

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:-

LL.B.

LL.B. Part II: Law of Taxation

COURSE CODE : LAWSII07

DATE : 17-MAY-06

TIME : 10.00

TIME ALLOWED : 3 Hours 15 Minutes

LAW OF TAXATION

Answer **FOUR** questions including at least one question from **PART A**.

In answering questions on this paper candidates

- (i) must, in the absence of clear indication to the contrary in the questions concerned, assume that all persons mentioned are domiciled, resident and ordinarily resident in the United Kingdom, that all assets are situated in the United Kingdom and that all events occur in the United Kingdom;
- (ii) should not attempt to compute the amount of tax payable; and
- (iii) should ignore all changes in legislation made or proposed after 1 March 2006.

PART A

1. Can the decisions in *Sharkey v Wernher* and *Mason v Innes* be reconciled?
2. 'Looking back, one can say that the case-by-case approach adopted by the courts has proved to be right.'
Professor Tiley, *British Tax Review* (2004)

'Tax avoidance needs a legislative framework'.
Professor Freedman, *Current Legal Problems* lecture (2005)

Discuss these different approaches to anti-avoidance in taxation and give your reasons for preferring one or the other approach.

3. 'The United Kingdom system of taxing companies and dividends does not fit into either the classical or imputation systems.'

Consider whether this is an accurate statement and examine the current system of taxing companies and dividends.
4. Discuss the defects of the present system of appeals in direct tax cases. What changes should be made to remedy these defects?

TURN OVER

PART B

5. Gerald is a married man of 55. His wife has no substantial assets of her own. Gerald has recently sold his very successful business to a company for a mixture of cash and shares in the company. As he is pleased with the sale, he pays a bill of £300 owed by his housekeeper who has been with him for many years. He also pays the school fees for his grandchildren directly to their school.

Following the sale he consults financial advisers who recommend that he puts the recently acquired shares together with his portfolio of public quoted company shares which he has held for many years, into a discretionary trust for a wide range of potential beneficiaries. He settles the shares in January this year.

Five years ago Gerald gave his penthouse flat in Kensington to his son who moved into it. Gerald lives in a house outside London but on his frequent visits to London he stays at the flat.

Gerald and his wife are in an antiques shop and see a table priced at £200. Gerald realizes that it is worth about £1,000. He pays £200 for the table, telling the shop that it is for his wife as a present and the shop should deliver it to her.

Advise Gerald on the tax implications of the above and give him general inheritance tax advice.

CONTINUED

6. Rosalind works as a university researcher in the department of genetics at a salary of £30,000. As the research involves using frogs and guinea pigs the department has been targeted by animal rights activists. The department therefore makes every effort to protect the workers. Rosalind is provided with secure car parking on site. All the workers are provided with meals during the day so that they do not have to leave the premises.

In spite of these precautions a brick is thrown one day at Rosalind's car as she drives onto the site. This injures her and the department pays for private medical treatment. She is also sent flowers by the department. Once she recovers from the physical injuries she is allowed to take an extra week's holiday.

Rosalind is allowed to purchase a digital camera which has been used in the laboratory for the last two years. It originally cost £1,000 and she pays £100 for it. Rosalind's son attends the university day nursery for which Rosalind pays a subsidized fee. In March Rosalind is given a guinea pig from the laboratory for her son to keep as a pet.

Advise Rosalind on the income tax implications of these facts.

7. For the past five years Des has been a personal trainer. He works with clients in their own homes and is paid per session. Des also works at a local sports club where he runs some group classes and supervises the gym. For this he receives £500 per month. He is permitted to use the swimming pool at the club without payment. Every year the club has a Christmas party for everyone who works at the club. The cost to the club is £50 per head.

Des uses his own car to travel to clients in their houses and also to get to the sports club. He takes his own equipment with him to clients: this includes mats, an exercise ball and his music system. During this year he purchases a new, more sophisticated music system. At the club Des uses the equipment provided by the club and his own music system.

For his work Des buys and wears special clothing which he keeps exclusively for all his work as a personal trainer. This clothing requires frequent laundry. Des takes expensive vitamin supplements to help him to stay fit as his work is all active.

Des is given a dozen bottles of wine by one of his clients who is about to leave London to settle in New York.

Advise Des on the tax implications of the above.

TURN OVER

8. Advise Chris on the tax implications of the following events all of which occurred during the current tax year.
- (i) Chris sold half his holding of some public quoted shares. He had purchased all of the shares in 1997 and they had greatly increased in value since he bought them.
 - (ii) Under the will of Chris's father, a substantial trust of assets had been created for trustees to hold for Chris's mother for life, remainder to Chris. One of the trustees died during the year and a new trustee was appointed. Shortly after this Chris's mother died.
 - (iii) Chris received negligent financial advice about his pension from his bank. This year the bank accepted liability and paid him £50,000 in compensation.
 - (iv) Chris made an outright gift of an investment property, currently valued at £200,000, to his wife.
 - (v) As he owned and lived in a large house and grounds of two hectares Chris decided to sell a piece of land at the end of the garden. This land realized a large sum as it had building potential.

END OF PAPER