then still possible to agree a fall back method with HMRC if

- they accept that whatever the fall back method is, it produces a fair and reasonable result.
5. Very few candidates stated that for the relief, the policy written had to be a mixed policy with elements of taxable and exempt cover. This was implied in some answers, but actually stated – and it is in the examiners view a very basic and very obvious starting point – in very few answers.
 7. Not many candidates were able to state that unlike VAT grouping, for IPT, intra group supplies are not disregarded.
 11. Lack of attention to detail cost many candidates 2 marks in that they did not state that the exempt process is cutting rock to produce stone with one or more flat surfaces ; many candidates simply stated that cutting rock was an exempt process, which it is not!
 19. The examiner was surprised by the number of candidates who did not attempt this question. The examiner anticipated that candidates who did not know the answer might nevertheless have made educated guesses.

CTA PAPER IIA

EXAMINERS' REPORT

Question 1

This question covered many of the VAT issues commonly encountered by those advising general practice clients. It was relatively straightforward but nevertheless gratifying that most candidates scored high marks, some even achieving the maximum marks available.

Knowledge of the conditions for the transfer of a business as a going concern (TOGC) and partial exemption was good, although weaker candidates failed to state the conditions required.

The treatment of the various properties was less well answered, with some confusion over the option to tax.

Question 2

The first part of this question required candidates to analyse whether the existing letting activities would be treated as a business or an investment activity.

Many candidates regurgitated the “badges of trade” without relating the various factors to the circumstances of “Scraggy Lets”. Weaker candidates were unable to differentiate between a trade and running a business. Marks were awarded for a well reasoned argument even where the conclusion was that it was an investment activity.

The second part of the question concerned the transfer of the letting business to a limited company owned by Mr and Mrs Scraggy. Many candidates clearly were unaware that s162 TCGA 1992 refers to the transfer of a business, rather than a trade.

There was again much regurgitation of rehearsed answers to standard incorporation questions citing the treatment of stock, capital allowance issues and VAT TOGC, none of which were relevant.

The capital gains aspects were reasonably well answered, although many discussed s165 gift of business asset hold over relief and business asset taper, which clearly were not available. Very few candidates appreciated that as the assets would be acquired by the company at market value the capital gain on subsequent disposal of properties shortly afterwards would be minimal. Even fewer identified that there would be a gain on incorporation as the market value of the assets was less than the capital gains on incorporation.

Question 3

This required the calculation of income tax and national insurance on contractual and non contractual elements of a compromise agreement with comments on the treatment of an entitlement to payment in lieu of notice.

This was a relatively straightforward question and marks were available to candidates who were able to methodically work their way through it.

The majority of candidates were able to demonstrate an understanding of the principles but struggled to correctly compute the income tax and national insurance liabilities following termination of employment in what is a situation often faced in practice.

Question 4

Weaker candidates lost time by not tabulating their answers and produced computations for each company on separate pages. They should note the layout adopted in the model answer and that used by the tutorial bodies. Not only is this approach more efficient in terms of time, it also allows candidates to see the “big picture” of where the profits and losses are in the group.

Many candidates ignored the holding company, which clearly did not fall within SP5/94, although they were not penalised if they reduced profits to £60,000 (5 associates) rather than £50,000 (6 associates). There were also a number of careless errors in computing coterminous accounting periods for group relief.

Another disturbing mistake for candidates at this level was the inclusion of group dividends in the calculation of profits chargeable.

Most candidates were able to identify that the disposal of the subsidiary would be covered by the substantial shareholdings exemption. Most also identified the degrouping gain, although the calculations were often inaccurate.

The explanation of the treatment of trading and capital losses carried forward pre and post acquisition within Pilchard Ltd and Whiting Ltd often lacked precision, with many

candidates omitting the word “major” when discussing possible changes in the trade, or not mentioning any time period.

Question 5

This required, in the form of file note, a calculation of tax liabilities for a purchase of own shares for both an income and capital distribution, the conditions required for capital treatment and comments on the consequences where a company has insufficient funds to meet the distribution.

Many candidates ignored the requirement for a file note or failed to head up the note in an acceptable manner.

In terms of calculating the tax liabilities most were able to compute the capital gains tax liability but struggled with that of the income distribution which in effect follows the same treatment as a dividend, particularly when the question advised that Mr Smart is a higher rate tax payer.

Most candidates listed the majority of the conditions required for a capital distribution.

Parts 3) and 4) were not answered well although a few candidates did stop to reflect on the conditions that they had noted in part 2) as to which of those would be affected.

For part 4) many answers suggested further reinvestment, ignoring the stipulation in the question that the monies were required for Mr Smart’s retirement.

Question 6

This required a letter setting out the inheritance tax consequences for a relevant property trust with a distribution within the first 10 years, and a principal 10 year charge, together with implications for an interest in possession trust and will planning for divorcees who re-marry.

Very few candidates were able to calculate the initial value of the trust which was then used to calculate the effective rate. Very few picked up the fact that agricultural property relief was available and even fewer that the relief is only used in calculating the value to which the effective rate is applied. However, many did set out the basic computational structure and as a consequence were able to pick up marks.

As regards parts 3) and 4), in the main these were not answered well, many did not recognise that Vanessa’s trust was an interest in possession and many were unable to think through what strategy might be adopted to protect the children from each former marriage.

CTA PAPER IIB

EXAMINERS' REPORT

Question 1

This was a short question concerning the *lex situs* rules for inheritance tax. A further complication was the need to consider the domicile of the deceased and in particular, the uncertainty as to whether or not the deceased was deemed domiciled within the UK or not.

Most candidates had a good understanding of the basic rules but struggled to explain them well in context. Very few candidates were able to correctly deal with the application of the spouse exemption in this scenario.

Question 2

This question concerned pre-owned asset tax (POAT). Less than half the candidates were able to even identify the liability to POAT which was disappointing. Even fewer candidates were able to properly interpret the rules and assess the tax liability arising.

The question raised a number of practical, real life issues and only a few candidates were able to analyse this in the way that one would hope and an aspiring CTA would be able to. The majority of the answers were rather vague and ill considered.

Question 3

This question concerned a liability to income tax on a share transfer as the shares fall to be treated as employment related securities. A further point was that the shares came within the restricted securities legislation as well. The scenario was a relatively straightforward real life situation of the type encountered in practice.

The standard of answers was poor with the vast majority of candidates unable to even identify that a liability to income tax arose. This is very concerning and shows a lack of preparation on the part of candidates on what should be a fairly mainstream issue for candidates sitting this paper.

Question 4

This was a very straightforward income tax question and should again have been core material to a well prepared candidate. The most complex aspect was the need to deal with EIS relief and in particular to spot the opportunity for EIS deferral relief.

Only a very small number of candidates failed to get at least half marks in this question and a reasonable number scored close to full marks.

Question 5

It was difficult for the examiners to deal with capital gains tax in this sitting as there seemed little point in examining taper relief in detail, given its abolition with effect from 6

April 2008. Instead, this question focused on s165 hold-over relief and s162 incorporation relief. The question examined the distinction between the terms “business” and “trading” in the context of the tax legislation. However, the question also contained some very easy marks on income tax and loss relief.

A significant number of candidates failed to provide good answers to the income tax element of this question. The standard of answers in respect of hold-over and incorporation relief was also very poor. There was an inability to apply knowledge to the facts of this particular scenario and to make appropriate comments.

Question 6

This was a mainstream IHT calculation question although it was more tricky than it first looked. In particular, there were a number of significant calculations to be performed in the time available and a clean and tidy approach was essential in order to produce a coherent answer. The majority of candidates did get a creditable score on this question.

CTA PAPER IIC

EXAMINERS' REPORT

Question 1

It has been quite some time since there was a detailed test of double taxation relief in this paper and as a result, it appeared that candidates had decided to risk giving the topic only the most superficial of studies. As a result answers were extremely poor.

Too many answers contained what appeared to be a random jumble of numbers devoid of any attempt at explanation. Some 50% of the candidates scored just 1 mark on this question.

It is not possible to identify any common areas of error. All that can realistically be said is that very few candidates knew how to start to answer the question and that knowledge of even the most basic factors relating to double tax relief appeared to be virtually non-existent.

Question 2

This question required candidates to draft a letter concerning various CTSA administrative issues to the CFO of a US company looking to set up a UK subsidiary.

A generally well answered question. However, candidates needed to provide advice and information that was more specific to the scenario. There was no need for candidates to write down everything they knew about the topic. The question specifically stated that the CFO understood what qualifies for capital allowances; this means there are no marks available for providing that information. Likewise, the question did not ask for an in-depth discussion of stamp duty, VAT, penalties, or how to calculate the amount of tax due.

A few candidates advised that if the tax return included all the necessary paperwork and relevant information then HM Revenue & Customs would not or could not open an enquiry. This is not the case.

Candidates who forgot to sign off their letters or chose to sign off their letters with 'regards', 'kind regards' or 'yours truly' (rather than 'yours sincerely' or 'yours faithfully') lost out on presentation marks.

Question 3

There were several aspects to this question and the good candidate was expected to cover them all in the degree of detail suggested by the facts set out in the question. Indeed, there were several good candidates who did precisely that. There was regrettably also a significant number of not-so-good candidates who picked on one or two things that they knew something about and concentrated on these to the exclusion of everything else.

Perhaps unsurprisingly, that concentration proved to be on research and development reliefs, which as a commonly examined topic in recent years, is one that most

candidates obviously study in some depth. Answers on the research and development aspects were generally sound although too many candidates chose not to make the reasonable assumption that Glenmont would be a large company and concentrated on describing the relief available to small and medium sized companies, sometimes with a throwaway reference to the large company relief scheme.

Most candidates were reasonably well acquainted with the rules relating to the FA 2002 regime for intangible assets but knowledge of the treatment of old regime assets, which is still very live in practice, was much less apparent.

Question 4

This question contained two parts. The first part required a discussion of how the courts interpret tax legislation. Disappointingly, only a handful of candidates offered any kind of discussion of case law. Some candidates discussed how the tax legislation has changed in recent years to tackle the issue of avoidance, which is not quite what the question was asking for.

The second part of the question required an explanation of the 'disclosure of tax avoidance schemes' provisions. This was generally well answered. Unfortunately a few candidates seemed unaware of these provisions and discussed other provisions such as s703 ICTA 1988, s135 – 138 ICTA 1988, s140C TCGA 1992, etc.

Question 5

Those who did well on this question were generally those who passed the paper which suggests that the question was a good test of a broad range of knowledge of issues affecting those who advise companies in real-life situations.

The most fully answered parts of the question were those which concerned employee redundancy and termination and the possibility of a major change in the nature or conduct of the trade. There were some very full descriptions of the relevant provisions, especially in relation to employee termination, which went well beyond what was required given the time available for the question and the number of topics to be covered. That said, most candidates clearly had a good knowledge of these particular aspects of tax legislation.

Restricted securities, on the other hand, is clearly a topic with which candidates are not comfortable and most of the efforts to deal with the third point in the question were inadequate. The examiner appreciates that this is a difficult topic and expected that some candidates might struggle with it. The same was not, however, expected in relation to the substantial shareholder exemption where most candidates appeared unaware that Inwood Investments Ltd, while itself clearly an investment company, could be and, indeed, almost certainly was the holding company of a trading group. Only one candidate correctly noted that the existence of surplus cash and the letting of properties no longer required for trading did not necessarily prevent Burgoyne from meeting the definition of a trading company. More pleasingly, virtually all candidates showed a good understanding of earn-outs and the Marren v Ingles principle although not all were aware of the ability to make use of any loss that might arise on the earn-out realisation against the earlier gain.

Question 6

There were three parts to this question. Candidates were required to write a memo concerning various VAT, PAYE and National Insurance, and corporation tax issues in respect of a large company that was expanding overseas.

This was a straightforward question and it was generally well answered. For the third part, most candidates concluded that the best option would be to set up a Danish branch initially and incorporate later when the entity was profit making. Only a few candidates failed to provide their opinion as to whether a branch or subsidiary should be set up.

A number of candidates raised the issue of Treasury consent although in this case specific Treasury consent would not be required. Candidates need to be aware of s765A as well as s765 ICTA 1988.

CTA PAPER IID

EXAMINERS' REPORT

Question 1

The aggregates levy and landfill tax aspects of this question were generally well attempted. Most candidates identified the exemption for excavating and installing the pipes in the vicinity of the dam and a high proportion realised the aggregate used to make roads on the site was not commercially exploited and therefore exempt.

Some candidates lost marks by not outlining the key requirements for the quarry exemption which are easy to find in the legislation.

A number of candidates assumed that a "highway" or "road" in the law could cover any sort of road though unfortunately this is not the case.

Several candidates confused cement and concrete and thought they were dealing with an exempt process.

A few candidates wrote everything they knew about the basics of landfill tax and aggregates levy. Where any points were relevant, marks were given but these were few in comparison to the valuable time students must have wasted in setting out these prepared texts.

On the Climate Change Levy aspects of the question, most of those who attempted the question guessed at Combined Heat and Power exemption rather than check the legislation. Few candidates scored well in this second part of the question as a consequence.

Question 2

Most candidates answered this question adequately and there was less confusion between listed and hallmarked schemes than the examiner had expected which was pleasing.

The key failing among the majority of scripts was assuming that the companies were "connected" in the first example. The legislation can be found relatively simply and candidates need to get into the habit of checking these points.

Question 3

This question offered some relatively straightforward marks for candidates who had an understanding of the environmental credit scheme. There were also opportunities for additional credit marks. Most candidates made a good attempt at the answer. However a number of candidates simply set out the conditions for the claim without considering the eligibility of the competing bids for funds although the question clearly requires this. A close reading of the question would have produced better marks for those candidates. There were also some technical errors.

Many candidates thought that the credit is subject to a maximum of 6.6% of the landfill tax liability although a quick reference to Regulation 31 would have provided the correct answer. Few candidates identified that the credit could be claimed on the return for March 2009 provided the contribution was made before the due date for submission of the return.

Question 4

Perhaps unusually this was a VAT question based around a computation. Whilst there were some excellent answers, a number of candidates were unable to deal with the basic mechanism of a partial exemption provisional calculation and annual adjustment. This is surprising since partial exemption is a topical and important area of the tax. The treatment of the Leeds property caused particular difficulty.

Some candidates overlooked the importance of showing their detailed workings. This would have allowed appropriate marks to be awarded even where the answer itself was wrong arithmetically.

Most candidates identified the capital items adjustment in respect of the property disposal although few calculated the adjustment correctly. The most common difficulty was the treatment of the property in the year of disposal itself. Many candidates calculated an adjustment based on 3 years of exempt use. Others considered a clawback of all input tax claimed was appropriate. Some candidates even suggested an option to tax, overlooking the point that the property had already been sold! Most correctly recognised the recovery of VAT in respect of out of country supplies outside of the partial exemption calculation.

Question 5

Generally candidates produced good answers to this question. Most identified the main issues of the acquisitions in the UK (although some showed uncertainty in relation to the VAT accounting procedure), distance selling rules to other EU states and the possibility of VAT grouping. A number of candidates also recognised the possibility of zero-rating of UK sales for children's clothing.

Some candidates discussed the registration rules at length although it was reasonable to assume from the information provided that both companies would be liable to register from commencement of trading. Few candidates considered the advantages of registration as an intending trader.

There was some confusion about which company would be required to deal with INTRSTAT reporting requirements. Not all candidates addressed the different tax points and a number of candidates considered the company's policy of offering a refund within 28 days would operate to defer the tax point. Few candidates commented on the method for converting values in Euros to sterling for VAT UK purposes.

Question 6

A large number of candidates confused the concepts of business and fixed establishment for VAT purposes with the rules on residence for corporation tax. Others were not aware of the rules regarding companies incorporated in the UK nor of the

concept of central management and control. Several scripts made no attempt at the first part of the question at all.

Though a few scripts did buck the trend and attracted good marks the general standard was disappointing as this is such a fundamentally basic part of corporation tax and the examiner had deliberately sought to avoid complications for candidates so that they could demonstrate their grasp of the principles.

The second part of the question yielded better responses. The majority of candidates were able to make good points about the rules on preferences and Binding Origin Informations. Most knew the valuation rules regarding insurance and freight to the point of crossing the EU border and had appropriate remarks to make about the Teleos case and Green Ltd's chances.

CTA PAPER III

EXAMINERS' REPORT

Question 1

The question was reasonably well answered. There was a range of issues to be considered and most candidates managed to identify all of the relevant issues. As always some candidates did not accurately read the question and ended up writing large amounts of text on issues which were completely irrelevant. In particular, many candidates thought that the client was trading via a limited company and so talked extensively about the winding up of that company following cessation. There was also a number who talked about the possibility of the client incorporating the business prior to cessation.

The main areas for commentary highlighted by the answers were:

- How to deal with the disposal of the lease. Whilst a significant number of the candidates identified that the cost had to be wasted prior to deduction from the sale proceeds, almost none of them used the correct cost to be wasted. A significant proportion treated the assignment as a grant of a new lease. In marking this part, the principles were rewarded where possible but this did not represent a large number of marks in any case.
- The treatment of the option on the field. Few candidates correctly understood the way in which the option and subsequent exercise were dealt with. The commonest mistake was treating the grant of the option as a part disposal or stating that all of the consideration was taxable on the grant of the option using the Marren v Ingles principle.
- Cessation of trade. A large number of candidates went into detail about treatment of assets on which capital allowances were claimed when the question made clear that no such assets were found within the business.
- The private residence relief part of the question was generally well answered although many of the answers did not fully explain the underlying reasons for the computation which lost valuable marks. There were common mistakes such as not realising that the qualifying period for occupation starts on 1 April 1982 but these only represented a small loss in marks.

As in previous years, the major comment relating to the papers is the presentation of many of the answers produced. Many of the answers were unstructured and did not adequately explain the points being discussed. Finally, it is appreciated that many people do not have neat writing but the writing of some candidates makes the marking of their scripts very difficult.

Question 2

This was the second most popular question and most candidates were able to score at least an average mark although many marks were lost through an inability to discuss the concept of domicile with any certainty. This was surprising when this particular area is of increasing importance in dealing with personal clients. Many candidates thought a deemed domicile applies for the purpose of all taxes.

Many candidates talked at length about taper relief and indexation and discussed the qualifying conditions for a EIS or Furnished Holiday lets but this was not required and time was accordingly wasted by not answering the specific requirements.

Similarly, many set out the statutory conditions in order to obtain agricultural property relief or business property relief but then failed to identify the situation in the question. Perhaps surprisingly several also stated that no agricultural property relief was available because the farming activities had ceased demonstrating a lack of knowledge in that area. In this paper it is not enough to be able to set out the statute but the application of that statute must be known.

Although a few scripts were neat and orderly this was unfortunately the exception. Many just mentioned points as and when they occurred to the candidate with the result there was much repetition and contradiction which did not assist in the marking process and more care should be taken over the layout particularly given the allocation of some 22 marks under the new exam syllabus to presentation.

Question 3

A number of candidates spent a disproportionate amount of time on part I leaving little time for the consideration of tax mitigation initiatives in part II.

Transfer pricing and group implications were both covered in an impressive amount of detail by candidates; however, in some cases this contributed to time pressure in other areas.

Marks were lost by a number of candidates who did not build their answers in a methodical manner. 'The company is controlled and managed outside the UK' rather than a step by step analysis (1) Incorporated in the UK treated as resident in the UK in the first instance, (2) what does UK residence imply from a corporation tax perspective (3) may be controlled and managed outside of the UK by reference to key decisions being made outside of the UK (4) possible to have dual resident status (5) tie breaker clause in relevant tax treaties and the 'effective place of management. This meant the difference between pass and fail for some candidates who clearly understood the issues but jumped straight to the conclusion.

Legislative references were provided by a number of candidates to great effect; however, relevant case law references were absent from most papers.

SDLT and VAT issues arising from the question were well dealt with at the high level.

Question 4

This question was generally well answered and candidates' marks were satisfactory.

Part 1) Insurance Policies

Although requested to provide 'a brief background to the tax', some candidates tended to write all they could about every aspect of IPT. There were not enough marks in the marking scheme to do justice to some of the answers. However these efforts were often at the expense of the planning aspect of the question. Others, however, wrote very

authoritatively about cases such as *Kvaerner*, *DSG* and the 'card in the box scheme', for which they received due credit.

Part 2) VAT Issues

➤ Pool car

Candidates coped with well this part. Some wanted to use the Lennartz mechanism to recover input tax on the pool car and then account for output tax on a business use basis. The blocking order specifically forbids this approach. Another common problem was to pay output tax on a self supply charge by reference to actual private use incurred. The self supply charge cannot be apportioned and is an 'all or nothing' charge.

➤ Part exchanges

Most candidates had difficulty with this part. Many missed the 'bumping' aspect and got distracted with valuation issues. Further, many regarded the sale of the car at undervalue to a staff member to be a transaction requiring a Sch 6 Para 1 direction. Firstly, the under value was only £100, and arguably was not an undervalue at all. Secondly, staff are not connected to the employer, so the legislation was not in point. Regrettably, hardly any candidates picked up on the possible PAYE issue, which was that the employee might be in receipt of an asset from the company at undervalue. With reference to the second hand margin scheme, some candidates again went into far too much depth given the significance of this point within the question as a whole.

➤ MOT testing

Generally candidates did well with this part. Very few mentioned the misdirection argument however.

On the issue of presentation, it is not enough just to head up the page with the word 'report' and expect to receive the marks. The marks are allocated for writing in the appropriate style and in the appropriate context.

Question 5

General

The performance on this question varied quite significantly. The question was drafted quite openly to allow candidates to cover a range of areas and consider which of those areas would be of most relevance to the potential client. Consequently the marking was quite flexible, providing credit for relevant points regardless of whether or not they featured in the model answer.

One of the most disappointing conclusions was that many candidates paid little regard to the reader of the letter; a prospective client who was a layperson with little or no technical knowledge. Many candidates used jargon that would be meaningless to such a person or in some cases went into a level of depth that a managing director would not be interested in, to the extent of not covering other more relevant areas. Perhaps part of the problem was that many candidates still use the "your address, my address" which in addition to losing presentation marks does not assist them in concentrating on the reader of the letter. Such candidates are likely to perform even worse under the new

syllabus which will focus more attention on the extent to which the candidate has addressed the client's needs.

Also very disappointing was the number of candidates who completely ignored the professional issues, despite the heavy hint given in the question. Again, candidates will be expected to identify these under the new syllabus without such strong hints. The few candidates that did cover the point did not generally score very well; including the odd suggestion that they amend the arrangements so as to cheat the Chamber of Commerce out of its payment.

It was also quite apparent that some candidates demonstrated poor exam technique in that they had clearly over-run on another question giving them little time in this question. The result was jotted notes with little or no explanation (which did get some credit) and missing out on many of the easier marks.

Part 1

Most candidates performed reasonably well with this part, scoring quite well on this area. Some candidates did write too much for the number of marks which again left them short of time for the main part of the question.

Part 2

As stated, performance varied significantly on this part. Many candidates handled the VAT part reasonably well though sometimes struggling to avoid quoting legislation or extracts from public notices to a non technical reader. Most candidates spotted the need to focus on the customs warehouse issue and scored quite well with this.

Whilst candidates were not necessarily expected to appreciate that licences were required for the import of meat products, many completely disregarded the nature of the products, suggesting that the goods could be kept in the warehouse for years until the duty rates fall or talking about returned goods relief in situations where the meat is sent back from the USA to the UK, which again was not very likely. By simply focussing on whom the letter is addressed to and the nature of the products, the well prepared candidates were able to give meaningful advice and very importantly provide recommendations to the potential client.

CTA PAPER IV

EXAMINERS' REPORT

The overall standard was disappointing. A lack of knowledge was perhaps the primary reason but a significant contributory factor was the inability of a not insignificant number of candidates to answer the question actually asked. It was not unusual for copious amounts to be written on areas which merited no marks.

Question 1

Many candidates scored highly whilst others fared not so well. Those who performed badly did so either through a lack of knowledge or by answering a question which was not asked.

The question asked candidates to address dealing with a complaint to a member firm. A number of candidates wrote at length as to the measures to be implemented in order to avoid complaints arising in the first place whilst others focussed on the complaints procedure of The Chartered Institute of Taxation.

Those who focussed on the specifics of the question were able to score highly.

Question 2

Many candidates appeared to be lacking knowledge in this area whilst others focussed on the powers of HM Revenue & Customs rather than on the protections afforded the tax adviser.

Those who concentrated on answering the question as asked were again able to score highly.

Question 3

The quality of answers was again mixed. Those who answered the question asked were able to score very highly. A significant number of others interpreted the question to permit them to write copious amounts about continuity of practice; those candidates scored poorly.

Question 4

This question was generally well done with the majority of candidates scoring well.

Question 5

This was a straightforward question on IP rights. Most candidates were able to recite the types of rights which exist, although many got confused when providing detail. Several wrote at length on the process for litigation breaches of IP rights, which was not a requirement of the question. A small but worrying number scored very low or no marks because they confused IP rights with land law and discussed freehold and leasehold interests in land.

It was relatively easy to score 5 to 7 out of 15 by merely reciting the types of IP and many candidates did so without too much difficulty.

Question 6

This was a fairly standard question on validity of wills. Too many candidates failed to write their answer in letter format as requested, thereby missing out on a very easy mark. Too many wrote about the intestacy rules or described the clauses to include in a will which, while interesting, was not what the question asked.

Those who answered the actual question set (rather than the one they wanted set!) Tended to perform well although there was clear confusion in many cases over the effect that divorce has on a will, or on the effect of a beneficiary witnessing a will. A very significant proportion of candidates confidently (and incorrectly) stated that, in order for a will to be valid, the testator had to be sound in BODY and mind.

Question 7

This was generally well answered but candidates should, nonetheless, be more careful to actually answer the question set: far too many wasted time with lengthy descriptions of warranties and indemnities, which were not requested by the question.

Question 8

Generally, this was poorly answered. Many candidates responded with answers about contractual and statutory points, rather than addressing the common law points raised by the question.